

**FY 2021-22: JUDICIARY**  
**Summary: House Subcommittee Chair's Recommendation**  
**House Bill 4403 (H-2)**



**Analyst: Robin R. Risko**

	FY 2020-21 YTD as of 2/11/21	FY 2021-22 Executive	FY 2021-22 House	FY 2021-22 Senate	FY 2021-22 Conference	Difference: House From FY 2020-21 YTD	
						Amount	%
<b>IDG/IDT</b>	\$1,552,800	\$1,652,300	\$1,652,300			\$99,500	6.4
<b>Federal</b>	6,393,500	6,374,800	6,374,800			(18,700)	(0.3)
<b>Local</b>	7,654,500	7,619,800	7,619,800			(34,700)	(0.5)
<b>Private</b>	1,228,500	1,222,600	1,222,600			(5,900)	(0.5)
<b>Restricted</b>	94,877,600	94,312,700	93,075,100			(1,802,500)	(1.9)
<b>GF/GP</b>	201,934,300	208,322,900	360,639,700			158,705,400	78.6
<b>Gross</b>	<b>\$313,641,200</b>	<b>\$319,505,100</b>	<b>\$470,584,300</b>			<b>\$156,943,100</b>	<b>50.0</b>
<b>FTEs</b>	513.0	521.0	539.0			26.0	5.1

Notes: (1) FY 2020-21 year-to-date figures include mid-year budget adjustments through February 11, 2021. (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.

<b>Major Budget Changes from FY 2020-21 YTD Appropriations</b>		<b>FY 2020-21 Year-to-Date (as of 2/11/21)</b>	<b>FY 2021-22 House Change</b>
<b>1. Judicial Compensation – Court Fee Fund Adjustment</b>	<b>Gross</b>	<b>NA</b>	<b>\$0</b>
<u>Executive</u> includes \$1.4 million GF/GP to cover a shortfall in the amount of Court Fee Fund revenue available to support payment of salaries for circuit and probate court judges. <u>House</u> concurs.	Restricted	NA	(1,358,600)
	GF/GP	NA	\$1,358,600
<b>2. Compliance with U.S. Supreme Court Decision Regarding Juvenile Lifers</b>	FTE	NA	0.0
<u>Executive</u> includes ongoing funding of \$939,100 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 <i>Montgomery v. Louisiana</i> case. SADO provides post-conviction representation of juvenile lifers. There are 57 clients awaiting contested hearings. <u>House</u> does not include ongoing GF/GP funding, but includes \$939,100 in one-time funding (see item 13).	<b>Gross</b>	<b>NA</b>	<b>\$0</b>
	GF/GP	NA	\$0
<b>3. Statewide e-File Implementation</b>	FTE	12.0	8.0
<u>Executive</u> includes an additional \$821,800 in Electronic Filing Fee Fund revenue and authorization for an additional 8.0 FTE positions to support continued implementation, operation, and maintenance of the statewide electronic filing system pursuant to 2015 PA 230 - 234. The system will be rolled out to all trial courts starting in 2021. <u>House</u> concurs.	<b>Gross</b>	<b>\$10,220,600</b>	<b>\$821,800</b>
	Restricted	10,220,600	821,800
	GF/GP	\$0	\$0

