

**FY 2019-20: JUDICIARY**  
**Summary: Conference Report**  
**House Bill 4238 (H-3) CR-1\***



**Analyst: Robin R. Risko**

IDG/IDT	FY 2018-19 YTD as of 3/5/19	FY 2019-20 Executive	FY 2019-20 House	FY 2019-20 Senate	FY 2019-20 Conference	Difference: Conference From FY 2018-19 YTD	
						Amount	%
	\$1,551,300	\$1,551,700	\$1,551,700	\$1,551,700	\$1,551,700	\$400	0.0
<b>Federal</b>	5,987,400	6,028,400	5,748,400	6,028,400	5,748,400	(239,000)	(4.0)
<b>Local</b>	6,499,800	6,579,500	6,505,300	6,579,500	6,579,500	79,700	1.2
<b>Private</b>	981,600	994,300	994,300	994,300	994,300	12,700	1.3
<b>Restricted</b>	92,979,500	93,044,900	94,785,900	94,796,000	94,796,000	1,816,500	2.0
<b>GF/GP</b>	196,079,500	201,142,200	198,594,700	201,142,200	201,392,200	5,312,700	2.7
<b>Gross</b>	<b>\$304,079,100</b>	<b>\$309,341,000</b>	<b>\$308,180,300</b>	<b>\$311,092,100</b>	<b>\$311,062,100</b>	<b>\$6,983,000</b>	<b>2.3</b>
<b>FTEs</b>	502.0	503.0	503.0	505.0	509.0	7.0	1.4

Notes: (1) FY 2018-19 year-to-date figures include mid-year budget adjustments through March 5, 2019. (2) Appropriation figures for all years include all proposed appropriation amounts, including amounts designated as "one-time."

**Overview**

Article VI of the State Constitution of 1963 forms the basis for Michigan's judicial branch of government. The Judiciary budget provides operational funding for the Michigan Supreme Court, the Court of Appeals, and related judicial agencies. The budget funds the salaries of justices of the Supreme Court and judges of the appeals, circuit, probate, and district courts according to constitutional and statutory requirements. Funding assistance for local trial court operations is provided through a variety of grant programs. The largest of these, the Court Equity Fund Reimbursement program, reimburses counties for trial court operations based on a statutory formula that recognizes circuit and probate caseloads and the number of judgeships.

**Major Budget Changes From FY 2018-19 YTD Appropriations**

**1. Cybersecurity for Supreme Court Website**

Executive includes \$1.9 million GF/GP (\$1.5 million one-time, \$454,100 ongoing) for redesigning and updating the Supreme Court website and extranet. Funding would be used to support staff, purchase web content management software, replace and secure customer relationship management software, and provide for cloud-hosting and software licenses. House includes \$1.4 million GF/GP (\$1.1 million one-time, \$340,500 ongoing) and authorization for 2.0 FTE positions for redesigning and updating the website. Senate concurs with Executive. Conference concurs with the Executive recommended funding level and includes authorization for 2.0 FTE positions.

	FY 2018-19 Year-to-Date (as of 3/5/19)	FY 2019-20 Conference Change
FTE	NA	2.0
<b>Gross</b>	<b>NA</b>	<b>\$1,929,100</b>
GF/GP	NA	\$1,929,100

**2. Compliance with U.S. Supreme Court Decision Regarding Juvenile Lifers**

Executive includes \$841,900 of ongoing GF/GP and authorization for 7.0 FTE positions for the State Appellate Defender Office (SADO) to ensure compliance with the U.S. Supreme Court ruling on the *Montgomery v Louisiana* case. SADO provides post-conviction representation of juvenile lifers. There are 96 clients awaiting new sentencing hearings. House includes \$700,000 GF/GP and authorization for 7.0 FTE positions, but includes funding and FTE positions in the one-time appropriations unit. Senate includes \$841,900 GF/GP and authorization for 11.0 FTE positions, but includes funding and FTE positions in the one-time appropriations unit. Conference concurs with the Senate on the funding level and authorization for FTE positions.

