State Bar of Michigan

judicial crossroads task force

Report and Recommendations

Delivering Justice in the Face of Diminishing Resources

INTRODUCTION

The Judicial Crossroads Task Force was born of a recognition that the landscape for Michigan's justice system is changing in perilous ways. The state's fiscal situation has been dire and the horizon for substantial recovery is uncertain. For the past decade, our judges, prosecutors, and the bar have been struggling to deliver justice in the face of diminishing resources and rising needs. Their efforts have been surprisingly successful in delivering significant cost savings while preserving essential services. But more and more, they are finding that the fundamental services they are constitutionally bound to deliver are at risk.

They are not alone. Judicial branch cost-cutting initiatives have paralleled those of our public officials and public servants at every level of government in Michigan, and of Michigan businesses as they struggle to survive and thrive in the face of overwhelming economic challenges. Many smart changes have already been made. What is urgently needed now is a working recognition of how each of our efforts to carry on in the face of this economic crisis affects other parts of the system, and how working together can help.

A central reality guiding this Task Force is that the work of justice doesn't exist in a vacuum. It is part of a continuum of needs and obligations that transcends traditional boundaries. Separation of powers is part of the genius of our government, but it cannot be an excuse for isolation. Too often our separate branches of government, overwhelmed by their own difficult missions, have failed to appreciate that understanding the crises that manifest within each branch can help solve problems with which we are all struggling.

It does not help that the work of justice in Michigan is taking place within an antiquated system. Like their counterparts in other states, Michigan's judges, prosecutors and lawyers have been working in a framework designed for 19th century realities and needs. That the trial court system has worked as well as it has for as long as it has is a tribute to the resourcefulness, dedication, and sacrifices of the judiciary, court staff, and the bar. Nevertheless, despite ongoing tweaks and creative adaptations, our traditional court structure thwarts opportunities to deliver services in the most efficient and effective way.

We can no longer afford our current system. The tools exist to change it, rapidly and intelligently. The Task Force's recommendations tell us what should replace it and how to make it happen.

We do not need radical change, but we need to do difficult things urgently and purposefully. Even in these times of economic distress there are many success stories, and the Task Force has built its recommendations around those successes. We can no longer afford our current system. The tools exist to change it, rapidly and intelligently. The Task Force's recommendations tell us what should replace it and how to make it happen. The recommendations are an integrated whole, requiring tax dollars to be spent differently and more strategically. Some recommendations will yield immediate and substantial savings. Most can be implemented without increased funding. Some require new expenditures but will result in long-term savings and improved services.

We offer these recommendations, with both humility and optimism, in the hope that they will help preserve what is best about our remarkable judicial branch, protect it from degradation in the face of the harsh realities ahead, and ultimately improve and extend justice for all.

ESSENTIAL ELEMENTS OF A STRAIGHTFORWARD PLAN

1 Streamline Our Trial Courts and Foster Cost-Saving Collaboration

- Change the way in which courts deliver services from the ground up
- Create a Statewide Council of trial court leaders to steer the course for change
- Use a Justice Advisory Board to create constructive links to all key stakeholders inside and outside the justice system and to plan, coordinate and evaluate justice initiatives throughout the state
- Reorganize structure on a court-to-court basis, using proven strategies for savings
- Base the number of judges in each trial court on accepted and reliable data for achieving savings from potential reductions in judgeships
- Take advantage of both the experience and the impending retirements of "baby boomer" judges to make the transition to the streamlined trial court system successful
- Remove politics from the determination of judicial compensation
- Use the successful techniques of "problem-solving courts" to provide better service and save taxpayer dollars
- Test and implement methods of improving the resolution of business disputes
- Improve public access to fair resolution of tax disputes

2 Harness Technology to Meet Urgent and Emerging Needs More Cost-Effectively

- Upgrade technology throughout the court system to create a functionally unified information system and consistent data for better planning, efficiency and future savings, and for greater accountability, public trust and convenience
- Mandate and implement uniform technology standards statewide in coordination with state executive branch technology initiatives
- Use technology as a key resource in addressing court services for the blind, hearing impaired, and court users who are not proficient in English, and to improve child welfare outcomes