<b><u>Major Budget Changes from FY 2020-21 YTD Appropriations</u></b>		<b><u>FY 2020-21 Year-to-Date (as of 2/11/21)</u></b>	<b><u>FY 2021-22 House Change</u></b>
<b>4. Clean Slate – Criminal Record Expungement</b>	<b>Gross</b>	<b>NA</b>	<b>\$605,000</b>
<u>Executive</u> includes \$605,000 GF/GP to support ongoing costs related to implementation of the Michigan Clean Slate Initiative which will make criminal record expungement automatic for all people who are eligible. For those with no more than 1 felony or 2 misdemeanors, people would see their records expunged after 7 years of no criminal violations under 2020 PA 187 - 193. <u>House</u> concurs.	GF/GP	NA	\$605,000
<b>5. Problem Solving Courts</b>	<b>Gross</b>	<b>\$19,091,900</b>	<b>\$600,000</b>
<u>Executive</u> includes \$600,000 GF/GP for expansion of problem solving courts. The additional funding would be allocated as follows: \$400,000 for Drug Treatment Courts, \$100,000 for Mental Health Courts, and \$100,000 for Veterans Treatment Courts. <u>House</u> concurs.	GF/GP	\$19,091,900	\$600,000
<b>6. Court of Appeals Operations</b>	<b>Gross</b>	<b>\$25,252,500</b>	<b>\$0</b>
<u>Executive</u> restores \$547,900 of GF/GP that was reduced from the FY 2020-21 budget as part of statewide budget reductions. Funding would allow the Court of Appeals to backfill leadership and support positions at the Court of Appeals office in Detroit, as well as to support information systems for the court. <u>House</u> does not restore funding.	GF/GP	\$25,252,500	\$0
<b>7. State Appellate Defender Office Attorneys</b>	<b>Gross</b>	<b>NA</b>	<b>\$360,700</b>
<u>Executive</u> restores \$360,700 of GF/GP that was reduced from the FY 2020-21 budget as part of statewide budget reductions. Funding would be used to backfill 3.0 public defender positions to help maintain the statutory minimum 25% appellate caseload. <u>House</u> concurs.	GF/GP	NA	\$360,700
<b>8. Pretrial Risk Assessment</b>	FTE	NA	0.0
<u>Executive</u> includes ongoing funding of \$325,700 GF/GP and authorization for 1.0 FTE position for continued improvement of the pretrial risk assessment tool which provides relevant information to judges so they can make evidence-based bond decisions and reduce incarceration rates of low-risk offenders. Funding would support ongoing data analysis and performance benchmarking, education and training, technical assistance on assessing pretrial risk and supervising defendants, and other ongoing efforts. <u>House</u> does not include funding or FTE position.	<b>Gross</b> GF/GP	<b>NA</b> NA	<b>\$0</b> \$0
<b>9. Michigan Legal Self-Help Program</b>	<b>Gross</b>	<b>NA</b>	<b>\$200,000</b>
<u>Executive</u> includes \$200,000 GF/GP for additional support for Michigan Legal Help program website and centers. The program provides free legal information and assistance to individuals who represent themselves in simple civil legal matters. <u>House</u> concurs.	GF/GP	NA	\$200,000
<b>10. Michigan Justice Training Fund Grant</b>	<b>Gross</b>	<b>NA</b>	<b>\$100,000</b>
<u>Executive</u> authorizes the Michigan Judicial Institute to receive and expend \$100,000 of Michigan Justice Training grant funding made available by the Michigan Commission on Law Enforcement Standards for training court support personnel. <u>House</u> concurs.	IDG GF/GP	NA NA	100,000 \$0
<b>11. Judgeship Changes</b>	<b>Gross</b>	<b>NA</b>	<b>(\$164,400)</b>
<u>Executive</u> reflects a savings of \$164,400 GF/GP from elimination of 1.0 district court judgeship in Shiawassee County pursuant to 2012 PA 17. The amount of savings is for the full year, as the effective date of elimination was January 1, 2021. <u>House</u> concurs.	GF/GP	NA	(\$164,400)

