

2011 Judicial Resources Recommendations

Frequently Asked Questions

A. Trial Courts

- 1. Why is the number of recommended trial court judgeship reductions – 45 – so much higher than the 2007 (10) and 2009 (15) JRR recommendations?**

Answer: The data from each JRR – 2007, 2009, and 2011 – is consistent with regard to the findings of judicial need (a court needs more judgeships) and judicial excess (a court has more judgeships than it needs). What is different is the number of *recommended reductions* in the 2011 report. We increased the recommended reductions because we are very confident in this year's data, which is based on survey results from 99 percent of Michigan's trial courts. Our data is up-to-date, complete, and consistent; our analysis has been extremely thorough and was vetted by the National Center for State Courts – national experts in judicial staffing requirements. In addition, the state's trial court caseload has continued to decline since 2007.

- 2. How does the State Court Administrative Office (SCAO) determine how many judgeships a trial court needs?**

Answer: There are two parts to the analysis. The first part uses a weighted caseload formula to put a number value on a given court's workload. "Weighted caseload" means that different types of cases are assigned different weights, based on how much work they generate for a judge – for example, a medical malpractice case takes longer to process than a traffic ticket.

The extended analysis looks at other qualitative factors that might affect the court's workload – population and case filing trends, for example.

The JRR's recommendations are not just "by the numbers," but take into account a wide range of factors that affects a court's need for judges. The result is a number that reflects the right number of judgeships for that court's workload and environment.

This methodology was developed with assistance from the National Center for State Courts and the Judicial Needs Assessment Committee. For more information on the JRR's analysis, please see:

<http://courts.michigan.gov/scao/resources/publications/reports/JRRSummary2011.pdf>.

- 3. The 2011 JRR also states that there are eight counties and three third-class district courts that have a combined need for 31 new judgeships. Why aren't the Supreme Court and the SCAO recommending new judgeships for these courts?**

Answer: We are not recommending new judgeships at this time because of the state's economic climate. In fact, the courts that showed a need for more judges, recognizing the impact on their funding units, asked the SCAO not to recommend new judgeships for them.

4. How will these courts that do need additional judgeships deal with their workload?

Answer: In some counties, a concurrent jurisdiction plan – a plan for sharing judges, staff, and other resources among courts in the same circuit – could offset the judicial need. For example, in Oakland County, the judicial excess in the 52nd District Court could offset the judicial need in that county’s circuit and probate courts. These plans should also result in savings to the state, counties, and municipalities by increasing the courts’ efficiency.

5. For those courts where the SCAO recommends reducing the number of judgeships, will a judicial reduction result in congested dockets and a backlog?

Answer: No. The entire goal of the JRR analysis is designed to measure how many judges are needed to perform the work of a court. Therefore, when a reduction is made in accordance with the recommendation, there should be no backlog created. Based on data and surveys from similar courts, we are confident there will not be backlogs.

6. In the weighted caseload analysis, how did SCAO account for the judicial assistance provided by referees, law clerks, and magistrates?

Answer: After calculating the combined need for judges, quasi-judicial officers, and law clerks in each court, the SCAO calculated the need for judges only by applying the proportion of workload typically handled by judges in counties of similar size. See Appendix C of the 2011 JRR for the judicial proportions.

7. For courts where the SCAO recommends reducing the number of judgeships: will those courts have to add referees, law clerks, or magistrates?

Answer: Very unlikely. The vast majority of the affected courts have the same number of referees, law clerks, and magistrates as other similar courts. In addition, most of the reduced courts will still have a judicial surplus. However, referees, law clerks, and magistrates are an important part of any court. It is possible that a few courts will need to consider adding referees, laws clerks, or magistrates.

8. What is the savings to the state?

Answer: The average savings to the state per judicial position in salary and benefits is \$157,000.

9. What is the savings to the funding unit?

Answer: Cost savings will vary among funding units. Most judges have some benefits paid for by the funding unit, such as health insurance, but the cost varies across the state. In addition, the judicial staff will generally be reduced if the number of judges is reduced. Most judges do not have a law clerk, but if a judge has one, that position would probably be eliminated. Most judges have a clerk or a secretary, and some have

a bailiff or a court officer. In some counties, an assistant prosecutor is assigned to each judge.

