

**C00A00  
Judiciary**

***Operating Budget Data***

(\$ in Thousands)

	<u>FY 16 Actual</u>	<u>FY 17 Working</u>	<u>FY 18 Allowance</u>	<u>FY 17-18 Change</u>	<u>% Change Prior Year</u>
General Fund	\$450,740	\$481,702	\$505,171	\$23,469	4.9%
Adjustments	0	0	-918	-918	
<b>Adjusted General Fund</b>	<b>\$450,740</b>	<b>\$481,702</b>	<b>\$504,252</b>	<b>\$22,550</b>	<b>4.7%</b>
Special Fund	50,874	59,251	66,383	7,132	12.0%
Adjustments	0	0	-55	-55	
<b>Adjusted Special Fund</b>	<b>\$50,874</b>	<b>\$59,251</b>	<b>\$66,328</b>	<b>\$7,077</b>	<b>11.9%</b>
Federal Fund	682	1,107	57	-1,050	-94.8%
<b>Adjusted Federal Fund</b>	<b>\$682</b>	<b>\$1,107</b>	<b>\$57</b>	<b>-\$1,050</b>	<b>-94.8%</b>
Reimbursable Fund	4,719	4,783	4,769	-14	-0.3%
<b>Adjusted Reimbursable Fund</b>	<b>\$4,719</b>	<b>\$4,783</b>	<b>\$4,769</b>	<b>-\$14</b>	<b>-0.3%</b>
<b>Adjusted Grand Total</b>	<b>\$507,016</b>	<b>\$546,844</b>	<b>\$575,407</b>	<b>\$28,564</b>	<b>5.2%</b>

Note: Includes targeted reversions, deficiencies, and contingent reductions.

- The fiscal 2018 budget increases by \$28.6 million, or 5.2%, over the fiscal 2017 working appropriation. This growth is largely attributable to an increase of \$15.3 million for regular and contractual personnel and \$5.0 million in special funds for major information technology (IT) projects.
- The general fund request is \$504.3 million, an increase of \$22.6 million, or 4.7%, over fiscal 2017.
- The Governor's budget plan for fiscal 2018 assumes \$973,636 in reversions, including \$918,366 in general funds from the Judiciary as part of the contingent reduction for the supplemental pension payment.

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

For further information contact: Benjamin B. Wilhelm

Phone: (410) 946-5530

***Personnel Data***

	<b><u>FY 16</u></b> <b><u>Actual</u></b>	<b><u>FY 17</u></b> <b><u>Working</u></b>	<b><u>FY 18</u></b> <b><u>Allowance</u></b>	<b><u>FY 17-18</u></b> <b><u>Change</u></b>
Regular Positions	3,913.50	3,950.50	3,989.00	38.50
Contractual FTEs	<u>330.00</u>	<u>334.00</u>	<u>347.00</u>	<u>13.00</u>
<b>Total Personnel</b>	<b>4,243.50</b>	<b>4,284.50</b>	<b>4,336.00</b>	<b>51.50</b>

***Vacancy Data: Regular Positions***

Turnover and Necessary Vacancies, Excluding New  
Positions

156.77      3.91%

Positions and Percentage Vacant as of 1/1/17

98.90      2.50%

- The fiscal 2018 request includes 38.5 new regular positions for the following purposes:
  - 19.0 positions to support operations for the Clerks of the Circuit Court;
  - 7.0 positions to process expungement requests under the Maryland Second Chance Act and Justice Reinvestment Act;
  - 5.5 positions to increase part-time positions to full-time positions across the Judiciary;
  - 5.0 positions for cybersecurity projects; and
  - 2.0 positions for magistrates in Cecil/Kent and Washington counties due to high caseload demands.
- The fiscal 2018 request also includes 13.0 new contractual full-time equivalents for District Court bailiffs.
- Turnover expectancy is set at 3.91%, which will require 156.8 vacancies. As of January 1, 2017, the Judiciary had a total of 98.9 vacant positions and a vacancy rate of 2.50%.

## *Analysis in Brief*

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### Major Trends

***Timely Clearance Rates for District Court Hold Steady:*** There was little change in the overall percentage of cases cleared within Judiciary time standards in the District Court. There were, however, appreciable decreases in the average processing time for cases, especially on the criminal docket.

***Circuit Court Performance Slips:*** While the circuit courts continue to clear the vast majority of their cases within established time standards, there were slight declines in those timely clearance rates, with the largest drop for the criminal docket.

***Appellate Courts Continue to Meet Most Standards:*** The State's appellate courts continue to meet its goals, though the Court of Special Appeals continues to struggle to set child access cases within 120 days of filing.

### Issues

***Circuit Court Clerks Seek Large Increase in General Fund Appropriation:*** Between fiscal 2012 and 2016, actual expenditures for the Clerks of the Circuit Court were between 3.4% and 8.9% below the legislative appropriations and almost all of these unspent funds were reallocated within the Judiciary for other purposes. The growth rate for these appropriations has also significantly exceeded the overall general fund growth rate. For fiscal 2018, the Judiciary's request includes an increase of \$7.8 million, or 8.5%, above the fiscal 2017 legislative appropriation for the Clerks of the Circuit Court. Such overbudgeting and growth are not justifiable, especially in light of the current fiscal condition of the State. **The Department of Legislative Services (DLS) recommends that the general fund appropriation for the Clerks of the Circuit Court be level funded for fiscal 2018. DLS further recommends that the Judiciary comment on its utilization of budget amendments to reallocate money from the clerks' budgets to fund operating expenses in other parts of the Judiciary and to explain the apparent pattern of overbudgeting for the clerks' offices. Finally, DLS recommends that committee narrative be adopted requesting a report from the Judiciary detailing the current budget review process for the Clerks of the Circuit Court, including recommendations to ensure that future budget requests better reflect anticipated expenditures.**

***Appointed Attorney Program Stays under Budget in Third Year:*** The Court of Appeal's ruling in *DeWolfe v. Richmond* went into effect on July 1, 2014, establishing a right to counsel for indigent defendants at initial appearances before District Court commissioners. During each of the last three legislative sessions, the General Assembly restricted \$10.0 million within the Judiciary's budget to provide counsel at initial appearances through the Appointed Attorney Program. In both fiscal 2015 and 2016, the program cost a total of \$8.1 million, \$1.9 million less than was restricted for this purpose. **DLS recommends that the appropriation for appointed attorneys be reduced to \$8.5 million in fiscal 2018 based on actual expenditures for the program. DLS further recommends adoption of committee narrative requesting a report on program costs and utilization.**

***Land Records Improvement Fund Spending Drifts Further from Intended Purpose:*** The Land Records Improvement Fund (LRIF) was created in 1991 to support land records operations in the State. Since 2007, the Judiciary has also used the LRIF to fund its major IT expenditures, including the \$71 million Maryland Electronic Courts (MDEC) project. The additional spending has led to increased surcharges for recordation of land instruments and created structural imbalance in the fund. The addition of a case filing fee to support MDEC maintenance in 2015 has pulled the LRIF even further from its intended purpose. Most of these expenditures are unrelated to land records and should be supported by general funds. **DLS recommends that the General Assembly pass legislation creating a new fund in the Judiciary for the purpose of funding future MDEC maintenance and operations costs and redirecting MDEC filing fees to that account. DLS recommends legislation also be passed that eliminates major IT project development as an authorized use of the LRIF. Finally, DLS recommends that in the future, the Judiciary only use the LRIF for land records-related purposes.**

## Recommended Actions

	<u>Funds</u>	<u>Positions</u>
1. Add budget bill language to eliminate general funds for merit salary increases.	\$6,257,414	
2. Add budget bill language to reduce general funds for the cancellation of general fund encumbrances incurred prior to fiscal 2016.	3,913,974	
3. Eliminate a 0.5 new position in the Court of Special Appeals.	36,053	0.5
4. Eliminate 2.0 new positions in the circuit court judges.	268,888	2.0
5. Add budget bill language that restricts the use of \$8.5 million in general funds for the implementation of <i>Dewolf v. Richmond</i> , provides that counties shall pay any costs in excess of this amount, and authorizes the transfer of these funds to another State agency if legislation provides an alternative to the Appointed Attorney Program.		
6. Eliminate 8.5 new positions in the District Court.	396,436	8.5
7. Reduce general funds for the District Court to reflect actual expenditures for the Appointed Attorney Program.	1,500,000	
8. Eliminate 13 new full-time equivalents for District Court bailiffs.	392,557	
9. Reduce general funds to limit the increase in travel expenditures.	225,000	

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10.	Reduce general funds to eliminate the requested increase for supplies.	453,757	
11.	Reduce general funds to eliminate the requested increase for office furniture.	571,600	
12.	Reduce general funds to eliminate unjustified inflationary increases in the District Court.	454,102	
13.	Adopt committee narrative requesting a report on the costs and utilization of the Appointed Attorney Program.		
14.	Eliminate 1.35 new positions in the Administrative Office of the Courts.	69,475	1.4
15.	Adopt committee narrative requesting a report on the budget process for the Clerks of the Circuit Court.		
16.	Eliminate a 0.25 new position in the Court-related Agencies program.	18,026	0.3
17.	Eliminate a 0.4 new position in the State Law Library.	17,711	0.4
18.	Eliminate 5.5 new positions in Judicial Information Systems.	400,024	5.5
19.	Adopt committee narrative to request a joint report between Judicial Information Systems and the Department of Information Technology on the development of a statewide cybersecurity plan.		
20.	Add budget bill language to reduce general funds for the Clerks of the Circuit Court to level fund the appropriation at the fiscal 2017 level.	5,056,251	
21.	Eliminate 20.0 new positions in the Clerks of the Circuit Court.	971,440	20.0
<b>Total Reductions</b>		<b>\$ 21,002,716</b>	<b>38.5</b>

## Updates

***No New Judges Sought as Judiciary Reviews Metrics to Measure Need:*** The Judiciary reports that it is in the process of updating the workload standards used to create the annual judgeship need certification and judgeship request. Therefore, the Judiciary is not seeking any new judges for fiscal 2018.

***Major Information Technology Development Projects:*** The Judiciary’s fiscal 2018 IT Master Plan includes eight projects, four of which are new, with a total cost of \$19.4 million in fiscal 2018, all from the LRIF. The Judiciary also reports that the MDEC initiative rollout has continued without significant delays or problems.