		FY 2020-21 Year-to-Date (as of 2/11/21)	FY 2021-22 House Change
<b>Major Budget Changes from FY 2020-21 YTD Appropriations</b>			
<b>12. Economic Adjustments</b>	<b>Gross</b>	NA	\$3,334,900
<u>Executive</u> reflects a net increase in costs of \$3.3 million Gross (\$3.4 million GF/GP) for negotiated salary and wage increases (2.0% on October 1, 2021 and 1.0% on April 1, 2022), actuarially required retirement contributions, worker's compensation, building occupancy charges, and other economic adjustments. <u>House</u> concurs.	IDG	NA	(500)
	Federal	NA	(18,700)
	Local	NA	(34,700)
	Private	NA	(5,900)
	Restricted	NA	(28,100)
	GF/GP	NA	\$3,422,800
<b>13. Eliminate Current Year One-Time Funding</b>	FTE	8.0	(1.0)
<u>Executive</u> reduces the budget by \$1.8 million GF/GP and 8.0 FTE positions to reflect elimination of one-time funding included in the FY 2020-21 budget. Eliminated funding includes: \$881,100 (7.0 FTE positions) for the State Appellate Defender Office to ensure compliance with the U.S. Supreme Court ruling on the <i>Montgomery v. Louisiana</i> case, \$600,000 for expansion of problem solving courts, and \$325,700 (1.0 FTE position) for pretrial risk assessment. <u>House</u> concurs with eliminating one-time funding for expansion of problem solving courts and pretrial risk assessment, but retains \$881,100 and 7.0 FTE positions for SADO and includes an additional \$58,000 for a total of \$939,100.	<b>Gross</b>	<b>\$1,806,800</b>	<b>(\$867,700)</b>
	GF/GP	\$1,806,800	(\$867,700)
<b>14. Transfer Indigent Defense Commission from LARA</b>	FTE	NA	16.0
<u>Executive</u> makes no recommendation. <u>House</u> reflects the transfer of \$149.6 million Gross (\$149.3 million GF/GP) and 16.0 FTE positions for Michigan Indigent Defense Commission (MIDC) administration and grants from the Department of Licensing and Regulatory Affairs to the Judicial branch. The MIDC was created in 2013 to ensure that the state's public defense system is fair and cost-effective. The MIDC is required by statute to develop and implement minimum standards for those providing indigent defense services and to collect data, support compliance, administer grants, and encourage best practices. Of the \$149.6 million, \$2.7 million is for operation of the commission and administration of the grant program and \$146.9 million is for grants for counties seeking funds to implement standards set by the MIDC.	<b>Gross</b>	<b>NA</b>	<b>\$149,616,800</b>
	Restricted	NA	300,000
	GF/GP	NA	\$149,316,800
<b>15. Eliminate Swift and Sure Sanctions Program</b>	<b>Gross</b>	<b>\$3,350,000</b>	<b>(\$3,349,900)</b>
<u>Executive</u> makes no recommendation. <u>House</u> eliminates funding for the Swift and Sure Sanctions program, but retains a \$100 placeholder.	Restricted	1,537,600	(1,537,600)
	GF/GP	\$1,812,400	(\$1,812,300)
<b>16. Justice Data Collection and Reporting System</b>	<b>Gross</b>	<b>NA</b>	<b>\$4,501,600</b>
<u>Executive</u> makes no recommendation. <u>House</u> includes \$4.5 million GF/GP for establishing a justice data collection and reporting system. The intent of the system is to provide uniform collection, record, and reporting of data for criminal cases, juvenile justice cases, child abuse and neglect cases, and civil cases. The system would integrate with financial and other systems, provide storage of specified information and data, perform alias and phonetic name searches, and provide real time updates of record changes.	GF/GP	NA	\$4,501,600
<b>17. Justice for All Initiative</b>	FTE	NA	2.0
<u>Executive</u> makes no recommendation. <u>House</u> includes \$798,000 GF/GP and authorization for 2.0 FTE positions for the Justice for All Commission to implement a strategic plan for systemic simplification of court rules and processes, including court forms. Funding would also be used for additional training for judges and court staff, for work with Michigan Legal Help to develop an online forms portal, for establishing a framework for increased court and community engagement, and for developing performance metrics for access to justice.	<b>Gross</b>	<b>NA</b>	<b>\$798,000</b>
	GF/GP	NA	\$798,000

<u>Major Budget Changes from FY 2020-21 YTD Appropriations</u>		<u>FY 2020-21 Year-to-Date (as of 2/11/21)</u>	<u>FY 2021-22 House Change</u>
<b>18. Judicial Tenure Commission</b>	FTE	7.0	1.0
<u>Executive</u> makes no recommendation. <u>House</u> includes \$386,300 GF/GP (\$182,300 ongoing and \$204,000 one-time) and authorization for 1.0 FTE position for the Judicial Tenure Commission to add one permanent staff attorney and to continue paying contract attorneys for their work on addressing case backlog.	<b>Gross</b>	<b>\$1,408,700</b>	<b>\$386,300</b>
	GF/GP	\$1,408,700	\$386,300

**Major Boilerplate Changes from FY 2020-21**

**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 unless the communication is prohibited by law and the judicial branch is exercising its authority. Executive deletes. House retains.