10. Is this a shifting of cost from the state to the local funding units?

Answer: No. We are confident this recommendation will cut costs for the funding units.

11. How are judgeships created or eliminated? Can the Supreme Court do this?

Answer: No. Only the Legislature can create or eliminate a judgeship by passing legislation. The Supreme Court or the SCAO can only make recommendations about reducing or adding judgeships.

12. The SCAO recommends reducing the number of judgeships by attrition. How would this work?

Answer: If the Legislature accepts the JRR recommendations, the judicial positions designated for reduction will be eliminated if a judge leaves office in the middle of the term for any reason. In addition, if an incumbent judge chooses not to run again, that judge's position will be eliminated.

13. Some courts cover multiple counties – for example, in the U.P. Was travel taken into account?

Answer: Yes. Travel was taken into account both in the National Center for State Courts' analysis of the data and in the SCAO's extended analysis.

14. Are we required to have a circuit, probate, and district judge in each circuit?

Answer: No. The Michigan Constitution requires one circuit judge in each circuit and a probate judge in each county or probate district. The Constitution does not require district judges. The Legislature can grant any probate court the authority to handle the district court caseload and the Supreme Court can cross-assign circuit or probate court judges to handle district court cases.

15. The district judge in my circuit is not expected to retire for many years. We only have three judges. What will happen if the circuit judge or probate judge leaves before then?

Answer: This will ultimately be up to the Governor and Legislature, but we expect the solution will involve the two remaining judges handling the caseload.

16. Why are you looking at the total judges in a funding unit instead of looking at the circuit, district, and probate courts separately?

Answer: We expect judges and courts to operate efficiently and to cooperate. Courts within a jurisdiction ideally should share their resources to reduce unnecessary costs.

When there is a need in one court and a surplus in another court, the courts should enter into a concurrent jurisdiction plan to efficiently and effectively serve the public's needs.

- 17. The time study on which the SCAO bases its analysis occurred in October 2010. What if October 2010 was not representative of the trial courts' caseload – for example, what if a particular court was either unusually busy or unusually slow? Would that have affected the recommendations?**

Answer: No. The time study was used to determine the case weights – the amount of judicial work, or need, for a particular type of case. The data that was reported from one court was averaged in with the data from all the other courts in the state. The judicial need was determined by the case weights and a three-year average of the caseload.

- 18. For courts facing reductions: What should they do now?**

Answer: Courts and judges must plan for this change. All of the affected courts should consider a concurrent jurisdiction plan to improve docket management, increase efficiency by sharing resources, and reduce travel. The SCAO will assist courts that want to plan ahead.

B. Michigan Court of Appeals

- 1. Why is the SCAO recommending the elimination of four Court of Appeals judgeships?**

Answer: Filings in the Court of Appeals have been on the decline for many years. From 2007, the number of filings, cases disposed of by opinion, and estimated days spent preparing research reports have decreased by 22 percent.

In the 2007 and 2009 reports, the SCAO also recommended reducing the number of Court of Appeals judgeships from 28 to 24.

Although the methodology in the Court of Appeals analysis is different than that used for analyzing trial courts' workload, the principle is the same: establishing the right number of judges for the workload.

- 2. Won't reducing the number of judges on the Court of Appeals from 28 to 24 create a backlog and delays?**

Answer: No. Because the Court of Appeals' filings have decreased so significantly, the current number of judgeships is no longer justified.

- 3. How would judgeships on the Court of Appeals be eliminated?**

Answer: The SCAO is recommending that these judgeships be eliminated by attrition. There are already two vacancies on the Court of Appeals; those two seats, and two others, would have to be eliminated through legislation.

4. How much would the state save by eliminating these four judgeships?

Answer: The estimated savings is \$736,636 per year in judicial salaries and benefits. The Legislature removed approximately half that amount from the Fiscal Year 2012 judiciary budget due to the two judgeships that are currently vacant.

C. General Questions

1. How often does the SCAO issue these recommendations?

Answer: The SCAO analyzes the number of judges needed for Michigan's trial courts, and issues a report to the Legislature, every two years.