***Land Records Improvement Fund:*** The LRIF funds the State’s land records offices and major IT projects within the Judiciary. IT expenditures continue to strain the fund in the long term, even with new filing fees and an increase to the recordation surcharge enacted during the 2015 session. Additionally, filing fees to support the MDEC are now projected to be insufficient to cover that expense beginning in fiscal 2019.

***Bail Reform:*** On October 11, 2016, the Office of the Attorney General issued an advisory letter calling into question the constitutionality of the State’s cash bail system. Attorney General Brian E. Frosh requested that the Judiciary consider a change to the Maryland Rules of Practice and Procedure to curtail the use of cash bail in the State. On January 5, 2017, the Court of Appeals considered a new rule that would have that effect but deferred action until at least February. If the rule is changed, it may be necessary to expand pretrial services across the State, but it is too soon to estimate those costs.

***Working Groups Recommend Rent Court Changes:*** The 2016 *Joint Chairmen’s Report* requested a joint report from the Judiciary and the Maryland Department of the Environment on improving data sharing between them regarding compliance with the Reduction of Lead in Housing Act in cases before rent courts. The report included two recommendations. The first recommendation is that the Judiciary increase training for staff to alert judges when landlords fail to provide proof of compliance with a rent court filing. The second recommendation is that there be a statutory change to require landlords to submit compliance certificates when filing rent court cases. Concurrently, another rent court working group was also convened to examine a broader range of rent court issues. That workgroup endorsed the two recommendations, and recommended an additional statutory change to make noncompliance with lead inspection requirements an issue that can be raised by tenants at trial.

## **C00A00 Judiciary**

### ***Operating Budget Analysis***

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#### **Program Description**

The Judiciary is composed of four courts and six 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 (COSA), 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. 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. 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. Timely Clearance Rates for District Court Hold 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 utilized standards set by the American Bar Association that determine 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. 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 time standards for District Court cases are set according to the following case types:

- **Criminal:** 180 days;

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- **Traffic – Driving Under the Influence:** 180 days;
- **Traffic – Must Appear:** 180 days;
- **Traffic – Payable:** 120 days;
- **Civil – Large:** 250 days; and
- **Civil – Small:** 120 days.

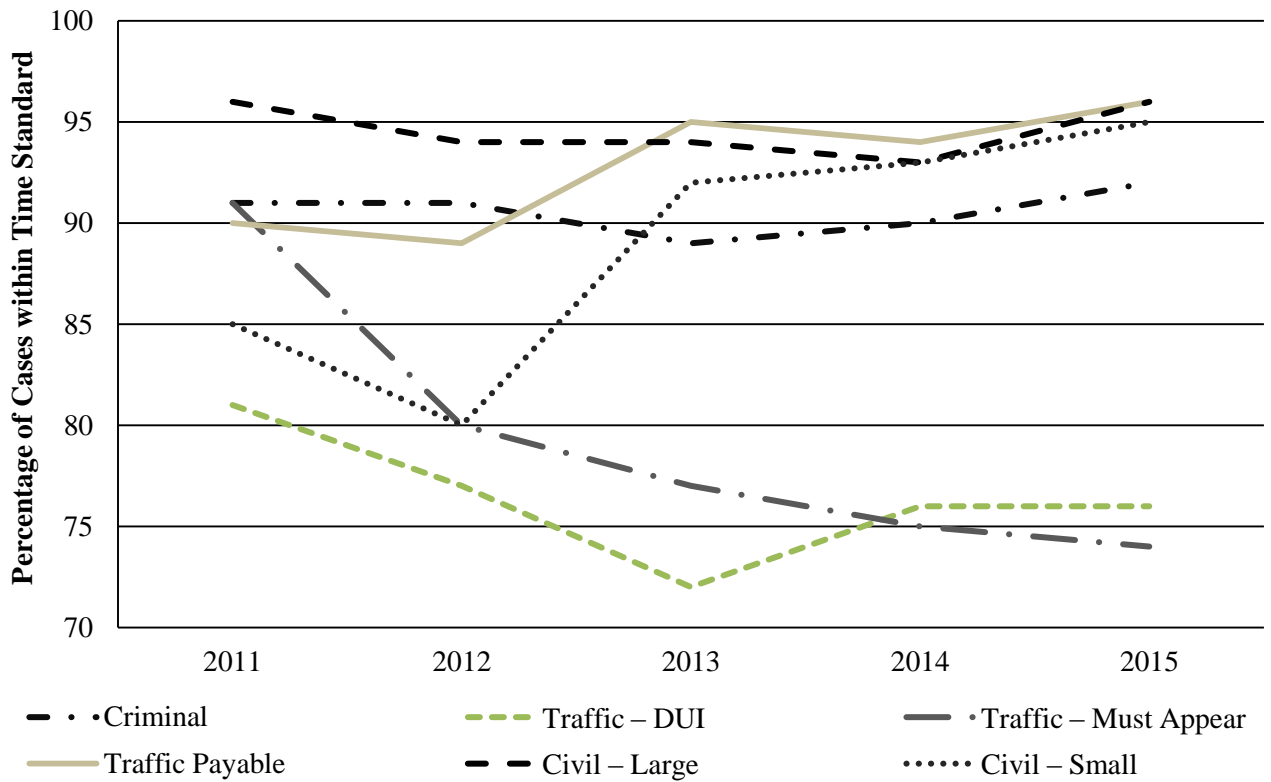
For each case type, the goal is to terminate 98% of cases within the time standard.

The Judiciary reports case time standards for the District 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 2011. 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% cases within standard for all case types. With the exception of the Traffic – Must Appear case type, performance has improved slightly since fiscal 2013, and is similar to the levels of fiscal 2011.

**Exhibit 2** analyzes average case processing times for the District Court in more detail. Average case times for all case types decreased between fiscal 2014 and 2015. Overall, criminal cases saw the largest such decrease from an average of 103 days to 90 days. Civil – Large also decreased, from 112 to 97 days. These reductions were driven largely by significant decreases in average processing time for over standard cases. The improvement is especially notable for over standard criminal cases, which took an average of 527 days to resolve in fiscal 2014, compared to 243 in fiscal 2015.



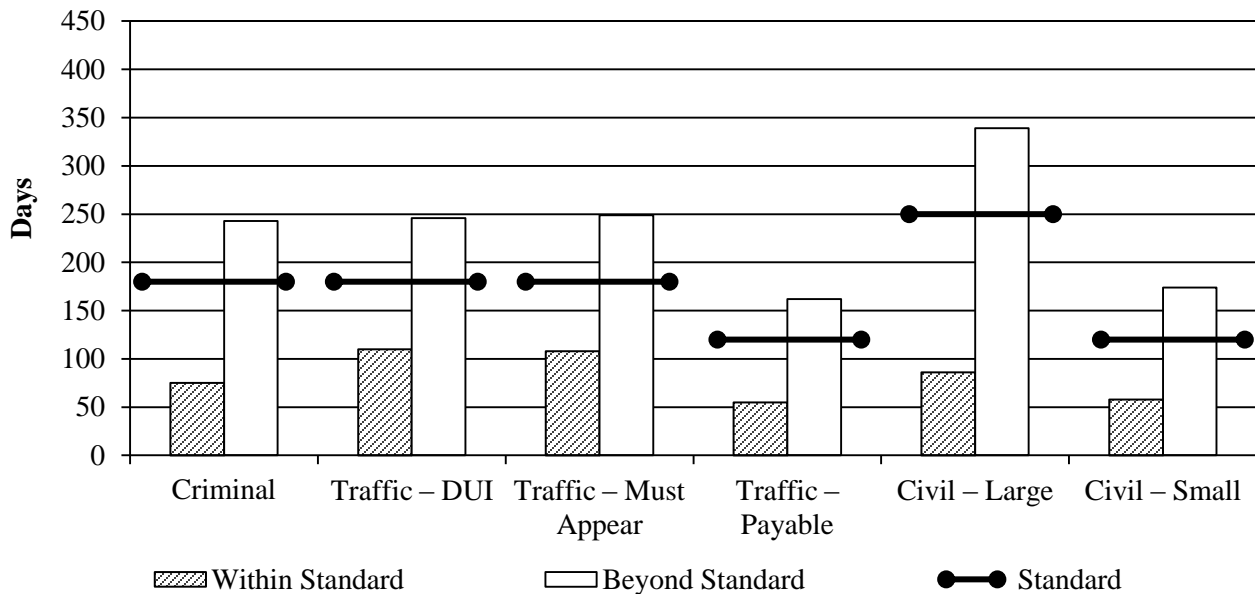
**Exhibit 1**  
**Maryland District Court**  
**Cases Terminated within Standard**  
**Fiscal 2011-2015**



DUI: driving under the influence

Source: Maryland Judiciary

**Exhibit 2**  
**Maryland District Court**  
**Average Case Processing Time for Cases Within and Beyond Time Standard**  
**Fiscal 2015**



