

Court of Appeals of Maryland  
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Annapolis, Maryland 21401-1699



MARY ELLEN BARBERA  
Chief Judge

**BUDGET ALLOWANCE**

**FISCAL YEAR 2021**

**JUDICIAL BUDGET REVIEW AND INTRODUCTION**

The Judiciary's Fiscal Year 2021 Budget Submission is \$642 million, which represents approximately 1.2 percent of the State's operating budget. The major components of the budget are as follows: salaries and benefits at 70 percent, contractual services at 13 percent, aid/grants to courts at 10 percent, and fixed costs at 3 percent. The General Fund submission of \$567 million represents a 6.27 percent increase (which includes the COLA) or \$33.4 million over the Fiscal Year 2020 appropriation. The submission includes funding for personnel-related items such as employee merits, required salary increases for judges, health insurance, and pension as well as operational increases.

**BUDGET ISSUES**

**ISSUE 1 – EXPUNGEMENTS INCREASE SIGNIFICANTLY IN STATE COURTS**

*Pursuant to Criminal Procedure Article Section 10-101 to 10-110, Maryland citizens can have certain criminal records expunged and removed from public inspection. While there are a variety of eligible crimes, misdemeanors, and documents that can qualify for expungement, the most common are (1) Motor Vehicle Administration driving-related offenses; (2) police files created during a detainment without charges; and (3) court/police records related to crimes, civil offenses, and infractions. In addition, an individual can have court records expunged upon being found not guilty or criminally responsible for certain crimes, or if the charges were dismissed in court. Previously, expungements were relatively rare or at least not common; for example, a gubernatorial pardon or a nolle prosequi (where the State declines to prosecute a case) would qualify for an expungement. In recent years, the State has seen numerous statutory changes that have increased the various case types that qualify for expungement. In fiscal 2015, possession of marijuana for personal use was decriminalized in the State. As shown in Exhibit 17, marijuana possession charges have decreased significantly, while marijuana civil citations have increased.*

*In fiscal 2014, there were 33,800 expungement petitions in the State. That total has increased to 85,459 in fiscal 2019, a 153% increase. While expungements are not criminal cases, they are*

*taking up a larger percentage of State court duties and can add more than 90 minutes to processing times per case. Exhibit 18 depicts statewide expungements by jurisdiction.*

**Because expungements continue to increase statewide, DLS recommends committee narrative requesting a report on select expungement data including an analysis of the effect these petitions are having on the Maryland Judiciary, its courts, and employee workloads.**

**Judiciary Response: The Judiciary concurs with the Department’s recommendation.**

**ISSUE 2 – MARYLAND ELECTRONIC COURTS (MDEC) DEPLOYMENT REMAINS ON SCHEDULE; JUDICIARY’S MAJOR IT PROJECTS MOVE FORWARD**

*For fiscal 2021, the Judiciary continues to provide a master planning document that gives a detailed review of its current IT projects that are funded by the Land Records Improvement Fund (LRIF). First among these is the MDEC initiative. Started in fiscal 2012, MDEC has been the central IT project for the Judiciary and is a large, complex project endeavor designed to move the Maryland court system online. After its initial deployment in Anne Arundel County in fiscal 2015, MDEC has been implemented nearly statewide with just 3 jurisdictions remaining: Montgomery and Prince George’s counties, and Baltimore City. The Montgomery County deployment, while scheduled for February 2020 has been delayed to October due to integration issues with the county’s older, legacy case management system. Prince George’s County and Baltimore City are still on schedule for deployment in 2021.*

*In terms of its budget, the MDEC project previously had total costs of \$74.6 million. In fiscal 2021, total estimated costs for the project decrease by just over \$1 million due to reduced spending that includes IT employee compensation. Because MDEC has a wide variety of options and will continue to change as the Judiciary expands, there are some areas of the project that may have had unforeseen consequences. One example of this is MDEC’s ability to allow users to shield certain case records from other users in the system. Because of this option, some attorneys – not judges – are able to designate certain filings as confidential.*

**Judiciary should comment on this issue, and what steps are being taken to close this loophole.**

**Judiciary Response:** The MDEC electronic filing system has functionality that allows filers to mark, as confidential, documents containing protected or sensitive information to prevent access by the public. This functionality addresses instances when the filer is required, by the Maryland Rules of Practice and Procedure (Rule), to file redacted and unredacted versions of a document, as well as to secure documents such as financial statements that are deemed confidential pursuant to Rule or statute. As indicated in the Department’s analysis, this functionality caused unintended consequences and documents that did not contain confidential information were marked as such in the case management system. These actions were contrary to the Rules and the intended purpose of the confidential designation.