2. Does the Michigan Supreme Court support the 2011 JRR recommendations?

Answer: Yes, the Supreme Court unanimously supports these recommendations. The Michigan Judges Association, the Michigan Probate Judges Association, the Michigan District Judges Association, and the Michigan Judicial Conference also support the 2011 JRR recommendations.

3. What happens next?

Answer: The SCAO has shared the 2011 JRR with the Governor and Legislature. We know that the Governor supports eliminating judgeships that are not justified by workload and that many in the Legislature agree. We hope that the next step will be for the Legislature to introduce bills eliminating these unneeded judgeships.

4. Will the SCAO recommend adding new trial court judgeships in its 2013 JRR?

Answer: Assuming that there is a need for new judgeships at that time, and that the state's economy has recovered to the point where such a recommendation would be feasible, then the SCAO will do so.

List A: Judicial Need and Proposed Reductions by Circuit

Sorted by Current Judgeships

County	Current Judgeships	Judge Only Need	Implied Judge Excess or Need	Recommendation
Delta	3	1.7	-1.3	-1
Huron	3	1.7	-1.3	-1
Chippewa	3	2.2	-0.8	-1
Sanilac	3	2.2	-0.8	-1
Hillsdale	3	2.2	-0.8	-1
Barry	3	2.5	-0.5	
Cass	3	2.5	-0.5	
Tuscola	3	2.5	-0.5	
Branch	3	2.6	-0.4	
Gogebic, Ontonagon	4	1.4	-2.6	-1
Benzie, Manistee	4	2.6	-1.4	-1
Alpena, Montmorency	4	2.6	-1.4	-1
Lake, Mason	4	2.8	-1.2	-1
Missaukee, Wexford	4	2.9	-1.1	-1
Cheboygan, Presque Isle	4	2.9	-1.1	-1
Shiawassee	4	3.3	-0.7	-1
Isabella	4	3.5	-0.5	
Mecosta, Osceola	4	3.6	-0.4	
St. Joseph	4	3.9	-0.1	
Charlevoix, Emmet	4	4.0	0.0	
Clare, Gladwin	4	4.4	0.4	
Baraga, Houghton, Keweenaw	4.5	2.0	-2.5	-1
Alger, Luce, Mackinac, Schoolcraft	5	2.3	-2.7	-1
Marquette	5	2.8	-2.2	-2
Midland	5	3.2	-1.8	-2
Ogemaw, Roscommon	5	3.3	-1.7	-1
Lapeer	5	3.7	-1.3	-1
Newaygo, Oceana	5	4.0	-1.0	-1
Van Buren	5	4.3	-0.7	-1
Eaton	5	4.4	-0.6	
Allegan	5	4.9	-0.1	
Lenawee	5	5.4	0.4	
Clinton, Gratiot	6	4.6	-1.4	-1
Crawford, Kalkaska, Otsego	6	4.6	-1.4	-1
Ionia, Montcalm	6	6.0	0.0	
Livingston	6	6.9	0.9	
Dickinson, Iron, Menominee	7	3.7	-3.3	-2
Alcona, Arenac, Iosco, Oscoda	7	4.3	-2.7	-2
Bay	7	5.3	-1.7	-2
Antrim, Grand Traverse, Leelanau	8	6.5	-1.5	-1
Monroe	8	7.5	-0.5	
St. Clair	8	7.8	-0.2	
Jackson	9	9.5	0.5	
Ottawa	9	9.8	0.8	

List A: Judicial Need and Proposed Reductions by Circuit

Sorted by Current Judgeships

County	Current Judgeships	Judge Only Need	Implied Judge Excess or Need	Recommendation
Calhoun	10	9.1	-0.9	-1
Muskegon	10	10.7	0.7	
Washtenaw	10	11.0	1.0	
Berrien	11	10.8	-0.2	
Ingham	11	10.9	-0.1	
Saginaw	13	12.1	-0.9	
Kalamazoo	15	14.1	-0.9	-1
Kent	16	20.1	4.1	
Genesee	17	20.0	3.0	
Macomb	17	23.8	6.8	
Oakland	34	40.5	6.5	
Wayne	69	68.9	-0.1	-1