3 Fix Fundamental Problems Before They Grow Worse

- Use problem-solving court techniques to achieve better court outcomes
- Coordinate and mobilize resources to assist those who cannot afford legal services
- Create and enforce statewide standards and state responsibility for the delivery of legal services to indigent criminal defendants to reduce errors and costs
- Create a reliable central website of user-friendly, up-to-date resources combined with local self-help centers for people seeking self-guided information on how to resolve or prevent legal problems
- Create and enforce statewide standards for the imposition of reasonable fees, fines and costs, based on reliable statewide data
- Increase and improve training in child welfare issues
- Develop and enforce policies and practices that create a justice system culture that embraces diversity and inclusion, and train judges and lawyers to serve an increasingly culturally diverse population more effectively and fairly

PRINCIPLES

The Task Force recommendations are consistent with these fundamental principles:

- It is the obligation of the bench and the bar to protect and promote a court system that engenders the trust and confidence necessary to advance the rule of law for the people of Michigan.
- The rule of law requires a court system that operates with fairness, integrity, and competence, protecting individual rights and offering high quality, easily accessible and affordable resolution of all of the matters that fall within a court's jurisdiction.
- To operate with fairness, the judiciary must be protected against all inappropriate influence, including political and economic pressures, so that judicial decisions at all times are rendered based solely on the applicable law and the facts presented, free of personal bias, intimidation, political pressure, or partisan ideology.
- Courthouses and courtrooms must be safe and accessible for the public, the judges, and court personnel.
- The fairness, integrity, sustained competence, and accountability of any court system require that:
  - Court rules, court processes, and judicial decisions are public and understandable, and that except in rare situations defined by law, courtroom proceedings are open to the public.
  - The term of office of any judge cannot be changed to the disadvantage of the judge during the judge's term of office.
  - Judges are subject to discipline or removal for improper acts or omissions in the exercise of their judicial duties, but immune from personal liability from civil suits for monetary damages.
  - Judges can be removed from office only by a determination of incapacity or conduct that makes the judge unfit to be a judge, and all disciplinary, suspension or removal proceedings are carried out in accordance with established standards of judicial conduct and due process.
  - The compensation and working conditions of judges are appropriate to both their educational status and the significance of the role of a judge—an essential requirement for attracting and retaining the necessary level of judicial excellence—and that the compensation and working conditions not be subject to diminishment for political reasons.
- Judges are principally responsible for the administration of the court system, including the appointment, supervision and discipline of administrative personnel and support staff.
- Independence of the judiciary does not mean isolation. Effective justice requires that judges and lawyers acknowledge, involve, and respect all of the various entities and actors, governmental and nongovernmental, public and private, who contribute to the protection and delivery of justice.
- Although the judicial branch of government constitutes only a small portion of state and local budgets, the efficient and economical use of public resources to operate the court system is a paramount consideration. Insufficient or undependable financial resources for the court system can quickly undermine the rule of law and a viable court system, as can imprudent or unwise management of those resources. Therefore, a consistent, sufficient, and reliable allocation of funds to the judicial branch is essential, as is accountability for the expenditure of resources. Short of emergency situations affecting the entire state government, the basic annual appropriation for the judiciary must be insulated from political concerns and year-to-year budgetary fluctuations. When economic circumstances are so grave that all essential governmental functions are threatened, the maintenance of the rule of law and the protection of individual rights nevertheless require that the needs of the court system be accorded a high level of priority in the allocation of public dollars.
- To ensure accountability, fairness, and freedom from political pressure, the judiciary must have full authority to allocate and manage its basic appropriation and be fully responsible for the fiscal and operational management of the court system. It is an ongoing obligation of judges to request and to use *only* those public resources that they determine in good faith to be necessary to carry out the responsibilities of the judicial branch safely and effectively, in accordance with these principles and written standards that provide guidance in measuring the performance of the court system.
- The bench and bar bear the exclusive obligation and responsibility to maintain the highest standards of ethical practice and competence, and for the necessary and appropriate training and education of all of the state's judges.
- The bar and bench bear the primary obligation and responsibility for the ongoing and comprehensive education of the public on the importance of the rule of law. This obligation rests not only with the State Bar of Michigan, the Supreme Court, and the state's chief judges, but is the individual obligation of each licensed member of the Michigan bar.

RECOMMENDATIONS

How to Read These Recommendations

The Task Force recommendations are informed by and drawn from the reports and recommendations of four committees chaired by members of the Task Force and comprised of over 100 distinguished members of the bench, bar, and of communities particularly affected by the justice system. Their work was remarkable. The committee recommendations are more detailed than this Task Force Report, which attempts to integrate the essence of the four reports into a comprehensive whole. The failure of the Task Force Report to include reference to a specific committee recommendation should not be read as a rejection of the recommendation. To fully appreciate the depth and potential of the Task Force recommendations, readers are urged to read in full the committee reports, which can be found at http://www.michbar.org/judicialcrossroads/.