FTE	0.0	11.0
<b>Gross</b>	<b>\$0</b>	<b>\$841,900</b>
GF/GP	\$0	\$841,900

		FY 2018-19 Year-to-Date (as of 3/5/19)	FY 2019-20 Conference Change
<b>Major Budget Changes From FY 2018-19 YTD Appropriations</b>			
<b>3. SADO Caseload Increase</b>	FTE	51.0	2.0
<u>Executive</u> includes \$457,200 GF/GP and authorization for 4.0 FTE positions for SADO's public defense division to provide representation for an increased number of clients appealing convictions they received after trial. <u>House</u> includes a \$100 placeholder. <u>Senate</u> includes funding, but does not include authorization for additional FTE positions. <u>Conference</u> includes \$228,600 GF/GP and authorization for 2.0 FTE positions.	<b>Gross</b>	<b>\$8,143,400</b>	<b>\$228,600</b>
	Federal	343,500	0
	Private	85,900	0
	Restricted	92,300	0
	GF/GP	\$7,621,700	\$228,600
	<b>Gross</b>	<b>\$2,815,800</b>	<b>\$450,000</b>
<b>4. Online Dispute Resolution Services</b>	Restricted	2,390,800	0
<u>Executive</u> includes \$450,000 GF/GP for expanding availability of online dispute resolution for small claims and landlord/tenant cases. Also, funding would be used to pilot the use of online dispute resolution services to resolve certain domestic relations and youth-related issues and to prevent rental eviction. <u>House</u> concurs with Executive. <u>Senate</u> concurs with Executive. <u>Conference</u> concurs with Executive.	GF/GP	\$425,000	\$450,000
	FTE	0.0	1.0
<b>5. Pretrial Risk Assessment</b>	<b>Gross</b>	<b>\$0</b>	<b>\$325,700</b>
<u>Executive</u> includes \$325,700 of on-going GF/GP and authorization for 1.0 FTE position for continued improvement and development of the pretrial risk assessment tool. Funding would be used to collect, analyze, and interpret pretrial court data, provide technical assistance, conduct trainings on pretrial best practices, establish pretrial metrics and performance measures, and improve technological resources and data integration reports. <u>House</u> concurs. <u>Senate</u> includes ongoing authorization for the FTE position, but a one-time appropriation. <u>Conference</u> includes \$325,700 GF/GP and authorization for 1.0 FTE position, but includes funding and authorization for the FTE position in the one-time appropriations unit.	GF/GP	\$0	\$325,700
	<b>Gross</b>	<b>\$1,162,900</b>	<b>\$200,000</b>
<b>6. Judicial Tenure Commission (JTC)</b>	GF/GP	\$1,162,900	\$200,000
<u>Executive</u> includes \$200,000 GF/GP (\$100,000 one-time, \$100,000 ongoing) for additional staff resources to handle a backlog of cases, which is due to an increase in the number of formal complaints and increasingly complex cases. <u>House</u> concurs with Executive. <u>Senate</u> concurs with Executive. <u>Conference</u> concurs with Executive.			
	<b>Gross</b>	<b>NA</b>	<b>(\$436,300)</b>
<b>7. Judgeship Changes</b>	Restricted	NA	15,600
<u>Executive</u> reflects a net savings of \$451,900 GF/GP from the following changes in judgeships: elimination of 2.0 Court of Appeals judges (2012 PA 40); elimination of 2.0 district court judges (2018 PA 6); and establishment of 3.0 circuit court judges (2014 PA 56, 2014 PA 57, and 2018 PA 6). The net savings amount is a result of the effective dates of the judgeship changes. <u>House</u> concurs with Executive. <u>Senate</u> concurs with Executive. <u>Conference</u> concurs with Executive.	GF/GP	NA	(\$451,900)
	FTE	11.0	(11.0)
<b>8. Removal of Current Year One-Time Funding</b>	<b>Gross</b>	<b>\$1,830,700</b>	<b>(\$1,830,700)</b>
<u>Executive</u> reduces the budget by \$1.8 million GF/GP and 11.0 FTE positions to reflect removal of one-time funding and FTE positions included in the FY 2018-19 budget. Items removed include: \$700,000 and 11.0 FTE positions for SADO to ensure compliance with the U.S. Supreme Court ruling on the <i>Montgomery v Louisiana</i> case, \$750,000 for expansion of problem solving courts, \$305,700 for pretrial risk assessment, and \$75,000 for the Youthful Sex Offender Treatment pilot program. <u>House</u> concurs with Executive. <u>Senate</u> concurs with Executive. <u>Conference</u> concurs with Executive.	GF/GP	\$1,830,700	(\$1,830,700)

