

Act No. 250
Public Acts of 2008
Approved by the Governor*
July 17, 2008
Filed with the Secretary of State
July 18, 2008
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*Item Vetoes

Sec. 318.
Entire Section. (Page 8)

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Rep. Gillard

ENROLLED HOUSE BILL No. 5810

AN ACT to make appropriations for the judicial branch for the fiscal year ending September 30, 2009; to provide for the expenditure of these appropriations; to place certain restrictions on the expenditure of these appropriations; to prescribe the powers and duties of certain state and local departments, officials, and employees; to require certain reports; and to provide for the disposition of fees and other income received by the judicial branch.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the judicial branch for the fiscal year ending September 30, 2009, from the funds indicated in this part. The following is a summary of the appropriations in this part:

JUDICIARY

APPROPRIATION SUMMARY:

Full-time equated exempted positions.....	491.0		
GROSS APPROPRIATION.....		\$	262,884,000
Interdepartmental grant revenues:			
Total interdepartmental grants and intradepartmental transfers			3,553,500
ADJUSTED GROSS APPROPRIATION.....		\$	259,330,500
Federal revenues:			
Total federal revenues			5,126,400
Special revenue funds:			
Total local revenues			6,093,100
Total private revenues.....			842,500
Total other state restricted revenues			87,947,900
State general fund/general purpose		\$	159,320,600

Sec. 102. SUPREME COURT

Full-time equated exempted positions.....	243.0	
Supreme court administration—97.0 FTE positions.....	\$	11,049,700
Judicial institute—13.0 FTE positions.....		2,671,700
State court administrative office—60.0 FTE positions		11,301,900
Judicial information systems—22.0 FTE positions		3,230,700
Direct trial court automation support—36.0 FTE positions.....		6,093,100
Foster care review board—12.0 FTE positions.....		1,267,100
Community dispute resolution—3.0 FTE positions		2,292,700
Other federal grants.....		275,000
Drug treatment courts.....		5,178,800
Pilot mental health court programs		550,000
GROSS APPROPRIATION.....	\$	43,910,700
Appropriated from:		
Interdepartmental grant revenues:		
IDG from department of community health.....		1,800,000
IDG from department of corrections		1,030,000
IDG from state police - Michigan justice training fund.....		300,000
Federal revenues:		
DOJ, victims assistance programs.....		50,000
DOJ, drug court training and evaluation		300,000
DOT, national highway traffic safety administration		1,300,000
HHS, access and visitation grant		387,000
HHS, children's justice grant.....		206,300
HHS, court improvement project.....		1,160,000
HHS, title IV-D child support program.....		907,700
HHS, title IV-E foster care program		540,400
Other federal grant revenues.....		275,000
Special revenue funds:		
Local - user fees.....		6,093,100
Private		169,000
Private - interest on lawyers trust accounts.....		232,700
Private - state justice institute		370,800
Community dispute resolution fund.....		2,292,700
Law exam fees		536,200
Drug court fund		1,920,500
Miscellaneous revenue		227,900
Justice system fund.....		700,000
State court fund		339,000
State general fund/general purpose	\$	22,772,400

Sec. 103. COURT OF APPEALS

Full-time equated exempted positions.....	190.0	
Court of appeals operations—190.0 FTE positions.....	\$	19,207,900
GROSS APPROPRIATION.....	\$	19,207,900
Appropriated from:		
Special revenue funds:		
Court filing/motion fees		1,958,500
Miscellaneous revenue		77,800
State general fund/general purpose	\$	17,171,600

Sec. 104. BRANCHWIDE APPROPRIATIONS

Full-time equated exempted positions.....	4.0	
Branchwide appropriations—4.0 FTE positions.....	\$	7,882,800
GROSS APPROPRIATION.....	\$	7,882,800
Appropriated from:		
State general fund/general purpose	\$	7,882,800