Streamline Our Trial Courts

Critical Challenge **Michigan's trial court system is too complicated to be as adaptable as it needs to be in the face of rapidly changing needs and constrained resources.**

Michigan's current court structure undermines efficiency and accountability, and needs to be simpler and more responsive. Change in the midst of an economic crisis is painful under any circumstances, and our patchwork court structure makes necessary changes much harder and slower than they need to be. Today's economic realities require a more rational system to maximize productivity and effectiveness. A fundamental first step is simplifying the system to make other constructive changes easier.

The description of the court system defines the problem: We now have four distinct types of courts (circuit, probate, district, and municipal), 246 separate courts, 586 judges, 234 chief judges, 118 different legislative bodies making funding decisions in various combinations and for various functions, and more than 150 different computer servers storing court data. Except for the four remaining courts funded exclusively by the cities they serve, all other trial courts are funded by a mix of local, state, and federal funding. On average, the state's share of trial court expenses is less than 25 percent. Some counties fund several types of courts—circuit, probate and district, through separate budgets; some counties fund some types of courts exclusively and share expenses with other counties for other types of courts. Trial court judges report to their constituents, their chief judges (unless they are the chief judge), their local funding unit, and to the Michigan Supreme Court, through their regional administrator. And this description actually oversimplifies the present reality.

> The change we are advocating is profound, calling for a new paradigm in the delivery of judicial services that looks beyond traditional boundaries and delivery of services.

Michigan's trial court design made sense at its inception, when judges "rode circuit" by horseback to resolve the legal disputes that had arisen in a county since their last visit, and probate was a simpler and a more distinct body of law. Each major adaptation since then has also made sense for the times—for example, converting the part-time justice of the peace courts into district courts to handle the rising number of traffic cases caused by our more mobile population and to relieve the burden of a growing circuit caseload.

But today, our patchwork quilt of overlapping responsibilities, funding, and reporting too often results in duplication of effort and costs, widely disparate workloads, and confusion. These effects alone are compelling reasons

to transform our court structure; but another, more subtle effect of our "grown like Topsy" court system is in the long run more debilitating. The many layers of court administration and funding have thwarted the development of a comprehensive court information system. As a result, critical data about the courts cannot be efficiently collected, aggregated, and analyzed in a uniform and systematic way. Without comprehensive comparative data, we can't discern all of the opportunities for cost-saving and systemic improvement, and how best to use our limited resources.

There is no magic wand that will instantly uncomplicate the current system. Its proud history of accomplishment and tradition is interlocked with elements of competing economic advantage, hierarchy, and special interest. This report does not address the question of whether the funding of the trial court system should be fundamentally changed. Instead, recognizing the need for immediate impact, it focuses on the structure of the system and how services are managed and delivered. Rather than requiring constitutional amendment, our solutions require involving a whole community of stakeholders, including those outside the traditional "justice system," to find appropriate and collaborative solutions. Our structural recommendations also recognize that simplification does not mean a cookie-cutter court system. Given the breadth and depth of our state's rich geographic and demographic diversity, change must honor the wise admonition that "one size does not fit all."

The change we are advocating is profound, calling for a new paradigm in the delivery of judicial services that looks beyond traditional boundaries and delivery of services. It calls upon judges not only to continue to uphold the highest traditions of judicial scholarship and integrity, but also to master the new skills and knowledge essential to lead successful "problem-solving" courts. Fortunately, there are effective models for how to methodically move toward this new way of operating. Those models, operational in several Michigan counties and in other states, teach us that the greatest success comes from building the new design incrementally, from the ground up, taking into account unique local conditions, with administrative support and training provided centrally. A change this fundamental also requires a body to provide guidance through the process and to serve as an intermediary between the trial court judges and the state's ultimate administrative authority, the Supreme Court—a trial court judicial council. And here, too, our recommendation—the creation of a trial court judicial council—is drawn from successful models.