List B: Judicial Need and Proposed Reductions by Circuit

Sorted by Current Workload Per Judge

County	Current			Recommendation	Proposed	
	Current Judgeships	Judge Only Need	Workload Per Judge		Judgeships	Workload Per Judge
Gogebic, Ontonagon	4	1.4	0.35	-1	3	0.47
Baraga, Houghton, Keweenaw	4.5	2.0	0.44	-1	4	0.57
Alger, Luce, Mackinac, Schoolcraft	5	2.3	0.46	-1	4	0.58
Dickinson, Iron, Menominee	7	3.7	0.53	-2	5	0.74
Marquette	5	2.8	0.56	-2	3	0.93
Delta	3	1.7	0.57	-1	2	0.85
Huron	3	1.7	0.57	-1	2	0.85
Alcona, Arenac, Iosco, Oscoda	7	4.3	0.61	-2	5	0.86
Midland	5	3.2	0.64	-2	3	1.07
Alpena, Montmorency	4	2.6	0.65	-1	3	0.87
Benzie, Manistee	4	2.6	0.65	-1	3	0.87
Ogemaw, Roscommon	5	3.3	0.66	-1	4	0.83
Lake, Mason	4	2.8	0.70	-1	3	0.93
Cheboygan, Presque Isle	4	2.9	0.73	-1	3	0.97
Chippewa	3	2.2	0.73	-1	2	1.10
Hillsdale	3	2.2	0.73	-1	2	1.10
Missaukee, Wexford	4	2.9	0.73	-1	3	0.97
Sanilac	3	2.2	0.73	-1	2	1.10
Lapeer	5	3.7	0.74	-1	4	0.93
Bay	7	5.3	0.76	-2	5	1.06
Clinton, Gratiot	6	4.6	0.77	-1	5	0.92
Crawford, Kalkaska, Otsego	6	4.6	0.77	-1	5	0.92
Newaygo, Oceana	5	4.0	0.80	-1	4	1.00
Antrim, Grand Traverse, Leelanau	8	6.5	0.81	-1	7	0.93
Barry	3	2.5	0.83		3	0.83
Cass	3	2.5	0.83		3	0.83
Shiawassee	4	3.3	0.83	-1	3	1.10
Tuscola	3	2.5	0.83		3	0.83
Van Buren	5	4.3	0.86	-1	4	1.08
Branch	3	2.6	0.87		3	0.87
Eaton	5	4.4	0.88		5	0.88
Isabella	4	3.5	0.88		4	0.88
Mecosta, Osceola	4	3.6	0.90		4	0.90
Calhoun	10	9.1	0.91	-1	9	1.01
Saginaw	13	12.1	0.93		13	0.93
Kalamazoo	15	14.1	0.94	-1	14	1.01
Monroe	8	7.5	0.94		8	0.94
Allegan	5	4.9	0.98		5	0.98
Berrien	11	10.8	0.98		11	0.98
St. Clair	8	7.8	0.98		8	0.98
St. Joseph	4	3.9	0.98		4	0.98
Ingham	11	10.9	0.99		11	0.99
Charlevoix, Emmet	4	4.0	1.00		4	1.00

List B: Judicial Need and Proposed Reductions by Circuit

Sorted by Current Workload Per Judge

County	Current Judgeships	Judge Only Need	Current Workload Per Judge	Recommendation	Proposed Judgeships	Proposed Workload Per Judge
Ionia, Montcalm	6	6.0	1.00		6	1.00
Wayne	69	68.9	1.00	-1	68	1.01
Jackson	9	9.5	1.06		9	1.06
Muskegon	10	10.7	1.07		10	1.07
Lenawee	5	5.4	1.08		5	1.08
Ottawa	9	9.8	1.09		9	1.09
Clare, Gladwin	4	4.4	1.10		4	1.10
Washtenaw	10	11.0	1.10		10	1.10
Livingston	6	6.9	1.15		6	1.15
Genesee	17	20.0	1.18		17	1.18
Oakland	34	40.5	1.19		34	1.19
Kent	16	20.1	1.26		16	1.26
Macomb	17	23.8	1.40		17	1.40