This issue was brought to the Judiciary’s attention by the media and other interested persons. To address this concern, the Judiciary developed additional procedures to ensure the proper filing of confidential documents. The proposed *Rule, 20-201.1 – Restricted Information*, contains

provisions to address submissions not subject to public inspection, either in part or in whole, as well as requests for the court to seal submissions that otherwise would be subject to public inspection. Pursuant to the proposed Rule, any filing containing restricted information will be required to indicate on the first page that it contains restricted information and the filer also will be required to include a new form – *Notice Regarding Restricted Information* – indicating the legal basis for the confidential designation. The notice will be subject to public inspection. If the notice is not filed, the clerk will reject the submission. The proposed Rule was approved by the Standing Committee on Rules of Practice and Procedure (Rules Committee) and is included in its 202<sup>nd</sup> Report for consideration by the Court of Appeals in April. Upon approval of the draft Rules, the current functionality that caused the issue will be disabled and the new procedures will be implemented.

### **ISSUE 3 – LRIF MAY BECOME INSOLVENT**

*The LRIF, or Circuit Court Real Property Records Improvement Fund, was created to stabilize and modernize operations in land records offices of the circuit court. The LRIF remains funded by a surcharge on recordable land instruments that are items related to property matters such as deeds, mortgages, leases, and grants. These items, when filed or recorded, are then assessed a charge. In calendar 2011, the LRIF surcharge was increased from \$20 to \$40 by Chapter 397, the Budget Reconciliation and Financing Act of 2011, and this increase will sunset at the end of fiscal 2020. The Judiciary estimates that reverting to a \$20 surcharge would reduce the fund's balance to \$3.4 million in fiscal 2021 and the LRIF would run substantial deficits thereafter. Even with the current surcharge of \$40, the fund balance will continue to decrease through fiscal 2025.*

*Currently, the LRIF is projected to have a structural deficit through fiscal 2025 as IT costs continue to increase. However, these IT costs are largely maintenance costs related to land records and e-filing operations. Overall, the Major IT Project Development portion of the LRIF declines in the coming years as MDEC costs decrease upon the project's deployment. As a result, the structural deficit is predicted to decline from \$7.3 million in fiscal 2021 to \$3.3 million by fiscal 2025. This leaves the Judiciary with enough funding in the current scenario to pay for LRIF-funded operations. In any case, if the surcharge reverts back to \$20, these same, relatively set costs in the LRIF will no longer be supplemented by nearly \$30 million a year in surcharge fees. This will put considerable pressure on the LRIF's fund balance, moving the structural deficit to nearly \$18 million by fiscal 2025, by which time the fund's total balance will decrease from an estimated \$3.4 million to a negative \$70 million, as depicted in Exhibit 20.*

**The Judiciary should comment on the financial position of the LRIF and its plans to stabilize the fund, even with the \$40 surcharge intact. In addition, DLS recommends that the General Assembly retain the \$40 surcharge as part of the Budget Reconciliation and Financing Act of 2020.**

**Judiciary Response:** The LRIF (Fund) has become an essential part of the Judiciary's ability to fund salaries and benefits of land records employees and operations, as well as all Major IT initiatives. If eliminated, it would cause a significant burden on the General Fund. The Judiciary

appreciates this committee’s efforts to make permanent the surcharge, ensuring that the Fund is solvent, with the sunset permanently lifted. The Judiciary will continue to explore strategies to ensure the long-term stabilization of the Fund. The Judiciary will update the committee with a report of the status and possibilities for stabilization in the annual Circuit Court Real Property Land Records Improvement Fund report.