DUI: driving under the influence

Source: Maryland Judiciary

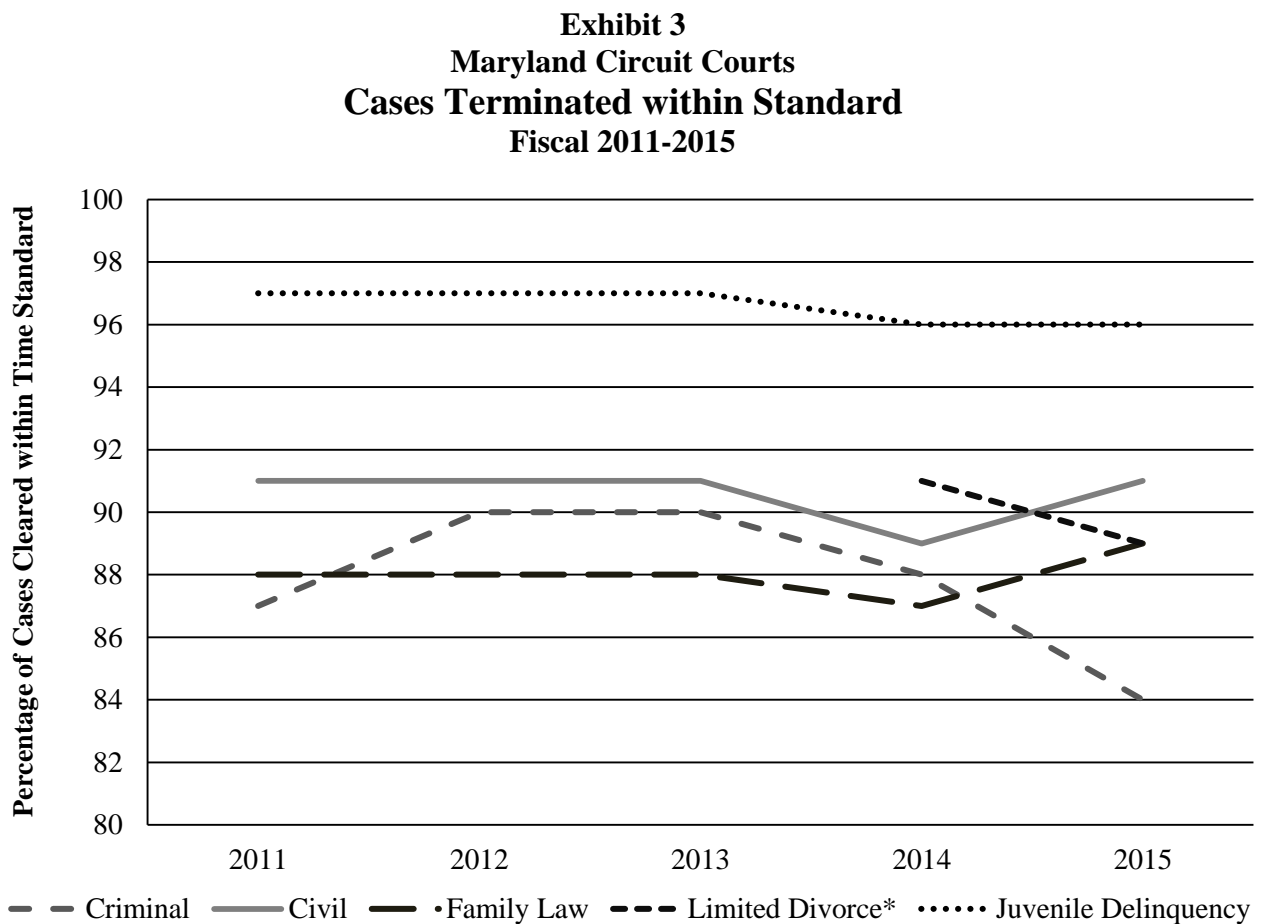
## 2. Circuit Court Performance Slips

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

- **Criminal:** 180 days, 98%;
- **Civil:** 548 days, 98%;
- **Family Law:** 365 days, 90%;
- **Limited Divorce:** 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:** 180 days, 100%.

**Exhibit 3** illustrates the number of circuit court cases terminated within the time standard for the five largest case types in the circuit courts. Similar to the District Court, while 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. Timely clearance rates have generally held steady since fiscal 2011, however, there has been a notable decline in the rate for criminal matters from 91% as recently as fiscal 2013 to 84% in fiscal 2015.

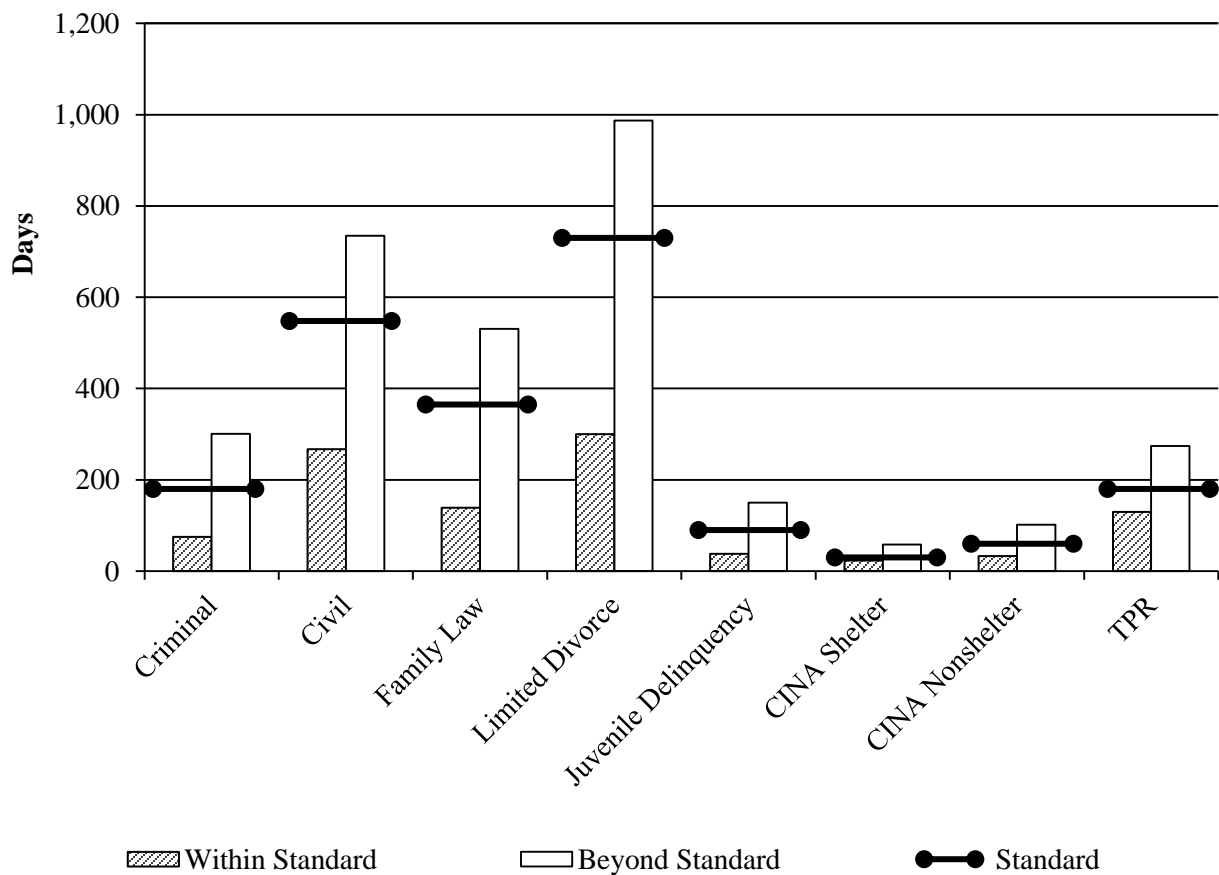


\* The Judiciary adjusted the contents of its family law case types in fiscal 2014 and limited divorce became its own category.

Source: Maryland Judiciary

**Exhibit 4** analyzes the average case processing time for circuit court cases. Compared to fiscal 2014, the circuit courts were able to reduce the average processing time for most categories of beyond standard cases, indicating the courts were better able to close long-standing and complex cases. Processing time for standard cases generally saw slight increases, but the majority of cases are still cleared well within established standards.

**Exhibit 4**  
**Maryland Circuit Courts**  
**Average Case Processing Time for Sample Cases Within and Beyond**  
**Time Standard**  
**Fiscal 2015**



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

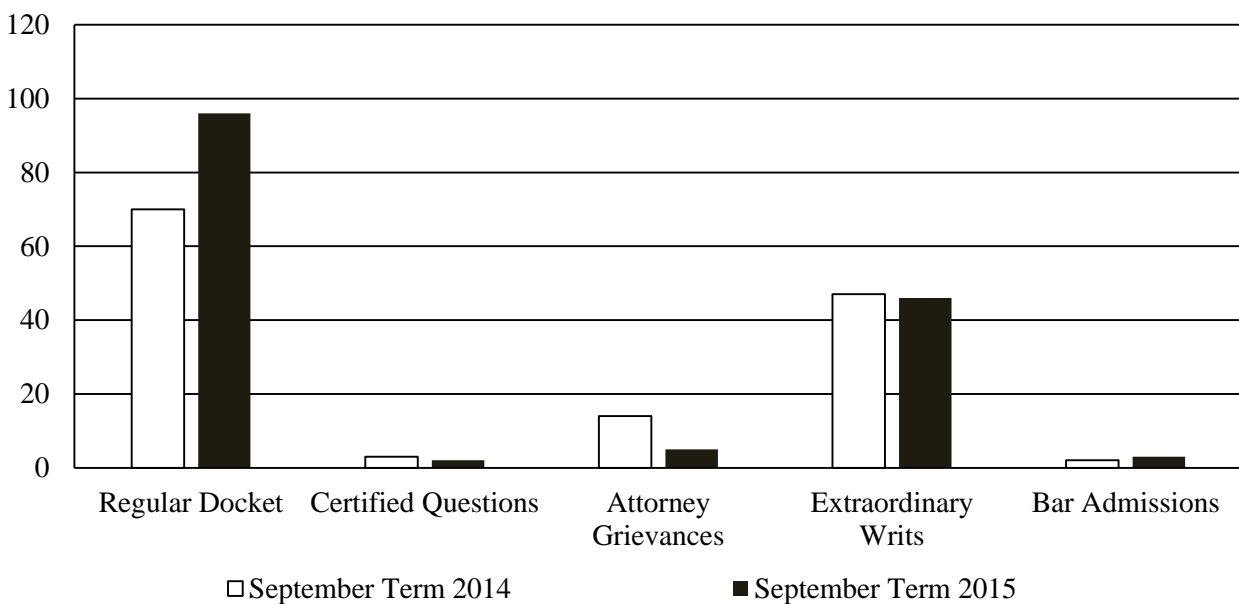
Source: Maryland Judiciary

### 3. Appellate Courts Continue to Meet Most Standards

The Court of Appeals and COSA developed and adopted case time standards in fall 2013. The standards went into effect for the September 2013 term for the Court of Appeals and fiscal 2014 for COSA.

The Court of Appeals standard is to dispose of 100% of cases within the annual term of the court. The court achieved the case time standard for each type of appeal during the September 2015 term. As shown in **Exhibit 5**, the Court of Appeals decided a total of 152 cases during the term, including 96 on the court's regular docket. During the September 2014 term, the court decided 136 cases, including 70 on the regular docket, all within the time standard.