List C: Judicial Need and Proposed Reductions by Circuit

Sorted by Proposed Workload Per Judge

County	Current			Recommendation	Proposed	
	Current Judgeships	Judge Only Need	Workload Per Judge		Judgeships	Workload Per Judge
Gogebic, Ontonagon	4	1.4	0.35	-1	3	0.47
Baraga, Houghton, Keweenaw	4.5	2.0	0.44	-1	4	0.57
Alger, Luce, Mackinac, Schoolcraft	5	2.3	0.46	-1	4	0.58
Dickinson, Iron, Menominee	7	3.7	0.53	-2	5	0.74
Barry	3	2.5	0.83		3	0.83
Cass	3	2.5	0.83		3	0.83
Ogemaw, Roscommon	5	3.3	0.66	-1	4	0.83
Tuscola	3	2.5	0.83		3	0.83
Delta	3	1.7	0.57	-1	2	0.85
Huron	3	1.7	0.57	-1	2	0.85
Alcona, Arenac, Iosco, Oscoda	7	4.3	0.61	-2	5	0.86
Alpena, Montmorency	4	2.6	0.65	-1	3	0.87
Benzie, Manistee	4	2.6	0.65	-1	3	0.87
Branch	3	2.6	0.87		3	0.87
Eaton	5	4.4	0.88		5	0.88
Isabella	4	3.5	0.88		4	0.88
Mecosta, Osceola	4	3.6	0.90		4	0.90
Clinton, Gratiot	6	4.6	0.77	-1	5	0.92
Crawford, Kalkaska, Otsego	6	4.6	0.77	-1	5	0.92
Antrim, Grand Traverse, Leelanau	8	6.5	0.81	-1	7	0.93
Lake, Mason	4	2.8	0.70	-1	3	0.93
Lapeer	5	3.7	0.74	-1	4	0.93
Marquette	5	2.8	0.56	-2	3	0.93
Saginaw	13	12.1	0.93		13	0.93
Monroe	8	7.5	0.94		8	0.94
Cheboygan, Presque Isle	4	2.9	0.73	-1	3	0.97
Missaukee, Wexford	4	2.9	0.73	-1	3	0.97
Allegan	5	4.9	0.98		5	0.98
Berrien	11	10.8	0.98		11	0.98
St. Clair	8	7.8	0.98		8	0.98
St. Joseph	4	3.9	0.98		4	0.98
Ingham	11	10.9	0.99		11	0.99
Charlevoix, Emmet	4	4.0	1.00		4	1.00
Ionia, Montcalm	6	6.0	1.00		6	1.00
Newaygo, Oceana	5	4.0	0.80	-1	4	1.00
Calhoun	10	9.1	0.91	-1	9	1.01
Kalamazoo	15	14.1	0.94	-1	14	1.01
Wayne	69	68.9	1.00	-1	68	1.01
Bay	7	5.3	0.76	-2	5	1.06
Jackson	9	9.5	1.06		9	1.06
Midland	5	3.2	0.64	-2	3	1.07
Muskegon	10	10.7	1.07		10	1.07
Lenawee	5	5.4	1.08		5	1.08

List C: Judicial Need and Proposed Reductions by Circuit

Sorted by Proposed Workload Per Judge

County	Current Judgeships	Judge Only Need	Current Workload Per Judge	Recommendation	Proposed Judgeships	Proposed Workload Per Judge
Van Buren	5	4.3	0.86	-1	4	1.08
Ottawa	9	9.8	1.09		9	1.09
Chippewa	3	2.2	0.73	-1	2	1.10
Clare, Gladwin	4	4.4	1.10		4	1.10
Hillsdale	3	2.2	0.73	-1	2	1.10
Sanilac	3	2.2	0.73	-1	2	1.10
Shiawassee	4	3.3	0.83	-1	3	1.10
Washtenaw	10	11.0	1.10		10	1.10
Livingston	6	6.9	1.15		6	1.15
Genesee	17	20.0	1.18		17	1.18
Oakland	34	40.5	1.19		34	1.19
Kent	16	20.1	1.26		16	1.26
Macomb	17	23.8	1.40		17	1.40