### Fund Collections and Anticipated Disbursements with Surcharge

	FY 2019	FY 2020	FY 2021*	FY 2022	FY 2023	FY 2024	FY 2025
	Actual	Estimated	Estimated	Estimated	Estimated	Estimated	Estimated
<b>Revenues:</b>							
Surcharge/ Copy Fees	26,659,506	29,282,641	29,282,641	29,282,641	29,282,641	29,282,641	29,282,641
e-Filing Service Fees	5,741,441	5,741,441	5,741,441	5,741,441	5,741,441	5,741,441	5,741,441
<b>Total</b>	<b>32,400,947</b>	<b>35,024,082</b>	<b>35,024,082</b>	<b>35,024,082</b>	<b>35,024,082</b>	<b>35,024,082</b>	<b>35,024,082</b>
<b>Operations:</b>							
ELROI Operations/Maintenance**	2,091,163	2,932,302	1,844,600	1,845,350	2,145,100	1,845,350	1,845,350
e-Filing Operations/Maintenance	3,062,802	3,840,000	3,950,000	4,200,000	4,310,000	4,645,000	5,000,000
Archives - mdlandrec	1,000,000	500,000	500,000	500,000	500,000	500,000	500,000
Circuit Court Offices**	16,884,287	17,306,395	17,739,054	18,182,531	18,637,094	19,103,021	19,580,597
Major IT Projects**	10,295,236	13,796,285	18,360,001	14,865,750	13,050,000	11,650,000	11,400,000
<b>Total</b>	<b>33,333,488</b>	<b>38,374,982</b>	<b>42,393,655</b>	<b>39,593,631</b>	<b>38,642,194</b>	<b>37,743,371</b>	<b>38,325,947</b>
<b>Projected Structural Surplus/(Shortfall)</b>	<b>(932,541)</b>	<b>(3,350,900)</b>	<b>(7,369,573)</b>	<b>(4,569,549)</b>	<b>(3,618,112)</b>	<b>(2,719,289)</b>	<b>(3,301,865)</b>
Less prior year encumbrances Spent	1,702,555						
Less open prior year encumbrances		2,436,664					
<b>Total Fund Balance (Accrual Basis)</b>	<b>31,238,229</b>	<b>25,450,665</b>	<b>18,081,092</b>	<b>13,511,543</b>	<b>9,893,431</b>	<b>7,174,142</b>	<b>3,872,277</b>
* Assumes surcharge does not sunset as scheduled.							
**Includes FY2019 encumbrances.							

### RECOMMENDED ACTIONS

#### **RECOMMENDATION 1**

Add the following language:

Provided that \$3,554,879 in general funds for new positions is reduced and 57.0 new positions (46 regular employees in 11 full-time equivalent contractual bailiffs) are eliminated.

**Explanation:** This action eliminates 57.0 general funded positions (46 regular employees and 11 contractual bailiffs) in the Judiciary’s fiscal 2021 budget. This expansion of services is unaffordable in light of the Judiciary’s overall budget request. This reduction does not include the problem-solving court case managers/coordinators and Baltimore County clerk positions.

**Judiciary Response:** The Judiciary concurs in part with the Department’s recommendation and requests the restoration of eleven (11) positions totaling \$892,599.

*The Judiciary requests the restoration of two (2) JIS positions, Project Manager and Network Engineer.* These positions are deemed essential for maintaining acceptable levels of project oversight and operational support. As the Judiciary continues to develop Major IT initiatives

such as the Case Search 2.0 redesign, and as the occurrence of pervasive global cybersecurity threats continue to rise in Maryland, demands for support in these areas have risen exponentially and will increase significantly.

The Project Manager will support future and ongoing projects, including Case Search 2.0 and cybersecurity initiatives such as implementation of the Security Incident Event Management System and a Security Incident Response mechanism. Case Search is a key system that provides the needed security of data while balancing access to the case information. The cybersecurity initiatives ensure that the Judiciary's information systems are monitored for potential breaches while preparing a rapid, comprehensive response in the event of an incident. These applications and programs are critical to protecting the confidentiality, integrity, and availability of the Judiciary's system.