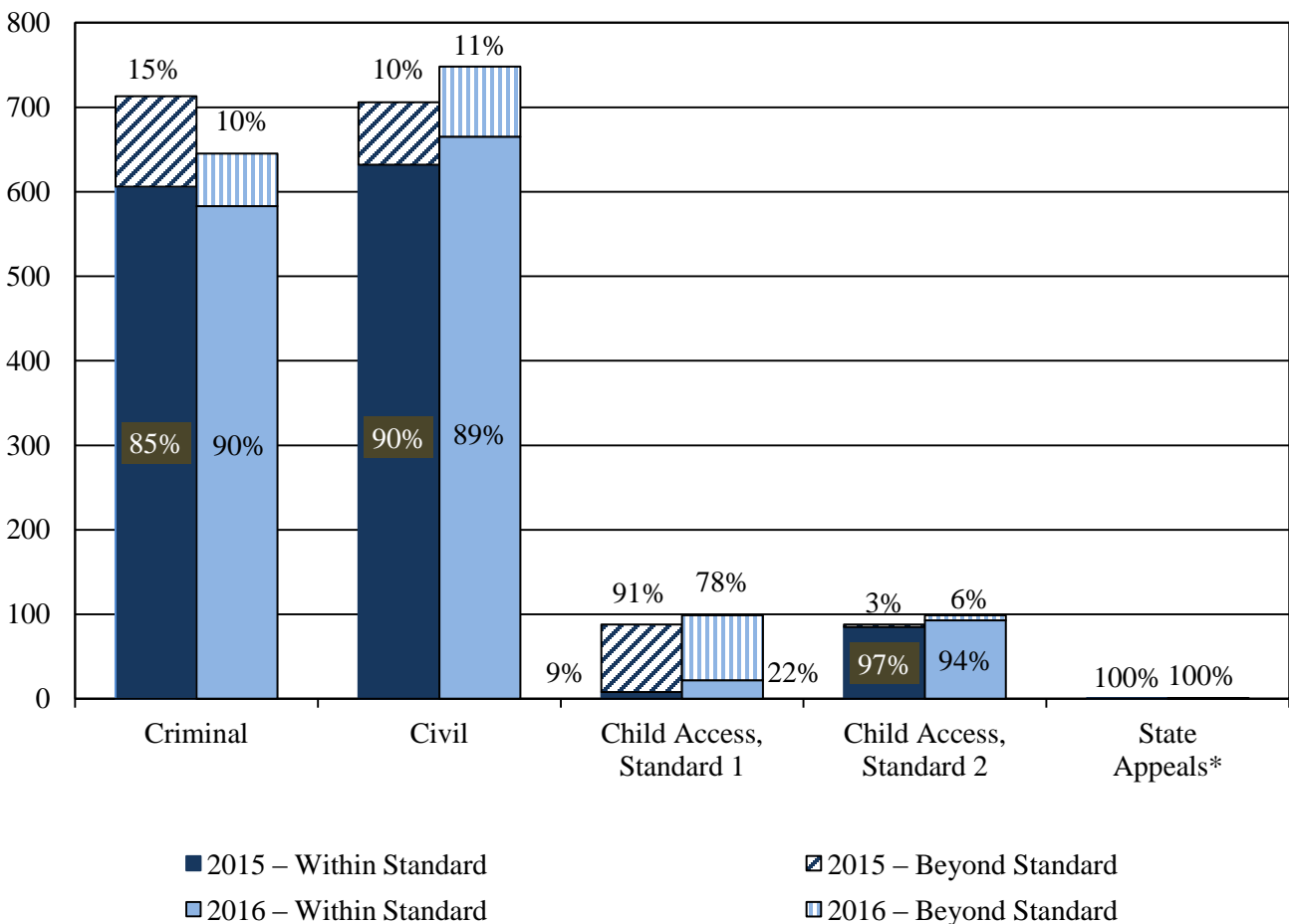
**Exhibit 5**  
**Maryland Court of Appeals**  
**Cases Terminated by Case Type**



Source: Maryland Judiciary

COSA has set a goal of disposing of 80% of criminal and civil cases (which constitute the large majority of its docket) within nine months (270 days) of oral argument or submission of the case on briefs. As **Exhibit 6** illustrates, COSA has reached this target in fiscal 2015 and 2016. In fiscal 2016, the court resolved 90% of criminal cases and 89% of civil cases within standard. In total, the court resolved 1,248 criminal and civil cases within the time standard in fiscal 2016 compared to 1,238 in fiscal 2015.

**Exhibit 6**  
**Maryland Court of Special Appeals**  
**Cases Terminated Within and Beyond Time Standard**  
**Fiscal 2015-2016**



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

Source: Maryland Judiciary

COSA also hears a number of special cases with their own established time standards. Child access cases comprise the majority of these appeals, with 99 cases in fiscal 2016. There are two time standards for child access cases – the first requires 98% of cases to be argued within 120 days from filing, and the second requires 100% be disposed within 60 days post argument. In fiscal 2015, the first standard was met in only 22% of cases, but the second standard was met in 94% of cases.

## Proposed Budget

The fiscal 2018 budget totals \$575.4 million, of which 87.6% is general funds. In comparison to the fiscal 2017 working appropriation, the budget grows by \$28.6 million, or 5.2%, as shown in **Exhibit 7**. This increase is largely attributable to increased personnel expenditures including a merit pay increase, 51.5 new regular and full-time equivalent positions, as well as the operating costs for new IT systems.

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

<b>How Much It Grows:</b>	<b>General Fund</b>	<b>Special Fund</b>	<b>Federal Fund</b>	<b>Reimb. Fund</b>	<b>Total</b>
Fiscal 2016 Actual	\$450,740	\$50,874	\$682	\$4,719	\$507,016
Fiscal 2017 Working Appropriation	481,702	59,251	1,107	4,783	546,844
Fiscal 2018 Allowance	<u>504,252</u>	<u>66,328</u>	<u>57</u>	<u>4,769</u>	<u>575,407</u>
Fiscal 2017-2018 Amount Change	\$22,550	\$7,077	-\$1,050	-\$14	\$28,564
Fiscal 2017-2018 Percent Change	4.7%	11.9%	-94.8%	-0.3%	5.2%

#### Where It Goes:

##### Regular and Contractual Personnel Expenses

Merit salary increases .....	\$6,763
Salaries and wages .....	4,822
51.5 new regular positions and contractual full-time equivalents.....	2,571
Turnover adjustments.....	1,737
Pension contributions.....	1,177
Overtime .....	878
Annualization of new judgeships .....	877
Social Security contributions .....	766
Retired judge compensation.....	328
Other fringe benefit adjustments.....	44
Employee and retiree health insurance .....	-4,647

##### Major Information Technology Development Projects

Judicial Information Systems modernization.....	2,819
Cybersecurity .....	2,096
Case Search and Attorney Information systems .....	1,812

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**Where It Goes:**

Courthouse eReadiness .....	1,123
Enterprise virtualization.....	1,000
Electronic land record optical imagery .....	-1,600
Maryland electronic courts .....	-2,273

**Grants**

Circuit Court Family Services.....	1,000
Office of Problem Solving Courts .....	545
Maryland Legal Services Corporation .....	500
County master salaries .....	-282
Federal grants.....	-1,033

**Other Changes**

Maintenance and operations for information technology systems .....	5,164
Building maintenance and construction .....	1,266
Rent .....	1,110
Office supplies .....	759
Furniture.....	661
Travel .....	477
Self-help centers.....	405
Interpreter services .....	399
Payment to State Archives .....	-3,000
Other .....	300

<b>Total</b>	<b>\$28,564</b>
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Note: Numbers may not sum to total due to rounding.

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**Across-the-board Reductions**

The fiscal 2018 budget bill includes a \$54.5 million (all funds) across-the-board contingent reduction for a supplemental pension payment. Annual payments are mandated for fiscal 2017 through 2020 if the Unassigned General Fund balance exceeds a certain amount at the close of the fiscal year. Because the Governor cannot append the Judiciary's budget request, there is an assumed reversion of \$918,366 in general funds and \$55,270 in special funds. The Department of Legislative Services (DLS) will be recommending a reduction of these amounts in the Department of Budget and Management – Personnel analysis (F10A02).



## **Regular and Contractual Personnel**

Personnel expenditures for regular and contractual employees increase by \$15.3 million. This includes merit pay increases (\$6.8 million), the creation of 51.5 new regular positions and contractual full-time equivalents (\$2.6 million), and the annualization of positions created in fiscal 2017 (\$876,678). Other major changes include increases to decrease turnover expectancy (\$1.7 million), for pensions (\$1.2 million), and for overtime for Maryland Electronic Courts (MDEC) initiative related tasks (\$878,011). These increases are partially offset by a decrease for employee and retiree health insurance (\$4.6 million).

## **Major Information Technology Development Projects**

Expenditures for major IT projects from the Land Records Improvement Fund (LRIF) increase by \$5.0 million. Changes include:

- reductions of \$2.3 million for the MDEC and \$1.6 million for the Land Records (Electronic Land Record Optical Imagery) eRecording;
- an increase of \$2.8 million to modernize the Judicial Information Systems to support new systems branchwide;
- an increase of \$2.1 million to improve cybersecurity across the Judiciary;
- an increase of \$1.1 million for IT infrastructure upgrades in courthouses to accommodate the MDEC; and
- increases totaling \$2.8 million to replace the case search system, to implement the new Attorney Information Systems (AIS) portal, and for continuing cloud computing upgrades.

## **Grants**

Significant changes to grants include increases of \$1 million for Circuit Court Family Services, \$545,000 for problem-solving courts across the State, and \$500,000 based on estimated Maryland Legal Services Corporation expenditures.

## **Other Changes**

Other large changes include \$5.2 million in general and special funds for maintenance and operations for the MDEC and other new IT systems and \$1.3 million for building maintenance and construction. There is a decrease of \$3.0 million from the LRIF based on a new Memorandum of Understanding between the Judiciary and the State Archives. The State Archives will receive \$2.0 million from the LRIF in fiscal 2018.

## ***Issues***

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### **1. Circuit Court Clerks Seek Large Increase in General Fund Appropriation**

Under Article IV, Section 10, the Clerk of the Circuit Court of each county and Baltimore City is governed by the Court of Appeals and funded through the State budget. To fulfill this obligation, each circuit court clerk submits a budget plan to the AOC as part of the annual budget development process. These requests are reviewed and adjusted by the Judiciary and submitted to the General Assembly as part of the Judiciary's request. For budget purposes, the relationship between the AOC and the circuit court clerk is analogous to that of the Department of Budget and Management and other Executive Branch agencies. The AOC oversees the process and the Chief Judge of the Court of Appeals can adjust appropriations within the Judiciary under the same rules that govern all State budget amendments, including the authority to move general funds between the Judiciary's courts and other programs.

The circuit court clerks receive funding from three sources. The majority of the appropriation is provided from the General Fund. Each jurisdiction also has a land records office, which is funded from the LRIF. Finally, each circuit court clerk receives federal funds via the Child Support Enforcement Administration of the Department of Human Resources.