Solution **Begin immediately to build a new trial court operational design based on collaboration and streamlined delivery of service, with a council to guide it.**

- Simplify the design and operation of the trial court system through a sustained commitment to effective consolidated court functions. Use the experience and successes of the jurisdictions that have already adopted concurrent jurisdiction plans as instructive models, but allow local judges to adapt them to local experience and conditions. Change should occur through the implementation of concurrent jurisdiction court plans voluntarily adopted by all participating courts and approved by the State Court Administrative Office. While preserving established jurisdictional distinctions between the trial benches, such a concurrent jurisdiction plan would allow the assignment of judges within a circuit as needed on a case-by-case basis.
- To help ensure smooth and effective implementation of the changes, the chief judge of a concurrent jurisdiction court should be chosen by the court's judges.
- The electoral boundaries for judgeships should remain unchanged by concurrent jurisdiction plans or other design changes aimed at collaboration and streamlined delivery.
- In making recommendations about the appropriate number of judges for each jurisdiction throughout the state, the Supreme Court should take into account whether the court is making maximum use of its available resources, including whether the court is part of a concurrent jurisdiction plan.

- Every court, whether or not it is part of a concurrent jurisdiction plan, must have full and unfettered responsibility for the custody and control of its own records, to guarantee accountability and efficiency and to maximize savings.

Budget Impact **Potentially large savings at both the state and local levels.**

At the local level, concurrent jurisdiction efforts can result in significant savings in all justice-system budgets. For example, in Barry County, the operation of a consolidated court plan consistently reduced county-funded court expenditures by 5-15 percent. When concurrent jurisdiction plans result in courts being able to operate with fewer judges, or when a plan eliminates the need for additional judges, the savings to the local funding unit are increased and are extended to the state. For each judgeship, it is estimated that there is a potential average savings of about $500K-$300K to the local funding unit and $175,000 to the state.

◆ ◆ ◆

Critical Challenge **Given the tradition of semi-autonomous local courts, isolated by the lack of a unifying information system, Michigan's justice system has not developed effective mechanisms for system-wide planning, coordination, and evaluation, and has thereby forfeited opportunities for savings and improvements. Further, the development and dissemination of best trial court practices and the standardization of improvements in forms are thwarted by the lack of an effective statewide forum for discussion and adoption of changes that save money and enhance quality.**

> Working in functional isolation, Michigan courts have forfeited opportunities for savings and improvements.

Despite the lack of much crucial statewide data, including such basic information as the ongoing cost of operating the trial court system, the Michigan Supreme Court and the State Court Administrative Office have done a remarkable job of responding to pressing needs and fostering innovation and improvements in the courts. Their efforts, however, are neither as effective nor as efficient as they would be if they were aided by a statewide information system and an appointed body specifically charged with addressing systemic problems and fostering the relationships with the stakeholders necessary to make change happen.

Solution **Create a council of trial judges appointed by the Supreme Court to guide implementation of the changes proposed in this report.**

- Create a **Trial Court Judicial Council** as the authority responsible for guiding the implementation of changes required to make the trial court system more cost-effective. All levels of trial court judges should be equally represented on the Council. The members of the Council should serve without compensation, but be reimbursed for actual and necessary expenses. The State Court Administrator should serve as the Council's secretary, and the State Court Administrative Office as its staff. The Council should develop close working relationships with judges' associations and with the Michigan Association of Counties, the Michigan Municipal League, the State Bar of Michigan, and organizations representing court employees. At the outset, all Council decisions concerning administrative orders and rules should be subject to direct review by the Supreme Court. In determining the composition, duties, and responsibilities of the Council, the Supreme Court should draw upon the successful features of the judicial councils of California, Utah, and Minnesota, and make adaptations appropriate to Michigan in close consultation with the state's judges' associations.

Solution **Create an advisory board appointed by the Supreme Court whose duties include the cultivation and maintenance of relationships with key stakeholders.**

- Create a Justice Advisory Board to promote access and fairness goals system-wide through the development of strategic partnerships and best practices.
  - The Board should be convened at least twice annually by the chief justice to review progress, discuss new developments, and facilitate coordination with key stakeholders. Its membership should be drawn from the Michigan Supreme Court, State Court Administrative Office, judges' associations, State Bar of Michigan, Michigan State Bar Foundation, legislature, executive branch, legal aid providers (civil and criminal), non-governmental organizations, and others whose ongoing involvement will help promote the goals of access and fairness.
  - The membership of the Board should receive no compensation other than the reimbursement of actual and necessary expenses, but should seek assistance from experts as needed to plan for and develop data and information needed for evaluating progress and results.