Sec. 105. JUSTICES' AND JUDGES' COMPENSATION

Full-time judges positions.....	617.0	
Supreme court justices' salaries—7.0 judges	\$	1,152,300
Court of appeals judges' salaries—28.0 judges		4,240,300
District court judges' state base salaries—258.0 judges		23,877,200
District court judicial salary standardization		11,796,800
Probate court judges' state base salaries—103.0 judges.....		9,627,900
Probate court judicial salary standardization.....		4,669,700
Circuit court judges' state base salaries—221.0 judges		20,817,200
Circuit court judicial salary standardization		10,105,000
Judges' retirement system defined contributions		3,556,700
OASI, social security.....		5,353,900
GROSS APPROPRIATION	\$	95,197,000
Appropriated from:		
Special revenue funds:		
Court fee fund		7,090,200
State general fund/general purpose	\$	88,106,800

Sec. 106. JUDICIAL AGENCIES

Full-time equated exempted positions.....	7.0	
Judicial tenure commission—7.0 FTE positions	\$	1,013,100
GROSS APPROPRIATION	\$	1,013,100
Appropriated from:		
State general fund/general purpose	\$	1,013,100

Sec. 107. INDIGENT DEFENSE - CRIMINAL

Full-time equated exempted positions.....	47.0	
Appellate public defender program—39.0 FTE positions.....	\$	5,075,100
Appellate assigned counsel administration—8.0 FTE positions		941,500
GROSS APPROPRIATION	\$	6,016,600
Appropriated from:		
Interdepartmental grant revenues:		
IDG from state police - Michigan justice training fund.....		423,500
Special revenue funds:		
Private - interest on lawyers trust accounts		70,000
Miscellaneous revenue		113,100
State general fund/general purpose	\$	5,410,000

Sec. 108. INDIGENT CIVIL LEGAL ASSISTANCE

Indigent civil legal assistance.....	\$	7,937,000
GROSS APPROPRIATION	\$	7,937,000
Appropriated from:		
Special revenue funds:		
State court fund		7,937,000
State general fund/general purpose	\$	0

Sec. 109. TRIAL COURT OPERATIONS

Court equity fund reimbursements	\$	67,403,900
Judicial technology improvement		4,465,000
GROSS APPROPRIATION	\$	71,868,900
Appropriated from:		
Special revenue funds:		
Court equity fund		50,440,000
Judicial technology improvement fund		4,465,000
State general fund/general purpose	\$	16,963,900

Sec. 110. GRANTS AND REIMBURSEMENTS TO LOCAL GOVERNMENT

Drug case-flow program	\$	250,000
Drunk driving case-flow program.....		3,000,000

		For Fiscal Year Ending Sept. 30, 2009
Juror compensation reimbursement.....	\$	6,600,000
GROSS APPROPRIATION.....	\$	9,850,000
Appropriated from:		
Special revenue funds:		
Drug fund.....		250,000
Drunk driving fund.....		3,000,000
Juror compensation fund.....		6,600,000
State general fund/general purpose	\$	0

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2008-2009 is \$247,268,500.00 and state spending from state resources to be paid to local units of government for fiscal year 2008-2009 is \$124,193,800.00. The itemized statement below identifies appropriations from which spending to local units of government will occur:

JUDICIARY

SUPREME COURT

State court administrative office	\$	511,900
Drug treatment courts.....		4,878,800

TRIAL COURT OPERATIONS

Court equity fund reimbursements.....	\$	67,403,900
Judicial technology improvement fund.....		4,465,000

JUSTICES' AND JUDGES' COMPENSATION

District court judicial salary standardization	\$	11,796,800
Probate court judges' state base salaries.....		9,627,900
Probate court judicial salary standardization.....		4,669,700
Circuit court judicial salary standardization		10,105,000
Grant to OASI contribution fund, employers share, social security		884,800

GRANTS AND REIMBURSEMENTS TO LOCAL GOVERNMENT

Drunk driving case-flow program.....	\$	3,000,000
Drug case-flow program		250,000
Juror compensation reimbursement.....		6,600,000
TOTAL	\$	124,193,800

Sec. 202. (1) The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

(2) Funds appropriated in part 1 to an entity within the judicial branch shall not be expended or transferred to another account without written approval of the authorized agent of the judicial entity. If the authorized agent of the judicial entity notifies the state budget director of its approval of an expenditure or transfer, the state budget director shall immediately make the expenditure or transfer. The authorized judicial entity agent shall be designated by the chief justice of the supreme court.