		<b>FY 2018-19 Year-to-Date (as of 3/5/19)</b>	<b>FY 2019-20 Conference Change</b>
<b>Major Budget Changes From FY 2018-19 YTD Appropriations</b>			
<b>9. Economic Adjustments</b>	<b>Gross</b>	<b>NA</b>	<b>\$3,325,000</b>
<u>Executive</u> reflects increased costs of \$3.3 million Gross (\$3.1 million GF/GP) for negotiated salary and wage increases (2.0% ongoing, 2.0% lump sum), insurance rate increases, actuarially required retirement contributions, worker's compensation premium costs, building occupancy charges, and rent. <u>House</u> concurs with Executive. <u>Senate</u> concurs with Executive. <u>Conference</u> concurs with Executive.	IDG	NA	400
	Federal	NA	41,000
	Local	NA	79,700
	Private	NA	12,700
	Restricted	NA	49,800
	GF/GP	NA	\$3,141,400
<b>10. Partial Replacement of Reduced Federal Revenue</b>	<b>Gross</b>	<b>\$11,833,000</b>	<b>\$0</b>
<u>Executive</u> does not make a recommendation. <u>House</u> includes \$280,000 in additional general fund revenue to partially offset the reduction in federal funding granted by the U.S. Department of Transportation, National Highway Traffic Safety Administration, for drug treatment court programs. The reduction in federal funding will be effective October 1, 2019. <u>Senate</u> does not include additional GF/GP. <u>Conference</u> concurs with House.	IDG	1,500,000	0
	Federal	2,175,000	(280,000)
	Restricted	1,920,500	0
	GF/GP	\$6,237,500	\$280,000
<b>11. Reduce Funding for Swift and Sure</b>	<b>Gross</b>	<b>\$4,000,000</b>	<b>(\$400,000)</b>
<u>Executive</u> does not make a recommendation. <u>House</u> reduces funding for the Swift and Sure Sanctions Probation Program by \$500,100 GF/GP based on historical year-end lapses. <u>Senate</u> does not reduce funding. <u>Conference</u> reduces funding by \$400,000 GF/GP.	Restricted	1,537,600	0
	GF/GP	\$2,463,400	(\$400,000)
<b>12. Funding Adjustment for SADO</b>	<b>Gross</b>	<b>\$8,143,400</b>	<b>\$75,000</b>
<u>Executive</u> does not make a recommendation. <u>House</u> includes authorization for SADO to receive an additional \$75,000 in state restricted revenue from the Michigan Indigent Defense Commission for subscriptions to Criminal Defense Resource Center services for court appointed attorneys. <u>Senate</u> concurs with House. <u>Conference</u> concurs with House.	Federal	343,500	0
	Private	85,900	0
	Restricted	92,300	75,000
	GF/GP	\$7,621,700	\$0
<b>13. FTE Adjustment for SADO</b>	FTE	51.0	2.0
<u>Executive</u> does not make a recommendation. <u>House</u> includes authorization for an additional 2.0 FTE positions that will be funded by a federal grant SADO anticipates receiving from the U.S. Department of Justice. <u>Senate</u> concurs with House. <u>Conference</u> concurs with House.	<b>Gross</b>	<b>\$8,143,400</b>	<b>\$0</b>
	Federal	343,500	0
	Private	85,900	0
	Restricted	92,300	0
	GF/GP	\$7,621,700	\$0
<b>14. Funding Adjustment for Statewide E-Filing System</b>	<b>Gross</b>	<b>\$8,511,700</b>	<b>\$1,676,100</b>
<u>Executive</u> does not make a recommendation. <u>House</u> increases state restricted fund source authorization by \$1.7 million to allow receipt of additional Electronic Filing Fee Fund revenue. <u>Senate</u> concurs with House. <u>Conference</u> concurs with House.	Restricted	8,511,700	1,676,100
	GF/GP	\$0	\$0
<b>15. Administrative Efficiencies</b>	<b>Gross</b>	<b>NA</b>	<b>\$0</b>
<u>Executive</u> does not make a recommendation. <u>House</u> reduces operational funding throughout the budget, by a total of \$848,100 Gross (\$763,800 GF/GP), reflecting a 3% reduction to be achieved through administrative efficiencies. <u>Senate</u> does not reduce funding. <u>Conference</u> concurs with Senate.	Local	NA	0
	Restricted	NA	0
	GF/GP	NA	\$0
<b>16. Information Technology Reduction</b>	<b>Gross</b>	<b>\$4,431,800</b>	<b>\$0</b>
<u>Executive</u> does not make a recommendation. <u>House</u> reduces funding for information technology services and projects by \$482,300 GF/GP, or 11.6%. <u>Senate</u> does not reduce funding for IT. <u>Conference</u> concurs with Senate.	IDG	51,300	0
	Federal	225,900	0
	GF/GP	\$4,154,600	\$0
<b>17. Expansion of Problem Solving Courts</b>	<b>Gross</b>	<b>NA</b>	<b>\$348,600</b>
<u>Executive</u> does not make a recommendation. <u>House</u> does not make a recommendation. <u>Senate</u> does not make a recommendation. <u>Conference</u> includes \$348,600 of one-time GF/GP funding for expansion of problem solving courts.	GF/GP	NA	\$348,600