Budget Impact **Minimal cost. Potential to help generate substantial net savings by facilitating reform efforts.**

The cost of establishing and operating a Trial Court Judicial Council and a Justice Advisory Board would be minimal. The members of the council and advisory board would receive only reimbursement for actual and necessary expenses. The staff work would be the responsibility of the State Court Administrative Office, which already is charged with responsibility for assisting in the operation of the trial court system. In many ways, the Council would be a more efficient way to consolidate, coordinate, and maximize the effectiveness of several existing entities, including the judges' associations and the State Court Administrative Office.

◆ ◆ ◆

Critical Challenge **Michigan faces an unprecedented loss of judicial and court staff expertise in the coming decade due to retirement. At the same time, changes underway in the state's demographics and court caseloads mean that many courts may be able to operate effectively with fewer judges, necessitating careful adjustments in the distribution of judicial and staff resources, and more effective and flexible use of our highly qualified and highly experienced trial court bench.**

Michigan's Constitution and statutes concerning judges were based on expectations of a stable, growing population. Its provisions are not suited for what Michigan is experiencing today—dramatic decreases in the population of previously thriving urban and suburban communities, rapidly shifting needs and demands, an overall decline in population growth, and even periods of net population loss. At our peak in the 1970s, Michigan accounted for 4.4 percent of the nation's population. Today, we are the only state to register a net population decrease for the first decade of the century, and our percentage of the national population has declined to what it was when the Model T was introduced—3.3 percent. Already there are large and rising disparities in workloads from court to court. Among circuit courts, for example, a judge on a court with the highest average caseload now has a workload more than four times greater than a judge on a court with the lowest caseload. Our Supreme Court has the authority to assign a judge with a lower than average caseload to help out in overworked courts, but this authority has traditionally been viewed and used as an ad hoc response to temporary need rather than as a standardized response to systemic imbalances.

There are large and rising disparities in workloads from court to court.

The work of a trial court judge is both timeless and evolving. For example, the percentage of cases that go to trial has declined dramatically over the course of the last decade, and the number of people who appear in court without benefit of a lawyer is growing. In determining judicial need throughout the state it will be important to examine carefully not only what judges *actually* do, but to think carefully about what they *should* be required to do as needs change. Judges must always be masters of the classic skills required to preside effectively over trials, but today they must also be skilled in mediation and management. Judges are the most highly trained, costly and precious asset of the court system, and their services should be devoted exclusively to judicial functions. We cannot afford to have judges spend time carrying out ministerial, non-judicial functions that could be achieved as effectively by lower-compensated staff. Similarly, we degrade the quality of justice if budgetary pressures cause decisions and functions that should only be made by a judge to be shifted to administrative staff.

The growing need to rebalance the distribution of judicial and staff resources while implementing a more modern and efficient trial court design comes, fortunately, at the same time that we enter an era of widespread mandatory retirements.

The growing need to rebalance the distribution of judicial and staff resources while implementing a more modern and efficient trial court design comes, fortunately, at the same time that we enter an era of widespread mandatory retirements. Simply put, the majority of our judiciary and a substantial proportion of our trial court staff are baby boomers who will be retiring in large numbers over the coming decade. Even if we were not faced with the need to address workload imbalances and to streamline the delivery of services through design changes, we would be wise to plan now for how to keep the quality of court services consistently high in the face of this impending, and potentially destabilizing, "brain drain."

Solution **Make adjustments in the number and distribution of judges as members of our current corps of judges leaves the bench. To maintain stability and make maximum use of resources while adjustments are underway, address interim disparities in caseload and system-wide needs through the strategic assignment of otherwise underutilized judges. Use experienced judges not only to try cases in other courts but also to provide training and management assistance to other judges and courts.**

- As the Constitution requires, statutory changes in judgeships should be based exclusively on Supreme Court recommendations. The Supreme Court should make its determinations about when and whether to add or eliminate a judgeship using the best available data and a weighted caseload methodology, as modified and improved with the assistance of the National Center for State Courts.
- For purposes of continuity and to avoid disequilibrium in the justice system as a whole, a judgeship should be eliminated only at the point at which a sitting judge of the court in which the judgeship would be eliminated retires, dies, is removed from the bench, or is not eligible to run for reelection. No later than 30 days after a vacancy occurs in any trial court, the State Court Administrative Office should review the judicial resource needs of the court, and the Supreme Court should recommend to the governor and the legislature whether the seat should be filled or the judgeship eliminated.
- Reduce trial court caseloads by encouraging the use of party-funded trials conducted by retired judges at no public expense, through the amendment of Public Act 185 of 1990 to allow appeals from the decisions of such trials.

