



# Report of the Court Structure and Resources Committee

## STRUCTURE AND RESOURCES COMMITTEE RECOMMENDATIONS

**Process:** The committee met one full day each month from September, 2009 through May, 2010, and maintained an active online dialogue between meetings. In addition, the committee has gone to considerable lengths to inform all state judges of its work and interim conclusions through numerous meetings around the state and online communications.

### **Findings:**

1. Michigan is in a period of economic transition likely to continue for a substantial number of years. As a result, there will be fewer public resources available to meet demand for services, especially economic aid and health services, which in turn will affect the nature and volume of demands on the court system.
2. The cost of operating the trial court system at the close of 2008 is estimated to be \$1.525B, of which approximately \$1.454B represents the cost of operating the trial courts. Approximately \$334M is from state sources; \$106M from federal sources, \$252M from court-collected revenue; and \$762M from local government.. The committee believes that the recession has had a serious negative, disparate impact on local government funding, and that the impact on local funding overall appears to lag the state impact somewhat.
3. Although courts account for less than 2% of the state's general fund/general purpose appropriations, they will continue to face severe budgetary pressure at both the state and local level for the foreseeable future. The committee's discussions recognized that some states have achieved operational advantages and efficiencies from conversion to a state-funded system, but makes no recommendation concerning the sources of court funding overall. The committee's recommendations are equally applicable to the current mixed-funding system or a state-funded system.
4. A key element in providing appropriate and cost-effective court services is ensuring that judicial services are distributed appropriately throughout the state, based on need. The committee believes that given the prevailing demographic and caseload trends, with careful planning the number of judgeships in Michigan can be reduced over the next two decades without degrading the quality of court services. There are currently 585 full-time trial court judgeships in Michigan: 221 circuit; 258 district; 102 full-time and one part-time probate; and four municipal.
5. There is no consensus on the correct number of judges for current trial court needs, but there is consensus on the development of a methodology to determine current and future needs. That methodology, using up-to-date statewide data and the resources of the National Center for State Courts, will be completed in the spring of 2011.

6. To maintain stability and judicial independence, reductions in judgeships must only take effect when a judge dies, retires, or is ineligible to run for reelection because the constitution prohibits the election or appointment of someone age 70 or older. Even with these limitations on the timing of reductions, there are certain to be sufficient opportunities in the five election cycles between 2012 and 2021 to “right-size” the court system; within that period, for example, 209 trial judges presently sitting will become ineligible to run for reelection for age-based reasons alone.
7. Court consolidation and coordination of services between the various types of courts within judicial districts and regions offer the potential for significant savings but should be undertaken only after careful planning based on best practices, the successful experience of other courts, and reliable data.
8. As judgeships are reduced and court services consolidated, court management must be more flexible in reassigning the workload to continue to provide a high quality of service. The judges and court staff remaining must be willing and trained to assume more and different responsibilities.
9. The greatest budgetary savings statewide will only be possible by making full and informed use of technology and proven techniques for case management.
10. The absence of a statewide plan for phased-in consolidation and coordination of court services would not only prevent the state from capitalizing on the opportunity presented by the large number of impending judicial retirements, it would cause widespread degradation of court services throughout the state.
11. Additional resources expended for innovative, community-based services in the trial court setting addressing substance abuse and mental health problems have yielded dramatic reductions in costly institutional placements and ancillary foster care expenses.

In light of these findings, the committee adopted the following **recommendations**:

- I. Support the continued use of weighted caseload methodology to determine judicial need, as modified and improved with the assistance of the National Center for State Courts.
- II. Support attrition-based reductions of judgeships to the extent they do not adversely impact current levels of service or public safety.
- III. Support the consolidation of court services on a sub-county, county, or multi-county basis, pursuant to concurrent jurisdiction plans designed and approved by all courts within the jurisdiction.