As shown in **Exhibit 8**, a review of budget closeouts for the five most recently completed fiscal years (2012 to 2016), reveals that the circuit court clerks, collectively, have been appropriated between 3.4% and 8.9% more in general funds than was actually used within their offices. While some of these funds were transferred to other Judiciary programs for defined purposes supporting the circuit court clerks' offices, such as IT upgrades, and in fiscal 2015 due to the impact of the *DeWolfe v. Richmond* decision, the majority appears to have been reallocated at the end of each fiscal year to fund operating expenses in other parts of the Judiciary.

While using available funds in one area to cover shortfalls across the broader organization is not inherently problematic, in this case, it appears that the consistent availability of a large pool of appropriated, but unspent funds in the budgets of the circuit court clerks has allowed the Judiciary to request smaller appropriations in other programs and could lead to funding intended for specific purposes to be approved without the opportunity for the General Assembly to vet those purposes. To the extent that these funds are consistently needed elsewhere in the Judiciary, this should be reflected in the budget request presented to the General Assembly.

**Exhibit 8**  
**Clerks of the Circuit Court**  
**Actual Expenditures and Appropriations**  
**Fiscal 2012-2016**

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>Total</u> <u>2012-2016</u>
Legislative						
Appropriation	\$76,091,005	\$78,300,386	\$78,503,729	\$83,217,448	\$86,669,943	\$402,782,511
Budget						
Amendments	-\$3,045,797	-7,003,609	-5,331,266	-4,058,119	-2,988,199	-22,426,990
Less						
Reversions	-1	-1	-1	-780,581	-4	-780,589
Actual						
Expenditures	73,045,207	71,296,776	73,172,462	78,378,748	83,681,740	379,574,933
Percent of						
Appropriation						
Unspent	4.0%	8.9%	6.8%	5.8%	3.4%	5.8%

Source: Department of Management and Budget; Department of Legislative Services

**Fiscal 2018 Budget Request Includes Significant Increase for Clerks**

In addition to consistent overbudgeting discussed above, for the fourth year in a row, the Judiciary's budget request for the circuit court clerks includes a large general fund increase. Even after accounting for reductions by the General Assembly, the budget for the circuit court clerks has grown by over 4.0% in each year since fiscal 2014, as shown in **Exhibit 9**. Further, in each year except fiscal 2014, the clerks' appropriation has grown at a rate significantly above that of the overall State general fund budget.

This disconnect between the circuit court clerks' budget and the State's overall fiscal position is especially pronounced in fiscal 2018. The request is \$99.4 million, an increase of \$7.8 million, or 8.5%, above the fiscal 2017 appropriation. The fiscal 2018 request is \$15.8 million, or 18.8%, above actual fiscal 2016 expenditures.

**Exhibit 9**  
**Clerks of the Circuit Court**  
**Growth in General Fund Appropriation**  
**Fiscal 2012-2017**

<b><u>Fiscal Years</u></b>	<b><u>Request</u></b>	<b><u>Legislative Appropriation</u></b>	<b><u>Percent Change in Legislative Appropriation</u></b>	<b><u>Percent Change in Total General Fund Appropriation</u></b>
2012	\$ 78,328,409	\$ 76,091,005		
2013	78,704,465	78,300,386	2.90%	1.30%
2014	79,439,458	78,503,729	0.26%	4.89%
2015	84,835,172	83,217,448	6.00%	2.46%
2016	90,365,551	86,669,943	4.15%	2.13%
2017	92,596,922	91,627,080	5.72%	4.88%

Source: Department of Budget and Management; Department of Legislative Services

Given the State's fiscal condition, such increases for the circuit court clerks are not justifiable. Recent increases cannot be explained merely by growing personnel costs, the creation of new judgeships in fiscal 2017, or the implementation of the MDEC. Overbudgeting for the circuit court clerks' offices is especially problematic given that unspent funds are not reverted to the General Fund at the end of the fiscal year, but rather are used to support expenditures across the Judiciary. Exercising better control over the budgets of circuit court clerks' offices would allow the Judiciary to focus available budget capacity on other priorities and provide the General Assembly and other stakeholders a better view of the Judiciary's expenditures.

**DLS recommends that the general fund appropriation for the Clerks of the Circuit Court be level funded for fiscal 2018. DLS further recommends that the Judiciary comment on its utilization of budget amendments to reallocate money from the circuit court clerks' budgets to fund operating expenses in other parts of the Judiciary and to explain the apparent pattern of overbudgeting for the clerks' offices. Finally, DLS recommends committee narrative be adopted requesting a report from the Judiciary detailing the current budget review process for the Clerks of the Circuit Court, including recommendations to ensure that future budget requests better reflect anticipated expenditures.**

## **2. Appointed Attorney Program Stays under Budget in Third Year**

Committee narrative in the 2016 *Joint Chairmen's Report* (JCR) required that the Judiciary submit an accounting of expenditures and utilization statistics for the Appointed Attorney Program for fiscal 2016. The Appointed Attorney Program was created by the General Assembly to bring the State into compliance with the Court of Appeals decision in *DeWolfe v. Richmond*. Under the program, the Judiciary selects private attorneys to represent indigent defendants at initial appearances before

District Court commissioners and compensates them at a rate of \$50 per hour. The program began to operate on July 1, 2014.

**Exhibit 10** provides a detailed breakdown of program utilization for fiscal 2016. Statewide, a total of 147,194 initial appearances were logged, with 46.2% resulting in a release either on personal recognizance or unsecured bond. Appointed attorneys represented defendants in 45,731 of these appearances, but 98,604 defendants (67.0%) waived their right to an attorney. This waiver rate is similar to the 65.1% waiver rate in fiscal 2015. Total expenditures for the program in fiscal 2016 were \$8.1 million, the same as fiscal 2015.

The 2016 budget bill extended program funding through the end of fiscal 2017 by restricting \$10 million of the Judiciary's general fund appropriation. The Judiciary's fiscal 2018 request again includes \$10 million to fund the Appointed Attorney Program.

The Judiciary has also provided an accounting of expenditures from July to November of 2016. For the first five months of fiscal 2017, actual expenditures currently stand at \$3.1 million, and year-to-date expenditures are consistent with the same period in fiscal 2015 and 2016. It is likely that the Appointed Attorney Program will again cost approximately \$8.1 million in fiscal 2017, and there is no reason to believe that will change in fiscal 2018. **DLS recommends that the appropriation for appointed attorneys be reduced to \$8.5 million in fiscal 2018 based on actual expenditures for the program. DLS further recommends adoption of committee narrative requesting a report on program costs and utilization.**

### **3. Land Records Improvement Fund Spending Drifts Further from Intended Purpose**

The LRIF was established by Chapter 327 of 1991 in direct response to poor and deteriorating conditions in the State's land records offices. The Maryland State Archives (MSA) and the land records offices share joint responsibility as custodians for over three centuries of records dating from the start of European settlement. Land records offices are also responsible for recording new real property transactions in the State. Since the LRIF was created it has been funded, at least partially, by a surcharge on the recordation of land instruments. Initially that surcharge was \$5 and has increased to \$40 over the last 25 years.

Since 1991, LRIF monies have allowed the Judiciary to modernize its land records office, provided for the operations of those offices, and funded the development and maintenance of the Electronic Records Online Imaging system. Since fiscal 2003, MSA has also received an appropriation from the LRIF to defray the agency's costs and to facilitate the development of mdlandrec, the State's public online portal for land records.

By the mid-2000s, a substantial balance remained in the fund and Chapter 2 of the special session of 2007 moved Judiciary expenditures for major IT projects from the General Fund to the LRIF for fiscal 2009 and 2010. Chapter 484 of 2010 made this change permanent and since that time the LRIF has been used both for land records maintenance and major IT projects.

When the General Assembly acted in 2010, it was anticipated that the change would allow general fund savings of \$22.1 million over two years, at which point, the LRIF's structural surplus would be exhausted, and the fund would be unable to support major IT projects. However, the land recordation surcharge was doubled to \$40 during the 2011 session, a change that is currently scheduled to sunset in fiscal 2020, and has allowed for additional major IT expenditures. The Judiciary has requested \$19.4 million from the LRIF for major IT projects in fiscal 2018 alone and plans to fund the entirety of MDEC development (\$71.1 million) with LRIF monies.

Additionally, Chapter 488 of 2015 created a new surcharge of \$11 on civil cases filed in the circuit courts and all appellate cases. These fees (\$5.4 million in fiscal 2016) are also deposited in the LRIF to fund ongoing maintenance for the MDEC. The addition of another revenue stream completely unrelated to land records is unnecessary and pulls the LRIF further from its intended purpose. This is a permanent change to the fund that goes well beyond the sweeping of an unused balance. The State has allowed a substantial segment of its IT needs to be funded through a fee that is charged to only some individuals and bears no connection to this use of the funds. These problems can be corrected by legislative actions to redirect filing fee revenue to a separate special fund and to bar major IT expenditures from the LRIF.

**DLS recommends that the General Assembly pass legislation creating a new fund in the Judiciary for the purpose of funding future MDEC maintenance and operations costs and redirecting MDEC filing fees to that account. DLS recommends legislation also be passed that eliminates major IT project development as an authorized use of the LRIF. Finally, DLS recommends that in the future, the Judiciary only use the LRIF for land records-related purposes.**

**Exhibit 10**  
**Appointed Attorney Program**  
**Fiscal 2016 Utilization by County**

<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	29,223	11,855	785	43.3%	18,026	83	14	11,096	38.0%
Dorchester	1,275	238	148	30.3%	51	3	2	1,218	95.5%
Somerset	687	107	175	41.0%	4	1	2	675	98.3%
Wicomico	4,539	1,079	424	33.1%	122	13		4,306	94.9%
Worcester	3,433	1,699	257	57.0%	40	10		2,968	86.5%
Caroline	838	268	194	55.1%	49	13	1	769	91.8%
Cecil	3,636	988	648	45.0%	687	63	4	2,848	78.3%
Kent	454	102	84	41.0%	7	7		439	96.7%
Queen Anne's	1,121	190	166	31.8%	70	27	3	1,010	90.1%
Talbot	978	406	186	60.5%	46	15		899	91.9%
Calvert	2,202	645	776	64.5%	59	5	5	2,082	94.6%
Charles	4,529	2,525	223	60.7%	247	8	2	3,725	82.2%
St. Mary's	2,144	1,168	294	68.2%	115	8	2	1,967	91.7%
Prince George's	27,265	11,866	777	46.4%	10,062	74	4	17,048	62.5%
Montgomery	13,617	3,518	2,917	47.3%	6,816	259	13	6,515	47.8%
Anne Arundel	13,699	6,280	1,064	53.6%	5,739	206	13	7,728	56.4%
Baltimore County	17,392	5,720	905	38.1%	2,295	72	2	14,968	86.1%
Harford	3,326	1,644	42	50.7%	287	21	4	2,988	89.8%
Carroll	2,055	748	357	53.8%	38	20	6	1,926	93.7%
Howard	4,001	647	1,249	47.4%	367	30	3	3,545	88.6%
Frederick	4,101	1,590	291	45.9%	312	15	1	3,664	89.3%
Washington	3,903	1,624	159	45.7	148	2		3,704	94.9%
Allegany	2,201	580	65	29.3%	93	24	3	2,076	94.3%
Garrett	575	232	38	47.0%	51	13	3	440	76.5%
<b>Totals</b>	<b>147,194</b>	<b>55,719</b>	<b>12,224</b>	<b>46.2%</b>	<b>45,731</b>	<b>992</b>	<b>87</b>	<b>98,604</b>	<b>67.0%</b>

Source: Maryland Judiciary



## ***Recommended Actions***

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1. Add the following language:

Provided that \$6,257,414 in general funds for employee merit salary increases is reduced. The Chief Judge is authorized to allocate the reduction across the Judiciary.