The Network Engineer will assist in planning and coordinating the staging, installation, and connectivity of computer and network systems to ensure stable, scalable, redundant, and secure network operations. Primary job duties and responsibilities include testing, deployment, performance monitoring, troubleshooting, utilizing industry best practices for security, and disaster recovery and business continuity.

***The Judiciary requests the restoration of one (1) Office of Problem-Solving Courts position, the Complex Litigation Coordinator.*** Following the submission of legislation in the 2018 session seeking the establishment of a Business and Technology Court in Maryland, the Judiciary agreed to establish a work group comprised of judges, attorneys, and members of the business community. The work group was charged with reviewing the recommendations of a task force of the Maryland State Bar Association, which was formed to study how complex commercial disputes are handled in Maryland. As a result, the Judicial Council approved the formation of the Committee on Complex Litigation and granted approval to seek the position of Complex Litigation Coordinator.

The Coordinator will be responsible for (a) working with administrative judges on assignment of cases to the program; (b) monitoring the progress and results of Business and Technology Case Management Program (BTCMP) cases; (c) developing recommendations for case management procedures, protocols, and forms to promote uniformity among courts; (d) facilitating the publication of BTCMP opinions; (e) arranging educational programs for BTCMP judges; (f) overseeing the collection and analysis of data regarding BTCMP cases; and, (g) submitting an annual report.

***The Judiciary is requesting the restoration of one (1) Rules Committee Staff Attorney/Assistant Reporter position.*** In conjunction with the rollout of MDEC, Titles 1-19 of the Maryland Rules will be revised to embed MDEC procedures therein and Title 20, which was drafted to be a temporary bridge from paper to MDEC, will be eliminated. After full rollout and the initial Rules revisions, MDEC updates will require ongoing Rules review and modifications. In addition, this position is needed because of an increased workload, including substantial, diverse, and complex projects that the Court of Appeals has directed the Rules Committee to undertake. Legislative-related projects are also increasingly complex. Recent examples are

legislation that was passed in the 2019 session that required the overhaul of the receivership rules and the settlement of decedents' estates.

***The Judiciary is requesting the restoration of one (1) courtroom clerk position in the Circuit Court for Prince George's County.*** The position will help to address workload demands and maintain the quality of work performed in the courtroom. Not having an additional position to cover courtroom assignments has impacted other offices when lead workers and/or supervisors are needed to cover dockets. This is disruptive to operations and effective case processing.

***The Judiciary is requesting the restoration of four (4) language interpreter positions in the District Court.*** These interpreters are requested for jurisdictions with the highest demand: Anne Arundel, Baltimore, Montgomery, and Prince George's counties. Collectively, these jurisdictions expended \$749,307 in Fiscal Year 2019 for language interpretation contractual services. The cost of the requested positions total \$357,180, resulting in a potential savings of over \$350,000. The Judiciary believes this is a sound fiscal expenditure and promotes access to justice for all.

***The Judiciary is requesting the restoration of two (2) constable positions for the District Court in Baltimore County.*** The constables handle the service of failure-to-pay rent cases and the service and execution of warrants of restitution, duties performed by the sheriff's office in other jurisdictions. Baltimore County has the highest number of failure-to-pay rent filings in the State and the number of these filings has increased 17 percent since 2015. In Calendar Year 2015, the current complement of 13 constables each had a caseload of 17,941. In Calendar Year 2019, the caseload increased to 21,023 per constable. To manage the current caseloads and overcome the 17 percent increase in filings, the Judiciary requests the two additional constable positions.

## **RECOMMENDATION 2**

Add the following language:

Provided that \$5,713,700 in general funds, \$377,991 in special funds, and \$83,363 in reimbursable funds for employee merit increases in fiscal 2021 is reduced. The Chief Judge is authorized to allocate this reduction across the Judiciary.

**Explanation:** This action eliminates funding for fiscal 2021 merit salary increases for Judiciary employees. A separate action provides funding for a cost-of-living adjustment, keeping salary enhancements for Judiciary employees consistent with the Executive Branch.