<b><u>Major Budget Changes From FY 2018-19 YTD Appropriations</u></b>	<b>FY 2018-19 Year-to-Date (as of 3/5/19)</b>	<b>FY 2019-20 Conference Change</b>
<b>18. Kalamazoo County Trauma Court</b>	<b>Gross</b>	<b>\$0</b>
<u>Executive</u> does not make a recommendation. <u>House</u> does not make a recommendation. <u>Senate</u> does not make a recommendation. <u>Conference</u> includes \$250,000 GF/GP for Kalamazoo County prosecutors to hire an assistant prosecutor who specializes in trauma for prosecution of offenders, and for providing intervention and treatment services to offenders and referral services for victims.	GF/GP	<b>\$250,000</b>
		<b>\$0</b>
		<b>\$250,000</b>

**Major Boilerplate Changes From FY 2018-19**

**Sec. 206. Businesses in Deprived and Depressed Communities – NOT INCLUDED**

Requires the judicial branch to take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both; requires the judicial branch to encourage firms the judicial branch contracts with to subcontract with certified businesses in deprived and depressed communities. Executive includes new language. House does not include new language. Senate does not include new language. Conference does not include new language.

**Sec. 215. Disciplinary Action Against State Employees – RETAINED**

Prohibits the judicial branch from taking disciplinary action against employees for communicating with legislators or their staff. Executive deletes. House retains. Senate retains. Conference retains.

**Sec. 216. Input on Foster Care Cases – RETAINED**

Expresses legislative intent that judges presiding over hearings on foster care cases publicly acknowledge and request input from foster parent(s) during hearings. Executive deletes. House retains. Senate retains. Conference retains.

**Sec. 217. Changes to Foster Care Family Service Plans – RETAINED**

Expresses legislative intent that judges presiding over foster care cases provide explanations in court records for any changes made to foster care family service plans. Executive deletes. House retains. Senate retains. Conference retains.

**Sec. 218. Linking Swift and Sure Sanctions Program to DHHS, DLEO, and DOC Programs – RETAINED**

Requires SCAO to identify programs within the Departments of Health and Human Services, Labor and Economic Opportunity, and Corrections that have programmatic connections with Swift and Sure Sanctions program participants for the purpose of leveraging collaborations and determining avenues of success for offenders who are eligible for state-provided programs; requires SCAO to provide guidance to courts participating in the Swift and Sure Sanctions program of available DHHS, DLEO, and MDOC programming. Executive deletes. House retains. Senate retains. Conference retains.

**Sec. 219. Receipt and Retention of Required Reports – RETAINED**

Requires the judicial branch to receive and retain copies of all reports required; requires federal and state guidelines to be followed for short- and long-term retention of records; authorizes the judicial branch to electronically retain copies of reports unless otherwise required by federal and state guidelines. Executive deletes. House retains. Senate retains. Conference retains.

**Sec. 306. Collected and Uncollected Payments and Fees – DELETED**

Requires SCAO to provide a statistical report, categorized by county, on collected and uncollected amounts of restitution payments, court fees, and other judgements placed on people within the counties. Executive deletes. House deletes. Senate retains. Conference deletes.

**Sec. 312. Parental Rights Restoration Act – RETAINED**

Requires SCAO to report on the total number of petitions filed by minors seeking court-issued waivers of parental consent under the Parental Rights Restoration Act, and the total number of petitions granted. Executive deletes. House retains. Senate retains. Conference retains.