**Explanation:** This action eliminates funding for merit salary increases for Judiciary employees. There is no general merit increase for State employees in the Governor’s budget.

2. Add the following language:

Further provided that \$3,913,974 in general funds is reduced. The Chief Judge shall allocate this reduction across the Judiciary.

**Explanation:** This action eliminates \$3.9 million in fiscal 2018 with the intent that the Judiciary use \$3.9 million in encumbered funds appropriated from fiscal 2012 to 2015 to fund fiscal 2018 expenses. It is the intent of the General Assembly that these previously encumbered funds not be reverted to the general fund upon cancellation of any prior agreements to expend those funds.

		<b><u>Amount Reduction</u></b>		<b><u>Position Reduction</u></b>
3.	Eliminate funding for a 0.5 new position in the Court of Special Appeals. This position is being denied due to the fiscal condition of the State and the Spending Affordability Committee’s recommendation that total State employment not be increased in fiscal 2018.	\$ 36,053	GF	0.5
4.	Eliminate funding for 2.0 new positions in the circuit court judges. These positions are being denied due to the fiscal condition of the State and the Spending Affordability Committee’s recommendation that total State employment not be increased in fiscal 2018.	268,888	GF	2.0

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

, provided that \$8,500,000 of the general fund appropriation may only be expended for the purpose of providing attorneys for required representation at initial appearances before District Court Commissioners consistent with the holding of the Court of Appeals in DeWolfe v. Richmond. Any funds not expended for this purpose shall revert to the General Fund. Further provided that contingent upon a provision in HB 152, 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 2016 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.

**Explanation:** This language restricts the use of \$8.5 million of the Judiciary’s general fund appropriation for the implementation of DeWolfe v. Richmond. It also provides, contingent on a provision in the Budget Reconciliation and Financing Act of 2017, that counties shall pay any costs in excess of the restricted amount.

	<u>Amount Reduction</u>		<u>Position Reduction</u>
6. Eliminate funding for 8.5 new positions in the District Court. These positions are being denied due to the fiscal condition of the State and the Spending Affordability Committee’s recommendation that total State employment not be increased in fiscal 2018.	396,436	GF	8.5
7. Reduce the appropriation for the Appointed Attorney Program from \$10.0 million to \$8.5 million. Actual expenditures in fiscal 2015 and 2016 were \$8.1 million, and are on a similar trajectory through the first half of fiscal 2017.	1,500,000	GF	
8. Eliminate funding for 13.0 new full-time equivalents for District Court bailiffs. These funds are being denied due to the fiscal condition of the State.	392,557	GF	
9. Reduce funding for travel to half the requested increase. This reduction is intended to be spread across the Judiciary with the exception of the Clerks of the Circuit Court.	225,000	GF	

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|-----|--|------------|
| 10. | Reduce funding for supplies to eliminate the requested increase. This reduction is intended to be spread across the Judiciary with the exception of the Clerks of the Circuit Court. This action is to eliminate an unjustified 11.1% increase for this class of expenditures.   | 453,757 GF |
| 11. | Reduce funding for new and replacement office furniture to eliminate the requested increase. This reduction is intended to be spread across the Judiciary with the exception of the Clerks of the Circuit Court. This action is to eliminate a 29% increase in these expenditures across the Judiciary due to the fiscal condition of the State. | 571,600 GF |
| 12. | Reduce the appropriations for select comptroller subobjects within the District Court program for which an 8.0% inflation rate over the most recent actual expenditure has been applied without justification. This action reduces these appropriations to the same level as fiscal 2017.  | 454,102 GF |

13. Adopt the following narrative:

**Appointed Attorney Program Costs and Utilization:** The committees remain interested in the costs and operations of the Appointed Attorney Program and the State's efforts to comply with the DeWolfe v. Richmond decision. The committees request a report detailing the fiscal 2017 costs and utilization of the Appointed Attorney Program.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Appointed Attorney Program costs and utilization	Judiciary	October 1, 2017

- |   | <u><b>Amount<br/>Reduction</b></u> |  | <u><b>Position<br/>Reduction</b></u> |
|---|------------------------------------|--|--------------------------------------|
| 14. Eliminate 1.35 new positions in the Administrative Office of the Courts. These positions are being denied due to the fiscal condition of the State and the Spending Affordability Committee's recommendation that total State employment not be increased in fiscal 2018. | 69,475 GF                          |  | 1.4                                  |

15. Adopt the following narrative:

**Budget Practices in the Clerks of the Circuit Court:** The committees are concerned that the budget process between the Clerks of the Circuit Court and the Administrative Office of the Court leads to inflated budget requests for the clerks. The committees request a report detailing the current budget review process for the Clerks of the Circuit Court and recommendations to ensure that future budget requests reflect actual needs.

Information Request	Author	Due Date
Budget Practices in the Clerks of the Circuit Court	Judiciary	November 1, 2017

		<u>Amount Reduction</u>	<u>Position Reduction</u>
16.	Eliminate funding for a 0.25 new position in the Court Related Agencies program. This position is being denied due to the fiscal condition of the State and the Spending Affordability Committee's recommendation that total State employment not be increased in fiscal 2018.	18,026 GF	0.3
17.	Eliminate a 0.4 new position in the State Law Library. This position is being denied due to the fiscal condition of the State and the Spending Affordability Committee's recommendation that total State employment not be increased in fiscal 2018.	17,711 GF	0.4
18.	Eliminate 5.5 new positions in Judicial Information Systems. These positions are being denied due to the fiscal condition of the State and the Spending Affordability Committee's recommendation that total State employment not be increased in fiscal 2018.	400,024 GF	5.5

19. Adopt the following narrative:

**Development of Statewide Cybersecurity Policy:** The committees are concerned about cybersecurity and recognize the need for all units of State government to implement and follow robust cybersecurity policies and appreciate the Judiciary's plan to develop and invest in such a policy and believe that the Judicial Information Systems (JIS) and the Department of Information Technology (DoIT) should consider working together to develop a unified cybersecurity policy. The committees request a joint report on the current status of the State's

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cybersecurity policies and the feasibility of creating and adopting a unified cybersecurity policy for the Executive and Judicial branches.

<b>Information Request</b>	<b>Authors</b>	<b>Due Date</b>
Report on statewide cybersecurity policy	JIS DoIT	November 1, 2017

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

, provided that this appropriation is reduced by \$5,056,251. The Chief Judge shall allocate all reductions to the Clerks of the Circuit Court program such that each jurisdiction receives the same general fund appropriation it received in fiscal 2017.

**Explanation:** This action reduces the total general fund appropriation for the Clerks of the Circuit Court to the same level as the fiscal 2017 appropriation. The Judiciary is required to allocate these reductions such that the appropriation for each jurisdiction is also at the fiscal 2017 level.

	<b><u>Amount Reduction</u></b>	<b><u>Position Reduction</u></b>
21. Eliminate 20.0 new positions in the Clerks of the Circuit Court. These positions are being denied due to the fiscal condition of the State and the Spending Affordability Committee's recommendation that total State employment not be increased in fiscal 2018.	921,869 GF 49,571 SF	20.0
<b>Total Reductions</b>	<b>\$ 21,002,716</b>	<b>38.5</b>
<b>Total General Fund Reductions</b>	<b>\$ 20,953,145</b>	
<b>Total Special Fund Reductions</b>	<b>\$ 49,571</b>	

## ***Updates***

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### **1. No New Judges Sought as Judiciary Reviews Metrics to Measure Need**

Each year from 1979 to 2015, the Judiciary submitted a report to the General Assembly certifying the need for additional judgeships across the State, and, if necessary, a formal request to establish judgeships in specific courts and jurisdictions. Committee narrative in the 2012 JCR requested that the Judiciary develop a multi-year plan for adding new District and circuit court judgeships so that the General Assembly could address the Judiciary's needs more gradually and spread the budget impact over several years.

The Judiciary submitted the Judgeship Deployment Plan in November 2012. The Judiciary presented a six-year timeline (fiscal 2013 to 2018) to add 26 judgeships. In November 2015, after two legislative sessions in which the previous plan was not followed, the Judiciary submitted an updated version of the plan seeking 20 new judgeships between fiscal 2017 and 2019. Chapter 91 of 2016 established 13 of those judgeships.

In 2001, the Judiciary engaged the National Center for State Courts (NCSC) to conduct an analysis of judicial workloads in the State and to develop a weighted caseload methodology to determine the need for new judgeships. These standards were last updated by NCSC in 2007, and there has not been a comprehensive review since 2001. In the intervening years, NCSC has updated the tools and criteria it uses to evaluate workloads. Therefore, the Judiciary reports that it engaged NCSC in 2015 to reassess judicial workloads and, where appropriate, to recommend changes to caseload standards.

While the Judiciary did not anticipate that the development of the new standards would interfere with the annual certification and request for new judges, it now reports that the evaluation has taken longer than expected. Therefore, rather than certify a need for judges under the previous evaluation methodology, the Judiciary has elected not to certify a need for or seek the creation of any judgeships for fiscal 2018.