Sec. 203. As used in this act:

- (a) "DOJ" means the United States department of justice.
- (b) "DOT" means the United States department of transportation.
- (c) "FTE" means full-time equated.
- (d) "HHS" means the United States department of health and human services.

- (e) "IDG" means interdepartmental grant.
- (f) "OASI" means old age survivor's insurance.

Sec. 204. The judicial branch shall not take disciplinary action against an employee for communicating with a member of the legislature or his or her staff.

Sec. 208. The reporting requirements of this act shall be completed with the approval of, and at the direction of, the supreme court. The judicial branch shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement, or it may include placement of reports on an Internet or Intranet site.

Sec. 212. As a condition of expending appropriations made under part 1, the judicial branch shall receive and retain copies of all reports funded from appropriations in part 1 and shall follow federal and state guidelines for short-term and long-term retention of such reports and records.

Sec. 214. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available. Preference shall be given to goods or services, or both, manufactured or provided by Michigan businesses, if they are competitively priced and of comparable quality. In addition, preference shall be given to goods or services, or both, that are manufactured or provided by Michigan businesses owned and operated by veterans, if they are competitively priced and of comparable quality.

Sec. 215. (1) Due to the current budgetary problems in this state, out-of-state travel for the fiscal year ending September 30, 2009 shall be limited to situations in which 1 or more of the following conditions apply:

- (a) The travel is required by legal mandate or court order or for law enforcement purposes.
 - (b) The travel is necessary to protect the health or safety of Michigan citizens or visitors or to assist other states in similar circumstances.
 - (c) The travel is necessary to produce budgetary savings or to increase state revenues, including protecting existing federal funds or securing additional federal funds.
 - (d) The travel is necessary to comply with federal requirements.
 - (e) The travel is necessary to secure specialized training for staff that is not available within this state.
 - (f) The travel is financed entirely by federal or nonstate funds.
- (2) If out-of-state travel is necessary but does not meet 1 or more of the conditions in subsection (1), the chief justice or his or her designee may grant an exception to allow the travel. Any exceptions granted by the chief justice or his or her designee shall be reported on a monthly basis to the senate and house of representatives standing committees on appropriations.

(3) Not later than January 1 of each year, the state court administrative office shall prepare a travel report listing all travel by judicial branch employees outside this state in the immediately preceding fiscal year that was funded in whole or in part with funds appropriated in the budget for the judicial branch. The report shall be submitted to the senate and house of representatives standing committees on appropriations, the senate and house fiscal agencies, and the state budget director. The report shall include the following information:

- (a) The name of each person receiving reimbursement for travel outside this state or whose travel costs were paid by this state.
- (b) The destination of each travel occurrence.
- (c) The dates of each travel occurrence.
- (d) A brief statement of the reason for each travel occurrence.
- (e) The transportation and related costs of each travel occurrence, including the proportion funded with state general fund/general purpose revenues, the proportion funded with state restricted revenues, the proportion funded with federal revenues, and the proportion funded with other revenues.
- (f) A total of all out-of-state travel funded for the immediately preceding fiscal year.

Sec. 216. (1) The judicial branch shall report no later than April 1, 2009 on each specific policy change made to implement a public act affecting the judicial branch that took effect during the prior calendar year to the house and senate appropriations subcommittees on the judicial branch budget, the joint committee on administrative rules, and the senate and house fiscal agencies.