**Judiciary Response: See the response to Recommendation 13.**

## **RECOMMENDATION 3**

Add the following language:

Provided the Judiciary's budget is increased by \$4,537,198 in general funds and \$282,818 in special funds to provide employees with a 2% general salary increase. The Chief Judge is authorized to allocate these funds across the Judiciary.

**Explanation:** This action provides funding to the Judiciary to provide its employees with a 2% general salary increase in fiscal 2021, the same salary enhancements given to other State employees.

**Judiciary Response:** The Judiciary concurs with the Department’s recommendation.

**RECOMMENDATION 4**

Add the following language to the general fund appropriation:

.provided that \$8,250,000 of the general fund appropriation may be expended only 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.

**Explanation:** This language restricts the use of \$8.25 million of the Judiciary’s general fund appropriation for the implementation of DeWolfe v. Richmond.

**Judiciary Response:** The Judiciary concurs with the Department’s recommendation.

**RECOMMENDATION 5**

Reduce funding for the Appointed Attorney Program by \$250,000. This action leaves \$8.25 million for the program, which should be sufficient to meet demand based on historic utilization. In fiscal 2019, actual expenditures for this program were \$7.75 million.

**Amount Reduction**  
\$250,000 GF

**Judiciary Response:** The Judiciary concurs with the Department’s recommendation.

**RECOMMENDATION 6**

Reduce funding for subobjects related to building repair and computer maintenance, supplies and equipment, communications, advertising and printing, microfilm, and the clerks of the circuit court. The Chief Judge is authorized to allocate this reduction across the Judiciary.

**Amount Reduction**  
\$3,541,327 GF

**Judiciary Response:** The Judiciary disagrees with the Department’s recommendation and methodology as well as to specific reductions in the Judiciary’s operating budget and urges that \$2.7 million be restored.

The Department recommends funding at the Fiscal Year 2019 expenditure level; however, the recommended reductions cause the Fiscal Year 2021 Judiciary budget to be *\$2.7 million less than* the Fiscal Year 2019 actuals in the specified categories. The Judiciary has entered into

contractual obligations and executed maintenance agreements based on the Fiscal Year 2020 appropriation that would be jeopardized by the Department's recommended reduction. To recommend a \$2.7 million reduction below the Fiscal Year 2019 actual expenditures in these categories is arbitrary and will detrimentally impact ongoing operations approved by the General Assembly in Fiscal Year 2020.

**RECOMMENDATION 7**

Reduce operating expenses in line with historical levels of spending.

**Amount Reduction**

\$1,500,000 GF

**Judiciary Response: The Judiciary concurs in part with the Department's recommendation but disagrees with the Department's specific reductions to the Judiciary's operating budget and urges that \$750,000 be restored.**

The recommended reductions by the Department would prevent a number of projects that are important to the operation of the courts. Renovations in the Fiscal Year 2021 request include private areas for nursing mother's in Anne Arundel, Howard, and Washington counties; the buildout of a hearing room in Cecil County which has a demonstrated need for an additional judge; and, the buildout for a new self-help center in Montgomery County.

**RECOMMENDATION 8**

Reduce the appropriation for general fund grants to the same level as the fiscal 2019 appropriation. This will keep all special, federal, and reimbursable fund grants as well as adult drug court and required compensation increase for county magistrates at the requested levels.

**Amount Reduction**

\$1,309,751 GF

**Judiciary Response: The Judiciary concurs in part with the Department's recommendation but requests the restoration of \$929,790 which restores funding to Fiscal Year 2020 levels plus 2 percent for COLAs for grant-funded employees in the field.**

In Fiscal Year 2020, the General Assembly approved the grant-funded services listed below. Reducing grant funding to Fiscal Year 2019 levels will require laying off grant-funded court employees and/or reducing core services for children, families, domestic violence victims, unrepresented parties, vulnerable adults in guardianship matters, and people at risk of eviction. If adopted, the recommendation would put at risk several Fiscal Year 2020 grant-funded initiatives that have been established, were expected to continue, and are already having a positive impact on the people of Maryland. These include:

- Mid-Shore Pro Bono access to justice grant to support limited scope representation in guardianship cases;



- Community Mediation Center of Calvert County grant to support a mediation safety pilot program;
- Cecil County Community Mediation Center juvenile and family services grant for parenting plan, truancy, and youth diversion mediation;
- Community Mediation Center of St. Mary’s County juvenile and family services grant for parenting plan mediations;
- Howard County Mediation and Conflict Resolution Center juvenile and family services grant for elder care and parenting plan mediations;
- Court Appointed Special Advocate for Prince George’s County grant for a project to address the needs of LGBTQ youth in foster care;
- Lead4Life grant to provide family preservation and reunification support in child welfare cases on the Lower Shore;
- Kent County Circuit Court mediation and conflict resolution grant to expand alternative dispute resolution in civil matters;
- Circuit Court for Wicomico County grant for mediation training;
- Community Mediation of Calvert County grant for restorative justice and community conferencing services;
- Cecil County Neighborhood Youth Panel grant for restorative justice and community conferencing services;
- Cecil County Community Mediation Center grant to startup community-based mediation services;
- Charles County Circuit Court grant for Southern Maryland regional court research analyst position; and
- COLAs for eligible grant-funded employees in circuit courts statewide.

**RECOMMENDATION 9**

Adopt the following narrative:

**Appointed Attorney Program Costs and Utilization:** The committees remain interested in the costs and operations of the Appointed Attorney Program. The committees request a report, to be submitted by October 1, 2020, detailing the fiscal 2020 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, 2020

**Judiciary Response: The Judiciary concurs with the Department’s recommendation. The Judiciary already prepares this report and will continue to do so.**

## **RECOMMENDATION 10**

Adopt the following narrative:

**Adult Drug Court Evaluations and Transparency:** The committees are concerned about the ongoing impact of drug addiction in the State and the role that adult drug courts can play in the State’s response to this crisis. The committees request that the Office of Problem-Solving Courts (OPSC) prepare a status report on how it intends to use performance evaluation benchmarks developed by the National Center for State Courts (NCSC). Specifically, the status report should address the following issues:

- The status of the implementation of a performance management system for adult drug courts in the State;
- Whether and to what extent OPSC has adopted the objectives and benchmarks for adult drug courts developed by NCSC;
- Whether OPSC has a plan for the evaluation of outcomes for each adult drug court at regular intervals;
- How OPSC will ensure that service providers and drug court managers are providing all data necessary for evaluation;
- Whether the Judiciary intends to make results of performance evaluations available to the public; and
- An estimate of the variable correctional, court, and other savings associated with adult drug courts.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Adult drug court evaluations and transparency	Judiciary	July 1, 2020

**Judiciary Response: The Judiciary concurs with the Department’s recommendation. The Judiciary already prepares this report and will continue to do so.**

## **RECOMMENDATION 11**

Adopt the following narrative:

**Judicial Transfers Report:** While cases filed in State courts have declined (but have begun to level off) the Judiciary has not always seen judicial or employee workloads decrease at the same rate. At the same time, dramatic case declines such as those seen in Baltimore City offer an opportunity for the Judiciary to move judges and staff to other jurisdictions. Currently, the Judiciary has the ability to recall senior judges in extenuating circumstances to fill a need. In addition, pursuant to Courts and Judicial Proceedings Article Section 1-605(c), the Judiciary can also assign a judge to sit temporarily in a county other than the judge’s county of residence to assist in reducing workloads in that county. However, these are temporary, short-term solutions. In keeping with both prudence and the need for flexibility, if the Judiciary were able to transfer

judges as it would any other employee, it could reduce the need for new, expensive, and time-consuming judgeship requests and save funding for the State.