For fiscal 2017, the Judiciary certified a need for 31 trial court judges across the State, and it is likely the new evaluation criteria will find that most or all of these additional judgeships are needed. Delaying the creation of judgeships for a year, though, will allow all stakeholders to act with the best information possible and better define both the areas of the most critical need and the overall scope of the situation. It is also important to note that the Judiciary will require, at a minimum, 3 additional District Court judges to fully staff the new Catonsville District Courthouse in Baltimore County. The Judiciary had planned to seek those judgeships during the 2017 session, but the schedule for the opening of the new courthouse will accommodate a delay in the creation of those judgeships until fiscal 2019.

## 2. Major Information Technology Development Projects

Each year, as part of its budget request, the Judiciary submits an Information Technology Master Plan (ITMP) identifying its plans for major IT projects. These projects are funded by the Judiciary from the LRIF.

As shown in **Exhibit 11**, the Judiciary's fiscal 2018 ITMP includes eight projects with a total cost of \$19.4 million in fiscal 2018. Of these eight projects, one, upgrades to Electronic Land Records Online Imagery is ending, with no planned expenditures after fiscal 2017. Of the remaining seven projects, four are new in the fiscal 2018 ITMP. The new projects are as follows:

- **Cybersecurity:** The JIS, the program that manages IT across the Judiciary, plans to develop and implement a comprehensive Cyber Security Strategic Plan and Roadmap. New IT systems across the Judiciary necessitate modernization of security systems. Additionally, an August 2016 audit of JIS by the Office of Legislative Audits revealed that the Judiciary had several security deficiencies that can be resolved by more robust JIS oversight. The project is expected to last through fiscal 2019 with a total cost of \$3.4 million.
- **IT Service Management:** The IT Service Management project will allow JIS to modernize its infrastructure for IT management across the branch to accommodate the MDEC and other new systems. The project is expected to last through fiscal 2019 with a total cost of \$3.6 million.
- **Attorney Information System:** AIS will collect information on attorneys currently housed separately in the records of the Judiciary's various court-related agencies. The Judiciary reports that moving this information to a single system will increase the efficiency of these agencies and streamline the process for attorneys to comply with the regulations governing the practice of law in the State. The project is expected to last through fiscal 2019 with a total cost of \$1.6 million.
- **Case Search Version 2.0:** This project will redesign the State's Case Search system, which was launched in 2006 to allow public access to select case information in an electronic format. Since the current system was launched, technology and the legal requirements regarding electronic access to case documents have changed significantly, and the current system cannot be modified to accommodate those changes. The project is expected to last through fiscal 2019 with a total cost of \$1.5 million.

**Exhibit 11**  
**Fiscal 2018 Information Technology Master Plan**  
**Actual and Projected Expenditures**

<b><u>Project</u></b>	<b><u>Expenditures Pre-2017</u></b>	<b><u>Working Appropriation 2017</u></b>	<b><u>Request 2018</u></b>	<b><u>Planned Expenditures 2019-2021</u></b>	<b><u>Total Project Cost</u></b>
MDEC	\$ 37,198,396	\$ 9,417,098	\$ 7,144,489	\$ 17,385,998	\$ 71,145,981
ELROI	26,147	1,600,000			1,626,147
Courthouse eReadiness		2,440,000	3,562,500	6,126,004	12,128,504
Enterprise Virtualization		1,000,000	2,000,000	750,000	3,750,000
* Cybersecurity			2,096,000	1,281,000	3,377,000
* IT Service Management			2,818,544	817,272	3,635,816
* Attorney Information System			1,024,080	617,100	1,641,180
* Case Search Version 2.0			787,440	693,600	1,481,040
<b>Total</b>	<b>\$ 37,224,543</b>	<b>\$ 14,457,098</b>	<b>\$ 19,433,053</b>	<b>\$ 27,670,974</b>	<b>\$ 98,785,668</b>

ELROI: Electronic Land Records Online Imagery

IT: information technology

MDEC: Maryland Electronic Courts

\* Denotes new projects.

Source: Maryland Judiciary

## **MDEC Rollout Continues**

In calendar 2016, the rollout of the MDEC moved beyond the pilot jurisdiction, Anne Arundel County, with successful deployments in the Upper Eastern Shore in July 2016 and the Lower Eastern Shore in December 2016. While there was a delay in the first half of 2016 due to vendor



upgrades to the software platform, the Judiciary has maintained the pace of its rollouts and is reporting minimal issues. The MDEC will launch next in Southern Maryland on June 12, 2017, and preparations are already underway for the rollout in the State's larger jurisdictions. Additionally, the fiscal 2018 ITMP includes an updated cost estimate for the project totaling \$71.1 million, a decrease of \$1.9 million from the fiscal 2017 estimate; however, this decrease is attributable to the reallocation of \$3.1 million in expenditures for operations and maintenance from the project budget.

### **3. Land Records Improvement Fund**

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 under Chapter 487 of 2015.

Chapter 488 of 2015 created a new surcharge of \$11 on civil cases filed in the circuit courts and all appellate cases filed in the State. These fees are deposited into the LRIF to support development and maintenance costs for the MDEC. The surcharge generated \$5.4 million in fiscal 2016, and the Judiciary projects that it will continue to generate approximately this amount going forward. The current financial status of the fund and projected revenue and expenditure through fiscal 2021 is shown in **Exhibit 12**. DLS projects, based on data provided by the Judiciary, that the fund would have a deficit of \$7.2 million at the end of fiscal 2021 under current law, which includes the sunset of the \$40 recordation surcharge, which would fall to \$20. If the \$40 surcharge is extended a positive balance should be retained.

While IT projects and land records office operations continue to be the primary uses of LRIF monies, maintenance and operations costs for the new MDEC system grow steadily during the projection period, reaching \$6.5 million in fiscal 2021. When the filing fee to cover these costs was implemented it was expected the revenue would cover these costs. However, costs are projected to exceed revenues by fiscal 2019. The Judiciary has reported that the number of filings has been lower than projected nationwide, and that if this trend continues it may seek to renegotiate the maintenance contract.

**Exhibit 12**  
**Land Records Improvement Fund**  
**Fiscal 2016-2021**  
**(\$ in Thousands)**

	<u>2016</u>	<u>Working Approp. 2017</u>	<u>Requested 2018</u>	<u>Projected 2019</u>	<u>Projected 2020</u>	<u>Projected 2021</u>
<b>Starting Balance</b>	\$40,631	\$36,712	\$24,027	\$9,997	\$9,775	\$9,800
<b>Revenues</b>						
Land Records Surcharges/Fees	\$30,339	\$29,914	\$29,914	\$29,914	\$29,914	\$14,957
e-Filing Service Surcharge	5,428	5,430	5,430	5,430	5,430	5,430
<b>Total Revenue</b>	<b>\$35,767</b>	<b>\$35,344</b>	<b>\$35,344</b>	<b>\$35,344</b>	<b>\$35,344</b>	<b>\$20,387</b>
<b>Expenses</b>						
Land Records Offices*	\$14,743	\$19,883	\$21,241	\$15,500	\$15,500	\$15,500
Archives (mdlandrec.net)	5,000	5,000	2,000	1,000	500	500
ELROI Maintenance	1,896	3,401	3,613	3,600	3,600	3,600
e-Filing Operations and Maintenance	0	1,080	3,088	4,195	5,676	6,453
Major IT Projects	12,734	14,457	19,433	11,271	10,043	11,357
Encumbrance Reconciliation	5,311	4,208				
<b>Total Expenses</b>	<b>\$39,686</b>	<b>\$48,030</b>	<b>\$49,374</b>	<b>\$35,566</b>	<b>\$35,319</b>	<b>\$37,410</b>
<b>Ending Balance</b>	<b>\$36,712</b>	<b>\$24,027</b>	<b>\$9,997</b>	<b>\$9,775</b>	<b>\$9,800</b>	<b>-\$7,223</b>
Structural Imbalance	-\$3,919	-\$12,686	-\$14,030	-\$222	\$25	-\$17,023

ELROI: Electronic Land Records Online Imagery

IT: information technology

\* Note: The Judiciary's projections for expenditures of land records offices are significantly lower than the current request and through fiscal 2018. Data from the Judiciary's budget submission has been substituted for those estimates.

Source: Maryland Judiciary; Department of Legislative Services

#### **4. Bail Reform**

On October 11, 2016, the Office of the Attorney General (OAG) issued an advisory letter at the request of five members of the General Assembly regarding the constitutional soundness of the State’s current cash bail system, which relies on cash bail and does not require judicial officers to consider a defendant’s ability to pay when making a bail determination. In its advisory letter, OAG concluded that because the current system does allow judicial officers to set a bail “solely to detain the defendant” it likely violates both the United States and Maryland constitutions.

The OAG advisory letter has set off an ongoing chain reaction. On October 25, 2016, the Chief Judge of the Maryland District Court, John P. Morrissey issued a guidance letter, advising judges statewide on several aspects of the bail-setting process under current law and cautioning that they should apply the “least onerous” pretrial release conditions that will ensure appearance at trial and protect public safety. Further, he stated that cash bail is not a means to protect public safety. On the same day, Attorney General Frosh requested that the Judiciary’s Standing Committee on Rules of Practice and Procedure consider changes to the Maryland Rules of Practice and Procedure to ensure that defendants are not detained solely because they cannot post bail. The committee is a 24-member body composed of private attorneys, members of the General Assembly, and judicial officers that considers proposed amendments to the Maryland Rules of Practice and Procedure and submits recommendations on those amendments to the Court of Appeals.

On November 18, 2016, the committee held a public meeting at which it heard testimony, debated the issue, and then voted to recommend a new Rule 4-216.1 to set standards governing pretrial release in the State. The proposed rule, among other things, authorizes the use of cash bail only when no other conditions of release will reasonably ensure a defendant’s appearance at trial and prohibits its imposition when a judicial officer knows or has reason to believe the defendant is financially incapable of meeting the financial condition.

On January 5, 2017, the Court of Appeals held a hearing on the proposed rule change. While the Court of Appeals could have voted to adopt or not adopt the new rule at the conclusion of the meeting, after discussion of its merits and potential amendments, the Court elected to delay action until early February 2017 to allow for consideration of potential amendments to the new rule.

Changes to the State’s pretrial procedures could have a significant budget impact for public safety agencies, especially if the General Assembly chooses to create a robust pretrial services system statewide. However, it is premature to speculate as to these potential costs not only because the rules for bail are as yet unchanged, but also because no concrete proposals for statewide pretrial services or other alternatives are currently under consideration.