(2) Funds appropriated in part 1 shall not be used by the judicial branch to adopt a rule that will apply to a small business and that will have a disproportionate economic impact on small businesses because of the size of those businesses if the judicial branch fails to reduce the disproportionate economic impact of the rule on small businesses as provided under section 40 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.240.

(3) As used in this section:

(a) "Rule" means that term as defined under section 7 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207.

(b) "Small business" means that term as defined under section 7a of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207a.

Sec. 218. The judicial branch shall not approve the travel of more than 1 judicial employee to a specific professional development conference or training seminar that is located outside of this state unless a professional development conference or training seminar is funded by a federal or private funding source and requires more than 1 person from the judicial branch to attend, or the conference or training seminar includes multiple issues in which 1 employee from the judicial branch does not have expertise.

JUDICIAL BRANCH

Sec. 301. (1) The direct trial court automation support program of the state court administrative office shall recover direct and overhead costs from trial courts by charging for services rendered. The fee shall cover the actual costs incurred to the direct trial court automation support program in providing the service, including development of future versions of case management systems. A report of amounts collected in excess of funds identified as user service charges in part 1 shall be submitted to the state budget director and to the house and senate appropriations subcommittees on judiciary 30 days before expenditure by the direct trial court automation support program.

(2) From funds appropriated in part 1, the direct trial court automation support program of the state court administrative office shall provide to the state budget director, the senate and house appropriations committees, and the senate and house fiscal agencies before January 1 of each year a detailed list of user service charges collected during the immediately preceding state fiscal year.

Sec. 302. Funds appropriated within the judicial branch shall not be expended by any component within the judicial branch without the approval of the supreme court.

Sec. 303. Of the amount appropriated in part 1 for the judicial branch, \$325,000.00 is allocated for circuit court reimbursement under section 3 of 1978 PA 16, MCL 800.453, and \$186,900.00 is allocated for court of claims reimbursement under section 6413 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6413.

Sec. 304. As a condition of expending appropriations made under part 1, the judicial branch shall cooperate with the auditor general regarding audits of the judicial branch conducted under section 53 of article IV of the state constitution of 1963.

Sec. 305. As a condition of expending appropriations made under part 1, and to avoid the overexpenditure of funds appropriated under this act, the supreme court shall report quarterly to members of the senate and house appropriations subcommittees on the judiciary, the senate and house fiscal agencies, and the state budget director on the status of accounts set forth in part 1. The report required by this section shall include quarterly, year-to-date, and projected expenditures by funding source for each line item, and beginning balances and quarterly, year-to-date, and projected revenues for each source of revenue other than general fund/general purpose revenues.

Sec. 306. The supreme court and the state court administrative office shall continue to maintain, as a priority, the assisting of local trial courts in improving the collection of judgments.

Sec. 308. If sufficient funds are not available from the court fee fund to pay judges' compensation, the difference between the appropriated amount from that fund for judges' compensation and the actual amount available after the amount appropriated for trial court reimbursement is made shall be appropriated from the state general fund for judges' compensation.

Sec. 309. (1) From the funds appropriated in part 1 for pilot mental health court programs, with the approval of and at the discretion of the supreme court, the state court administrative office shall work with the department of community health to develop guiding protocols and principles to assist local courts in developing practices for mental health treatment courts. When developing the guiding protocols and principles, consideration should be given to the 10 essential elements as defined by the U.S. bureau of justice assistance, which include:

(a) Planning and administration: A broad-based group of stakeholders representing the criminal justice, mental health, substance abuse treatment, and related systems and the community guides the planning and administration of the court.

(b) Target population: Eligibility criteria address public safety and consider a community's treatment capacity, in addition to the availability of alternatives to pretrial detention for defendants with mental illnesses. Eligibility criteria also take into account the relationship between mental illness and a defendant's offenses, while allowing the individual circumstances of each case to be considered.