Budget Impact **Large savings, at both state and local level.**
Each judgeship reduced or avoided under appropriate circumstances yields an annual average local savings of $300,000 and an annual state savings of at least $175,000, in current dollars.

◆ ◆ ◆

Critical Challenge **The haphazard compensation and ambiguous status of Michigan's trial court judges is inequitable, outdated, and undermines the most efficient use of judicial resources because not all trial court judges receive the same salary and benefits.**

Michigan's trial court judges are elected, but they are unlike all other elected officials in Michigan. Although they are elected and serve locally, as state officers of Michigan's one court of justice, they are accountable to the Michigan Supreme Court, subject to strict limitations on their conduct, and can be required to serve on assignment in any state court throughout the state at the direction of the Supreme Court.

While all trial court judges receive a base salary and can become vested in a limited (no health care) retirement plan from the state, some trial judges are also part of a local retirement system and receive health and other benefits from the cities or counties that provide most of their courts' funding. Although this confusion of characteristics has long been the source of inequity among trial court judges, for most of Michigan's history the fact that Michigan's trial court judges are perceived as "neither fish nor fowl" was not a real impediment to the functioning of the trial court system as a whole. But it is today. A modern, efficient trial court system requires that each trial court judge be seen and treated as an equally valuable asset to the trial court system as a whole, not simply to the jurisdiction in which he or she was elected. To make maximum use of judicial resources, for example, the Supreme Court must be able to call upon the talents of an available trial court judge with outstanding skills and experience in running a successful "sobriety court" to help another jurisdiction in setting up and managing a sobriety court program. The disparities in compensation from court to court are inconsistent with this need. Further, the present method of determining judicial pay, with Supreme Court salaries set by the State Officers Compensation Commission, and Court of Appeals and trial court judges' salaries tied by statute to a percentage of the Supreme Court salary, has not worked well. It ignores the important distinctions between the nature and limitations of judicial service and other elected offices, and frequently results in judicial compensation being held hostage to political battles and considerations unrelated and irrelevant to the judicial branch of government.

A modern, efficient trial court system requires that each trial court judge be seen and treated as an equally valuable asset to the trial court system as a whole, not simply to the jurisdiction in which he or she was elected.

Solution **Eliminate the disparities in trial judge compensation by making the base salary of all trial judges the same and by providing all trial judges with uniform, state-funded benefits. Address future changes in judicial compensation through a mechanism that distinguishes the conditions of judicial service from that of non-career state elected officials.**

Recognizing that Michigan has arrived at a point in time in which all public compensation and benefits are being scrutinized, rationed, and rationalized, it is important to seize this opportunity to make judicial compensation consistent with the goals and functioning of a modern court system. A stable judicial system requires uniform compensation that is not subject to political considerations. Recognizing the essential difference in the nature of judicial service and other state elected positions, Michigan's voters wisely exempted judges from term limits; the Task Force recommendations in this regard are consistent with that insight.

- Make all trial court judge salaries uniform.
- Offer all trial court judges the same health care benefits available to state employees.
- Separate decisions about judicial compensation from decisions about the compensation of other elected state officials, and make adjustments regularly based upon objective criteria, such as cost-of-living, used for other state employees.

Budget Impact **Immediate state-funded annual cost of $460,788 to equalize trial court salaries. At current state employee benefit levels, the annual state cost of providing health care benefits to trial court judges would be $4.1-11.4M, minus any employee contributions. This estimate presumes that the state would reimburse locals who already provide health care to trial judges up to the amount provided for state employees.**

◆ ◆ ◆

Increase the Knowledge, Efficiency, Accountability and Convenience of the Court System through Technology

Critical Challenge **Information generated within the judicial branch is collected, stored, and managed independently and differently throughout the court system. The lack of uniform standards and coordinated decision-making about technology has long denied the public the cost-savings, improvements in quality, and convenience that would otherwise be readily available through the use of existing technology.**

There are no uniform mandatory statewide technology standards in place that take into account convenience to the public, security, and best practices, or that promote economies of scale in the purchase and maintenance of technology. Many trial courts are locked into county and city information systems of varying degrees of sophistication and usefulness, none of which are designed to be a part of a statewide case management and judicial information system. Even if they had the resources to support changes, which increasingly they do not, counties and cities typically have what they deem to be more pressing local priorities than conversion of the courts' information systems to a statewide platform.