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

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 deletes.

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

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 deletes.

**Sec. 218. Linking Swift and Sure Sanctions Program to DHHS, LEO, and MDOC Programming – DELETED**

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, LEO, and MDOC programming. Executive deletes. House deletes.

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

Requires the judicial branch to receive and retain copies of all required reports; 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.

**Sec. 309. Report on Problem-Solving Courts – REVISED**

Requires SCAO to provide a statistical report on drug treatment, mental health, and veterans court programs, including the number and types of programs, number of program participants in each jurisdiction, and program impacts on offender criminal involvement and recidivism. Executive retains. House revises reporting requirement to include an accounting of prior year expenditures, including grant amounts requested, grant amounts awarded, and grant amounts expended by courts.

**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.

**Sec. 316. Pretrial Risk Assessment – DELETED**

Requires SCAO to continue 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 status of the program, including an assessment of the effectiveness of the tool, plans to expand use of the tool, and details on expenditures and allocations. Executive deletes. House deletes.

**Sec. 320. Swift and Sure Sanctions Program – DELETED**

Requires SCAO to administer the Swift and Sure Sanctions program and to distribute grants to qualifying courts; 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, the number of offenders participating in the program, the criminal history of offenders, recidivism rates, parameters of the program, and an accounting of expenditures, including grant amounts requested, grant amounts awarded, and grant amounts expended. Executive retains. House deletes.

## **Major Boilerplate Changes from FY 2020-21**

### ***Sec. 351. Michigan Indigent Defense Commission - Prohibit Grants for Construction Projects – NEW***

Prohibits the MIDC from awarding grant funding to indigent defense systems for the construction of new infrastructure projects. Executive does not include. House includes new language.

### ***Sec. 352. Michigan Indigent Defense Systems - Prohibit Expenditure of Grants for Construction Projects – NEW***

Prohibits indigent defense systems from expending grant funding for the construction of new infrastructure projects. Executive does not include. House includes new language.

### ***Sec. 353. Michigan Indigent Defense Commission - Receipt of Federal Funding – NEW***

Authorizes the MIDC to receive and expend up to \$250,000 in federal Byrne grant funding and up to \$300,000 in other federal grant funding, if made available from the U.S. Department of Justice. Executive does not include. House includes new language.

### ***Sec. 354. Michigan Indigent Defense Commission - Report on Incremental Costs – NEW***

Requires the MIDC to submit a report on incremental costs associated with the standard development process, compliance plan process, and collection of data from all indigent defense systems and attorneys providing indigent defense. Executive does not include. House includes new language.

### ***Sec. 403. Oral Fluid Testing Pilot Program – REVISED***

Requires SCAO to allocate \$100,000 of funding appropriated for expansion of problem-solving courts to create a pilot program in a veterans treatment court, mental health treatment court, or both, that investigates the effectiveness of oral fluid testing to determine compliance with required mental health medications or requirements. Executive deletes. House revises to require a report on the number of programs established, the number of program participants, and the impact of the program on offender criminal involvement and recidivism. **(Renumbered to Sec. 310.)**

### ***Sec. 403. Justice Data Collection and Reporting System – NEW***

Requires SCAO to contract with a vendor to establish a justice data collection and reporting system; requires the system to provide uniform collection, record, and reporting of data for criminal cases, juvenile justice cases, child abuse and neglect cases, and civil cases; requires the system to integrate with financial and other systems, to provide storage of specified information and data, to perform alias and phonetic name searches, and to provide real time updates of record changes; requires SCAO to submit a report on the system; designates unexpended funding as a work project appropriation. Executive does not include. House includes new language.