(c) Timely participant identification and linkage to services: Participants are identified, referred and accepted into mental health courts, and then linked to community-based service providers as quickly as possible.

(d) Terms of participation: Terms of participation are clear, promote public safety, facilitate the defendant's engagement in treatment, are individualized to correspond to the level of risk that the defendant presents to the community, and provide for positive legal outcomes for those individuals who successfully complete the program.

(e) Informed choice: Defendants fully understand the program requirements before agreeing to participate in a mental health court. They are provided legal counsel to inform this decision and subsequent decisions about program involvement. Procedures exist in the mental health court to address, in a timely fashion, concerns about a defendant's competency whenever they arise.

(f) Treatment support and services: Mental health courts connect participants to comprehensive and individualized treatment supports and services in the community. They strive to use, and increase the availability of, treatment and services that are evidence-based.

(g) Confidentiality: Health and legal information should be shared in a way that protects potential participants' confidentiality rights as mental health consumers and their constitutional rights as defendants. Information gathered as part of the participants' court-ordered treatment program or services should be safeguarded in the event that participants are returned to traditional court processing.

(h) Court team: A team of criminal justice and mental health staff and service and treatment providers receives special, ongoing training and helps mental health court participants achieve treatment and criminal justice goals by regularly reviewing and revising the court process.

(i) Monitoring adherence to court requirements: Criminal justice and mental health staff collaboratively monitor participants' adherence to court conditions, offer individualized graduated incentives and sanctions, and modify treatment as necessary to promote public safety and participants' recovery.

(j) Sustainability: Data are collected and analyzed to demonstrate the impact of the mental health court, its performance is assessed periodically (and procedures modified accordingly), court processes are institutionalized, and support for the court in the community is cultivated and expanded.

(2) The legislature encourages the state court administrative office to develop mental health court guidelines in cooperation with all key stakeholders, including, but not limited to, circuit, district, and probate court judges, county prosecuting attorneys, representatives of the criminal defense bar, representatives of community treatment providers, community mental health service providers, any other prosecutor in the circuit or district court district, local law enforcement, the probation departments, the local substance abuse coordinating agencies, domestic violence service provider programs that receive funding from the state domestic violence prevention and treatment board, and community corrections agencies, as well as any other parties considered necessary. The state court administrative office is also encouraged to develop guidelines comparable to those established for drug treatment courts, found in chapter 10A of the revised judiciary act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082.

(3) Trial courts and local community mental health services programs interested in becoming mental health court pilot sites shall submit a joint application for funding prepared in accordance with guidelines established by the judiciary and the department of community health. The applications shall include documentation of community needs and a commitment to the program by key stakeholders, including the local courts, law enforcement, prosecutor, defense counsel, and treatment providers.

Sec. 310. From the funds appropriated in part 1 for drug treatment court programs, with the approval of and at the discretion of the supreme court, the state court administrative office shall evaluate and collect data on the performance of drug treatment court programs. The state court administrative office shall provide an annual review of the performance of drug courts as prescribed in section 1078(6) of the revised judiciary act of 1961, 1961 PA 236, MCL 600.1078. All of the following apply to that annual review:

(a) It shall include measures of the impact of drug court programs in changing offender criminal involvement (recidivism) and substance abuse and in reducing prison admissions.

(b) It shall be completed no later than April 1 of each year and shall also be provided to the senate and house appropriations subcommittees on the judiciary, the senate and house fiscal agencies, and the state budget director.

(c) The evaluation of a program funded with federal Byrne funds shall be consistent with the requirements contained in the federal Byrne grant for that program.

Sec. 311. (1) The funds appropriated in part 1 for drug treatment courts shall be administered by the state court administrative office to operate drug treatment court programs. A drug treatment court shall be responsible for

handling cases involving substance abusing nonviolent offenders through comprehensive supervision, testing, treatment services, and immediate sanctions and incentives. A drug treatment court shall use all available county and state personnel involved in the disposition of cases including, but not limited to, parole and probation agents, prosecuting attorneys, defense attorneys, and community corrections providers. The funds may be used in connection with other federal, state, and local funding sources.