## **Major Boilerplate Changes From FY 2018-19**

### **Sec. 316. Pretrial Risk Assessment – REVISED**

Requires SCAO to pilot a pretrial risk assessment tool in an effort to provide relevant information to judges so they can make evidence-based bond decisions; requires SCAO to report on the progress made toward implementing the tool and associated costs. Executive retains current language. House revises to require SCAO to continue to pilot the pretrial risk assessment tool and expand the number of courts using the assessment tool; revises reporting requirements to include an evaluation of the effectiveness of the pretrial risk assessment tool pilot program, the failure to appear rate for each type of bond, plans to expand use of the assessment tool, and details on expenditures. Senate retains current language. Conference concurs with most of the House revisions, but does not include the requirement for SCAO to expand the number of courts using the assessment tool, and requires an “assessment” from SCAO instead of an “evaluation”.

### **Sec. 320. Swift and Sure Sanctions Program – REVISED**

Requires SCAO to administer the Swift and Sure Sanctions Probation program; authorizes SCAO to expend \$100,000 of the appropriation to pay for employee costs associated with administration of the program; reserves \$500,000 for programs in counties that had more than 325 individuals sentenced to prison in the previous calendar year; requires SCAO to work with the Department of Corrections to report on courts receiving funding, number of offenders participating, criminal history of offenders, recidivism rates, and parameters of the program. Executive retains current language. House revises reporting requirements to include a list of courts participating in the program, and an accounting of expenditures. Senate retains current language. Conference concurs with House revisions.

### **Sec. 325. Domestic Violence Prosecution and Intervention Pilot Project – NOT INCLUDED**

Requires SCAO to conduct a feasibility study on implementing a specialized domestic violence prosecution and intervention pilot project; states that the purpose of the project would be to provide intervention and treatment services, supplemented by trauma treatment and addiction services, to domestic violence offenders, with a focus on second-time or subsequent offenders; specifies information that is required to be included in the study; requires SCAO to report on the results of the study. Executive does not include. House includes new language. Senate does not include. Conference does not include new language.

### **Sec. 325. Kalamazoo County Trauma Court – NEW**

Requires funding to be used for the Kalamazoo County office of the prosecuting attorney to hire an assistant prosecutor who specializes in trauma for prosecution of offenders and for providing intervention and treatment services to offenders and referral services for victims; requires the court to focus on deterrence of offenders; requires intervention services to be supplemented by trauma treatment and addiction services; requires a report on outcomes of the trauma court to include performance measures, the number of individuals served, the outcomes of participants who completed the program, and recommendations on how the state can hold offenders accountable while rehabilitating them with treatment. Executive does not include. House does not include. Senate does not include. Conference includes new language.

### **Sec. 402. Compliance with U.S. Supreme Court Decision Regarding Juvenile Lifers – RETAINED**

Requires SADO to ensure compliance with the U.S. Supreme Court ruling on *Montgomery v Louisiana* case and to ensure competent, resourced, and supervised counsel in cases involving resentencing of juvenile lifers; requires SADO to submit a report on the number of juvenile lifer cases investigated and prepared, to include a calculation of hours spent, and a focus on incremental costs associated with investigating and conducting each case. Executive deletes. House retains. Senate retains. Conference retains.

### **Sec. 403. Youthful Sex Offender Treatment Pilot Program – DELETED**

Requires funding allocated to Kent County to be used for assessing sex offenders, between the ages of 17 and 24, for risk, and for providing treatment to eligible offenders; specifies that the duration of treatment will be determined by and will depend on the assessment-based level of identified risk; requires victim approval of offenders’ enrollment in the program. Executive deletes. House deletes. Senate deletes. Conference deletes.

### **Sec. 403. Veterans Court Participants’ Compliance with Mental Health Treatment – NEW**

Requires SCAO to create a pilot program that investigates the effectiveness of saliva testing to determine compliance with prescribed mental health medications and other treatments. Executive does not include. House does not include. Senate includes new language. Conference includes new language, but revises it to authorize \$20,000 to be used to cover the costs of saliva testing.

### **Sec. 1201. Anticipated FY 2018-19 Appropriations – DELETED**

Expresses legislative intent that FY 2018-19 appropriations are to be funded at the same level as FY 2017-18 appropriations, but adjusted for changes in caseloads, federal fund match rates, economic factors, and available revenues. Executive deletes. House deletes. Senate retains and updates fiscal years. Conference deletes.