1. Impasses should be arbitrated and resolved through the State Court Administrative Office.
2. The judges of courts participating in a consolidated plan should be authorized to elect the chief judge of the consolidated court.
3. Regardless of the nature or extent of a consolidated court plan, the electoral boundaries of courts within the geographic boundaries of the consolidated court should not change.
4. In exercising its constitutional authority to determine the number of judges needed in a court, the Supreme Court through the State Court Administrative Office should take into account whether the court is making maximum use of its available resources.
5. No later than 60 days after a vacancy occurs in any trial court, the State Court Administrative Office should review the judicial resource needs of the court, and the Supreme Court should recommend to the Governor and the legislature whether the seat should be filled or the judgeship eliminated.

IV. Support ensuring that every court has full and unfettered responsibility for the custody and control of its own records, to guarantee accountability and efficiency, and to maximize savings.

V. Support stabilizing the determination of judicial salaries, and make adjustments to Court of Appeals and trial court judges' salaries according to a Civil Service schedule. This recommendation reflects the reality that, although judgeships are elected offices, they are unlike all other state elected offices. Only lawyers are eligible for judgeships, and when successful, they must relinquish their legal careers entirely and conform to a code of conduct that strictly limits other sources of income.

VI. Support the provision of minimum health care benefits to all trial court judges and employees on the same basis as is available to all other state employees. Such a provision is not only fair and equitable, it would also facilitate the coordination and consolidation of court services in jurisdictions where such coordination and consolidation can result in substantial savings.

VII. Support the creation of a Judicial Council to provide administrative direction for the trial court system, under the constitutional authority of the Supreme Court. The Judicial Council would have the following characteristics, based on the successful Minnesota model:

1. Chaired by the Chief Justice of the Michigan Supreme Court
2. Responsible for the development and adoption of a strategic plan which serves as the foundation of the Council's policy-making responsibilities

3. Staffed by the State Court Administrative Office
4. 19 members appointed by the Supreme Court, including both the chief justice and another justice, the chief judge of the Court of Appeals, and trial court judges with broad geographic and jurisdictional representation.
5. Members serve three year terms.

VIII. Support the amendment of Public Act 185 of 1990 – the act authorizing party-funded trials conducted by retired judges – to allow appeals from the decisions of such trials.

IX. Support Mental Health Code and Revised Judicature Code reforms that allow meaningful pre-court intervention in appropriate circumstances, and more timely and ongoing access to treatment and services.

X. Support the abolition of the driver license responsibility fee.

XI. Immediate \$25M in funding for the expansion of drug courts and family drug courts statewide, given ample evidence that the savings in corrections costs alone will far exceed that appropriation.

## CORRECTIONS REFORM

The magnitude of Michigan's fiscal crisis and role that Michigan's two-billion-dollar corrections budget plays in the state's budgetary woes are both well documented. So is the fact that most of the state's prisoners wind up behind bars directly or indirectly because of substance abuse. Experts also estimate 70% to 80% of the children in foster care are in foster care because their parents are substance abusers. The cost of care for the children is substantial. We now know that policy makers could reduce both of these costs substantially by providing more funding for drug courts (criminal, family, and delinquency).

The Michigan Supreme Court commissioned comprehensive studies of the Kalamazoo and Barry County felony drug courts. These studies were conducted by NPC Research from Portland, Oregon. They were completed in 2006 and concluded that these programs:

1. Dramatically reduced recidivism
2. Sharply reduced substance abuse, and
3. Saved substantial tax dollars

Similar results have been observed in family and juvenile drug courts, where local courts have been able to reduce child care fund expenditures by reducing costly institutional placements in favor of community based solutions through family and juvenile drug courts. Michigan currently supports drug courts with a paltry state expenditure of about two million dollars, while expending one thousand times more locking up offenders in prisons, a response which the research indicates is counterproductive. Nonviolent offenders with substance abuse problems could be dealt with more effectively and for far less money through drug courts. Families could be reunited if parents are sober, leading to substantial savings.

A modest infusion of \$25 million dollars to fund the expansion of drug courts would provide large benefits to taxpayers, while also providing effective treatment for substance abusing offenders, helping them to change their lives. Family Courts also need redirected funding to the Courts to work with parents who are substance abusers.

We support this change in funding.