(2) From the funds appropriated in part 1, the chief justice shall allocate sufficient funds for the judicial institute to provide in-state training for those identified in subsection (1), including training for new drug treatment court judges.

(3) For drug treatment court grants, consideration for priority may be given to those courts where higher instances of substance abuse cases are filed.

(4) The judiciary shall receive \$1,800,000.00 in Byrne formula grant funding as an interdepartmental grant from the department of community health to be used for expansion of drug treatment courts, to assist in avoiding prison bed space growth for nonviolent offenders in collaboration with the department of corrections.

Sec. 312. From the funds appropriated in part 1, the state court administrator shall produce a statistical report regarding the implementation of the parental rights restoration act, 1990 PA 211, MCL 722.901 to 722.908, as it pertains to minors seeking a court-issued waiver of parental consent. The state court administrative office shall report the total number of petitions filed and the total number of petitions granted in accordance with section 208.

Sec. 317. Funds appropriated in part 1 shall not be used for the permanent assignment of state-owned vehicles to justices or judges or any other judicial branch employee. This section does not preclude the use of state-owned motor pool vehicles for state business in accordance with approved guidelines.

Sec. 318. (1) The judiciary shall receive \$980,000.00 as an interdepartmental grant from the department of corrections. The funds shall be utilized by the state court administrative office to administer a pilot program to target nondangerous offenders at significant risk to commit further crimes through assessment, treatment, and accountability, with the goal of reducing expenditures for long-term incarceration. All funds shall be spent on fulfilling the requirements of this section and treatment, monitoring, and testing of offenders in the pilot program administered by the state court administrative office. The state court administrative office shall work with the department of community health to develop the pilot program.

(2) The pilot program shall adhere to the following criteria:

(a) A minimum of 3 pilot sites shall be selected by the state court administrative office, at least 1 to be located in a major metropolitan area.

(b) The pilot programs shall incorporate the principles and practices of problem-solving courts developed by the national association of drug court professionals, and they shall operate pursuant to a written memorandum of understanding developed by the stakeholders in the jurisdiction.

(c) Each pilot court team shall include, at a minimum, a district and circuit judge, prosecutor, defense lawyer, treatment provider, circuit court probation officer, district court probation officer, community corrections representative, community mental health representative, court administration, and community representative.

(d) Before being enrolled in the pilot program, each participant shall be administered a comprehensive and valid risk and needs assessment. The assessment shall measure criminogenic and psychosocial factors to determine which participants are at significant risk of/for committing further crimes and are in need of services.

(e) The pilot projects shall employ evidence-based practices to develop a treatment plan in response to the assessment results.

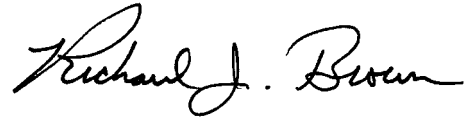
(f) Each pilot project shall employ a case manager whose duties shall include referral and linkage to community resources, monitoring treatment plan requirements, data reporting, and other responsibilities as assigned.

(3) The department of corrections shall participate in the pilot program. The circuit court judge assigned to the pilot project shall select 1 or more circuit court probation officers to supervise the caseload of the circuit court project. Although the probation officer shall remain an employee of the department of corrections, he or she shall report directly to the circuit court judge.


(4) The Michigan judicial institute shall provide appropriate training for all personnel involved in the pilot program.

(5) The state court administrative office shall conduct a process and outcome evaluation and a cost benefit analysis of the pilot programs and shall submit that analysis to the senate and house appropriations subcommittees on judiciary, the senate and house fiscal agencies, and the state budget director by September 30, 2009.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved -----

Governor