As a result, Judiciary should report to the committees on its current abilities under the law to provide workload relief to the State courts; details on the type of statutory changes that would be required to assign judges as needed; consultation with the National Center for State Courts or other legal authorities that support this type of adjustment; and any other pertinent information that would allow the budget committees to understand if judicial transfers could be a viable option both the Judiciary and the State to reduce workloads and unnecessary expenses.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Judicial transfers report	Judiciary	November 1, 2020

**Judiciary Response: The Judiciary concurs with the Department’s recommendation.**

**RECOMMENDATION 12**

Adopt the following narrative:

**Statewide Expungement Report:** Pursuant to Criminal Procedure Article Section 10-101 to 10-110, Maryland citizens can have certain criminal records expunged and removed from public inspection. While there are already a variety of eligible crimes, misdemeanors, and records that can be expunged, numerous statutory changes have increased the various case types that qualify for expungement. Currently, the number of expungements is 44% as high as the number of criminal cases statewide. As this trend continues, the Judiciary’s expungement workload has increased significantly. The committees are interested in this topic and request that the Judiciary submit a report which includes the following:

- Data on the type of crimes or citations expunged;
- The number of expungements per jurisdiction in the last three fiscal years;
- The ratio of expungements to criminal cases in District and circuit courts for the last three fiscal years;
- The current expungement caseload for Judiciary employees; i.e. the amount of time taken to process expungement petitions on average in each jurisdiction or court district;
- To the extent possible, an accounting of the additional hours that expungements have added to the court workload and the number of employees required to absorb the added expungement processing time; and
- Information on the expungement process in State courts from petition application to approval or rejection, and any Judiciary efforts to educate the public on the expungement process.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Statewide expungement report	Judiciary	November 1, 2020

**Judiciary Response: The Judiciary concurs with the Department’s recommendation.**

### **RECOMMENDATION 13**

Reduce fiscal 2020 deficiency funding for a 3% cost-of-living adjustment. The Chief Judge is authorized to allocate this reduction across the Judiciary. This action equalizes enhancements to Judiciary employee salaries with those of State employees.

#### **Amount Reduction**

\$5,629,947 GF

\$355,902 SF

**Judiciary Response:** Historically, and in comity with the executive and legislative branches, the Judiciary has been included with the governor’s statewide funding request for COLA increases. The Judiciary has **never** included COLA funds in any budget request. In the past, once the governor proposed and the legislature approved a COLA, funding was distributed to a statewide account and subsequently allocated to each of the three branches for implementation.

Two years ago, the Judiciary included merit increases in its budget request. The legislature required the Judiciary to substitute the merit funding for the COLA. Last year, again, the Judiciary included merit increases in its request, which were approved. The legislature also approved a COLA of 3 percent for state employees. Because Judiciary employees are state employees, the Judiciary relied on both approvals and provided employees with both increases. The Judiciary anticipated the traditional distribution of the COLA funds from the statewide account but was later informed that no such funding would be forthcoming. This resulted in the Judiciary’s request for a deficiency, an action never before taken by the Judiciary.

Curiously, however, the Judiciary did receive from the statewide account, funds for the 0.5 percent increase on April 1, 2019, the \$500 bonus in Fiscal Year 2019, and the 1 percent COLA on January 1, 2020. This recent inconsistency in the distribution of funding for COLA increases to the Judiciary is cause for great concern. In addition, the Judiciary has no way of anticipating the amount of a statewide COLA in the development and submission of its budget request. For instance, currently, the Judiciary understands that the executive branch is budgeting *at least* a 2 percent COLA for Fiscal Year 2021. Should the COLA become more than 2 percent, the Judiciary will need a mechanism for the additional funding.

The Judiciary should be returned to the previous model used for decades and its COLA funding budgeted centrally in the Department of Budget and Management’s statewide program. In order to do so, structural assurances must be put in place. Without this remedy, the Judiciary’s budget is burdened by an unfair and artificial inflationary effect.

## **BUDGET RECONCILIATION AND FINANCING ACT RECOMMENDED ACTIONS**

### **RECOMMENDATION 1**

Amend statute to extend \$40 surcharge for the Circuit Court's Real Property Records Improvement Fund.

**Judiciary Response: The Judiciary concurs with the Department's recommendation.**

### **CONCLUSION**

As provided for in prior years, the Judiciary requests the flexibility to allocate any reductions.