#### **5. Working Groups Recommend Rent Court Changes**

Committee narrative in the 2016 JCR requested that the Maryland Department of the Environment (MDE) and the Judiciary submit a joint report on improving data sharing between them

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regarding rental property compliance with the Reduction of Lead Risk in Housing Act, which requires that the owners of rental property meet registration, inspection, and certification requirements for properties deemed to have risk of lead paint contamination depending on their data of construction.

On November 1, 2016, MDE and the Judiciary submitted a report that included two recommendations. First, the report recommends that the Judiciary should reinforce best practices or institute additional training to ensure that staff alert judges when landlords fail to include proper compliance information with rent court filings. Second, the report recommends a statutory change to require that landlords include a copy of the Lead Paint Risk Reduction Inspection Certificate for a property when they file actions in rent court.

Concurrent to the collaboration between MDE and the Judiciary, another working group was convened at the request of then-Senator Catherine E. Pugh and Delegate Samuel I. Rosenberg to examine a wide range of issues regarding the State's rent courts, explicitly including lead paint remediation. This workgroup was chaired by District Judge Mark F. Scurti, a Baltimore City District Judge and was composed of stakeholders on all sides of the issue including advocates for tenants and property owners. In a report issued December 8, 2016, the workgroup made a total of 25 recommendations. Relevantly, they concurred with both recommendations made by MDE and the Judiciary in their joint report. The workgroup also proposed a change to Section 8-401(c)(2) of the Real Property Article that would make the status of a property's lead certificate an issue that can be raised at trial.

If adopted, the recommendations in the MDE and the Judiciary report and the workgroup's broader package would impact the operations of rent courts, especially in Baltimore City, and may increase costs for the Judiciary. To date, implementation costs have not been estimated and the Judiciary is not seeking additional funding for fiscal 2018 for this purpose.

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

	<b><u>General</u></b> <b><u>Fund</u></b>	<b><u>Special</u></b> <b><u>Fund</u></b>	<b><u>Federal</u></b> <b><u>Fund</u></b>	<b><u>Reimb.</u></b> <b><u>Fund</u></b>	<b><u>Total</u></b>
<b>Fiscal 2016</b>					
Legislative Appropriation	\$452,933	\$64,690	\$161	\$4,578	\$522,362
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	62	0	1,803	372	2,237
Reversions and Cancellations	-2,255	-13,816	-1,282	-231	-17,583
<b>Actual</b>					
<b>Expenditures</b>	<b>\$450,740</b>	<b>\$50,874</b>	<b>\$682</b>	<b>\$4,719</b>	<b>\$507,016</b>
<b>Fiscal 2017</b>					
Legislative Appropriation	\$481,702	\$59,251	\$161	\$4,506	\$545,621
Cost Containment	0	0	0	0	0
Budget Amendments	0	0	946	277	1,223
<b>Working</b>					
<b>Appropriation</b>	<b>\$481,702</b>	<b>\$59,251</b>	<b>\$1,107</b>	<b>\$4,783</b>	<b>\$546,844</b>

Note: Does not include targeted reversions, deficiencies, and contingent reductions. Numbers may not sum to total due to rounding.

## **Fiscal 2016**

The Judiciary finished fiscal 2016 \$15.4 million below its legislative appropriation. Unspent funds of \$17.6 million were reverted or canceled. Amendments for foster care programs, domestic violence prevention, and drug and teen courts increased the appropriation by \$2.2 million.

### **General Funds**

Actual expenditures were \$2.2 million below the legislative appropriation, due to the following reversions and budget amendments:

- a budget amendment added \$61,784 for a statewide realignment of telecommunications costs; and
- reversions totaling \$2.3 million, mainly due to a \$1.9 million reversion of restricted funds for the Appointed Attorney Program.

### **Special Funds**

Actual expenditures were \$13.8 million below the legislative appropriation due to cancellations including \$8.8 million for information technology projects, \$3.9 million for Land Records Office operations, and \$1.1 million for the Maryland Legal Services Corporation.

### **Federal Funds**

Actual expenditures were \$521,168 above the legislative appropriation due to budget amendments totaling \$1.8 million, including:

- \$1.3 million for foster care improvement programs;
- \$380,001 for drug courts;
- \$70,225 for alternative dispute resolution programs;
- \$40,071 for child support programs;
- \$36,698 for protective order advocacy; and
- \$25,207 for judicial education.

These increases are partially offset by cancellations of unspent funds totaling \$1.3 million including \$970,748 for foster care programs. These funds will be available for use in future fiscal years.

## **Reimbursable Funds**

Actual expenditures were \$141,294 above the legislative appropriation due to amendments totaling \$371,833 for the Baltimore Teen Court, Protective Order Advocacy, and the Adult Guardianship Special Assistant Project, partially offset by the cancellation of \$230,539 in unspent funds.

## **Fiscal 2017**

To date, a total of \$1.2 million has been added by budget amendments to the legislative appropriation for fiscal 2017. This increase includes \$946,040 in federal funds for foster care programs and protective order advocacy and \$276,928 in reimbursable funds for the Baltimore Teen Court, protective order advocacy, and the Adult Guardianship Special Assistant Project.

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

<u>Object/Fund</u>	<u>FY 16</u> <u>Actual</u>	<u>FY 17</u> <u>Working</u> <u>Appropriation</u>	<u>FY 18</u> <u>Allowance</u>	<u>FY 17 - FY 18</u> <u>Amount Change</u>	<u>Percent</u> <u>Change</u>
<b>Positions</b>					
01 Regular	3,913.50	3,950.50	3,989.00	38.50	1.0%
<b>Total Positions</b>	<b>3,913.50</b>	<b>3,950.50</b>	<b>3,989.00</b>	<b>38.50</b>	<b>1.0%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 331,379,899	\$ 360,050,837	\$ 370,470,969	\$ 10,420,132	2.9%
02 Technical and Spec. Fees	12,771,433	14,534,508	20,405,166	5,870,658	40.4%
03 Communication	11,589,583	14,125,805	13,664,801	-461,004	-3.3%
04 Travel	1,651,752	1,979,733	2,478,908	499,175	25.2%
06 Fuel and Utilities	880,939	884,681	966,615	81,934	9.3%
07 Motor Vehicles	220,815	265,229	330,782	65,553	24.7%
08 Contractual Services	67,620,345	73,763,136	80,635,520	6,872,384	9.3%
09 Supplies and Materials	5,727,537	6,119,293	6,878,773	759,480	12.4%
10 Equipment – Replacement	6,846,110	6,503,465	7,400,908	897,443	13.8%
11 Equipment – Additional	7,245,795	3,299,400	4,937,452	1,638,052	49.6%
12 Grants, Subsidies, and Contributions	46,154,639	49,145,412	49,886,707	741,295	1.5%
13 Fixed Charges	13,722,245	15,847,275	17,376,385	1,529,110	9.6%
14 Land and Structures	1,204,532	325,000	948,000	623,000	191.7%
<b>Total Objects</b>	<b>\$ 507,015,624</b>	<b>\$ 546,843,774</b>	<b>\$ 576,380,986</b>	<b>\$ 29,537,212</b>	<b>5.4%</b>
<b>Funds</b>					
01 General Fund	\$ 450,739,724	\$ 481,702,273	\$ 505,170,782	\$ 23,468,509	4.9%
03 Special Fund	50,874,385	59,251,087	66,383,463	7,132,376	12.0%
05 Federal Fund	682,313	1,107,155	57,485	-1,049,670	-94.8%
09 Reimbursable Fund	4,719,202	4,783,259	4,769,256	-14,003	-0.3%
<b>Total Funds</b>	<b>\$ 507,015,624</b>	<b>\$ 546,843,774</b>	<b>\$ 576,380,986</b>	<b>\$ 29,537,212</b>	<b>5.4%</b>

Note: Does not include targeted reversions, deficiencies, and contingent reductions.



**Appendix 3  
Fiscal Summary  
Judiciary**

<u>Program/Unit</u>	<u>FY 16 Actual</u>	<u>FY 17 Wrk Approp</u>	<u>FY 18 Allowance</u>	<u>Change</u>	<u>FY 17 - FY 18 % Change</u>
01 Court of Appeals	\$ 11,977,263	\$ 11,340,684	\$ 11,778,805	\$ 438,121	3.9%
02 Court of Special Appeals	11,207,950	12,323,478	12,737,667	414,189	3.4%
03 Circuit Court Judges	62,175,731	68,819,605	71,317,797	2,498,192	3.6%
04 District Court	170,409,487	186,540,040	191,910,037	5,369,997	2.9%
06 Administrative Office of the Courts	77,511,965	82,947,004	85,975,386	3,028,382	3.7%
07 Court Related Agencies	2,585,660	2,999,267	3,370,718	371,451	12.4%
08 State Law Library	3,000,301	3,375,618	3,547,869	172,251	5.1%
09 Judicial Information Systems	53,606,553	48,920,884	52,188,227	3,267,343	6.7%
10 Clerks of the Circuit Court	101,796,338	115,068,180	124,121,427	9,053,247	7.9%
11 Family Law Division	9,988	51,916	0	-51,916	-100.0%
12 Major IT Development Projects	12,734,388	14,457,098	19,433,053	4,975,955	34.4%
<b>Total Expenditures</b>	<b>\$ 507,015,624</b>	<b>\$ 546,843,774</b>	<b>\$ 576,380,986</b>	<b>\$ 29,537,212</b>	<b>5.4%</b>
General Fund	\$ 450,739,724	\$ 481,702,273	\$ 505,170,782	\$ 23,468,509	4.9%
Special Fund	50,874,385	59,251,087	66,383,463	7,132,376	12.0%
Federal Fund	682,313	1,107,155	57,485	-1,049,670	-94.8%
<b>Total Appropriations</b>	<b>\$ 502,296,422</b>	<b>\$ 542,060,515</b>	<b>\$ 571,611,730</b>	<b>\$ 29,551,215</b>	<b>5.5%</b>
Reimbursable Fund	\$ 4,719,202	\$ 4,783,259	\$ 4,769,256	-\$ 14,003	-0.3%
<b>Total Funds</b>	<b>\$ 507,015,624</b>	<b>\$ 546,843,774</b>	<b>\$ 576,380,986</b>	<b>\$ 29,537,212</b>	<b>5.4%</b>

IT: Information Technology

Note: Does not include targeted reversions, deficiencies, and contingent reductions.

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