Many trial courts are locked into county and city information systems of varying degrees of sophistication and usefulness, none of which are designed to be a part of a statewide case management and judicial information system.

The price we are paying for haphazard, outdated, and uncoordinated court technology is enormous, both within and outside the court system. A judge about to sentence a defendant for drunk driving in one court may not have access to complete information about cases pending for that defendant in other jurisdictions. Prisoners are transported from jail to courthouse and back for appearances that could take place cheaply, easily, and more safely by video appearance. Decisions are delayed, and defendants' time in jail extended, as paper documents and exhibits move slowly from one court to another, or are misfiled or mislaid. Witnesses travel hundreds of miles to testify when they, too, could appear by videoconference. A chief judge does not have the detailed, uniform data needed to analyze the efficiency of the court's case management and expenditures, and to learn from meaningful comparison to others. Lawyers and citizens waste large amounts of time and money traveling to courthouses to file papers and to obtain information that could be filed or accessed as a one-time, single-entry function, in seconds, electronically. Simply put, the absence of an efficient statewide case management and information system wastes tax dollars by perpetuating inefficiencies and denies court users the savings and convenience readily available and familiar to them in the private sector when they shop and do business online.

The price we are paying for haphazard, outdated, and uncoordinated court technology is enormous, both within and outside the court system.

Just as importantly, some of the biggest unmet and looming needs of the court system—how to handle the growing number of persons who are not proficient in English or who come to court without the benefit of legal counsel—can be addressed much more effectively, fairly, and economically through the use of technology adopted and implemented uniformly throughout the state.

The Michigan Supreme Court has been a resolute promoter of a single case management system and integrated information system, but has been unable to make consistent headway without a sufficient and reliable revenue stream to support the implementation and maintenance of such a system.

Solution **Mandate uniform statewide judicial information and technology standards, and fund the conversion of the separate court information systems into an integrated whole along the lines of the federal court technology system, with a mixture of new, dedicated revenue sources that includes a specific filing fee technology surcharge.**

- Use the Next Generation JIS case management system as the backbone of a statewide system.
- Build on elements of present system that are working well.
- Provide for a basic platform with compatibility features that allow upgrades to be added as the state's economic picture improves.
- Model the system as much as possible after the federal court information technology system, the most well developed of court technology systems in the United States, with particular emphasis on consistent processes for attorneys and the public using the system.
- Ensure efficient, compatible, secure, and accurate exchanges of information between courts and the non-judicial governmental agencies.
- Give the Supreme Court's Technology Advisory Group responsibility to oversee the conversion of the system and to provide guidance on its development to the Supreme Court through the Trial Court Judicial Council.
- Expand and increase fees dedicated to technology that are now assessed for a limited number of cases, and bond for the cost of an immediate and rapid conversion to a statewide judicial information system based on that revenue stream.

Budget Impact **Large upfront state cost, large long-term net savings.**

Implementation of Single Case Management System: no cost. First year development and planning costs for system-wide standards: approximately $540K. Efiling: $3M. Portals for public access: $1M. Language assistance technology: $250K. Document Imaging: $10M. Video conferencing: $9.2M.

◆ ◆ ◆

Spread Successful Programs and Encourage Data-Based Innovation

Critical Challenge **Despite the best efforts of judges and lawyers, and at great cost to the taxpaying public, many of the problems that bring people to court and that represent an increasing share of the court's workload are simply processed rather than improved by what happens there.**

The more we know about case management and what strategies lead to successful outcomes, the better use we will be able to make of scarce tax dollars. By the time a problem finds its way to the courts, it often represents serious trouble. Courts can no longer afford to guess about how best to deal with those problems, or to ignore what we already know. From close study of patterns of adjudication and outcomes over the last two decades around the country we have learned that the traditional method of resolving court cases in which the judge's role is simply to choose between options presented by opposing sides is not always the best method for handling a case. For

The traditional method of resolving court cases in which the judge's role is simply to choose between options presented by opposing sides is not always the best method for handling a case.

example, some drug offenders sentenced to jail return repeatedly for the same or different offenses stemming from their underlying addiction. Individuals brought to court for vagrancy, disorderly conduct, or domestic abuse often fail to have conditions of mental illness recognized and treated, and they too, return time and again to court. Notwithstanding the potential for successful treatment, too often courts operate in a universe functionally separate from the community resources, including therapy, treatment, and counseling, that can interrupt the cycle of behavior that brings people repeatedly into the court system.

Solution **Make the development of a problem-solving approach to the cases that data show are suited to this approach a standard feature of trial court operations throughout the state.**

Intervention with treatment, counseling, and other community resources at the earliest point at which problems such as drug abuse and mental illness manifest themselves has been shown to save substantially on direct and indirect public costs. (The Task Force takes no position on whether it would be better simply to avoid the court system altogether by changing the classification of some of the behavior now being addressed in problem-solving courts). Recognizing this, the Michigan Supreme Court has encouraged the creation of specialty dockets with a therapeutic, problem-solving orientation, popularly known as "problem-solving courts". Their growth and demonstrated success throughout the state have also been fueled by the initiative and dedication of individual judges.

Successful implementation of problem-solving courts requires careful training not only of judges but also of other key players, including prosecutors, court staff, law enforcement, and community health professionals, all of whom are already struggling with increased caseloads. As the state's economy has deteriorated, federal and private grant funds have been crucial to the expansion of problem-solving courts. Despite a proven track record for cost-saving, funding for new problem-solving courts in the immediate future is likely to be difficult. For that reason, the following no- and low-cost steps should be taken to sustain and continue the development of problem-solving courts:

- Use sitting and retired judges who are experts in problem-solving courts as a corps to train other judges, and regularly assign them whenever possible to serve as problem-solving judges in courts without the present capacity to operate such a program.
- Ramp up educational training for the uninitiated, and make clear, including by amendment to the Michigan Code of Judicial Conduct if necessary, that the provisions of the Code are not an impediment to a judge's active participation in the resolution of a case through problem-solving court techniques.
- Expand eligibility for problem-solving court programs to high-risk offenders, with participation contingent upon completion of a risk and needs assessment. Use constrained resources more strategically and effectively by targeting cases with complex underlying problems, and referring to probation for pre-sentence reports only cases involving high-risk offenders or special needs.
- Expand the reach of problem-solving courts by allowing the transfer of jurisdiction over a defendant to a problem-solving court closer to the defendant's residence, in appropriate cases.
- Use the Justice Advisory Board to promote the development and maintenance of problem-solving courts through the cultivation of partnerships and relationships with non-judicial stakeholders.
- Charge the Trial Court Judicial Council with responsibility for identifying gaps in and reducing duplication of the services that support problem-solving courts in all trial courts.
- Make an inventory of community mental health and substance abuse treatment resources and consideration of problem-solving court techniques a standard element of all concurrent jurisdiction plans.
- Replicate adoption forums and data sharing agreements between SCAO and DHS as widely as possible.

The keys to effective problem-solving courts are wisely targeted application, willing judges, judicial and staff training by experienced trainers, and successful collaboration. As a pioneer state in problem-solving courts, Michigan has developed a body of experience to guide wise choices, a cadre of successful problem-solving court judges, and has a highly respected judicial training body, the Michigan Judicial Institute (MJI). This report calls for the creation of two entities that will help facilitate knowledge and collaboration: the Trial Court Judicial Council and the Justice Advisory Board. Together they constitute the ingredients for spreading the use of problem-solving courts rapidly throughout the state.

Budget Impact **Minimal state and local cost. Large immediate and ongoing savings at both the state and local levels, and to court users.**

The potential for substantial savings from the use of problem-solving court techniques comes from ability to avoid jail and prison expenses. While potentially substantial, those savings are not inevitable and are dependent on effective judicial and staff training.

◆ ◆ ◆

Critical Challenge **The critical need for Michigan to retain and attract business requires scrutiny of all government processes that might impose unnecessary burdens. National evidence shows that business disputes can be resolved more quickly and successfully when specialized case management techniques are used, and that in their absence the processing of business cases can consume inordinate amounts of court time and negatively impact *all* court users. Michigan does not systematically employ specialized case management for business cases, nor does the present method of resolving business disputes create a predictable body of business case law to promote consistency and provide guidance to parties and litigators.**

Business litigators and in-house counsel asked by the Business Impact Committee of the Task Force to assess Michigan's court system overwhelmingly rated it as average or poor compared to other states. There is good reason to believe that we can make rapid progress on this problem with no increased costs to the system, and, in fact with reduced costs to all court users, not just business litigants.

Business cases behave very differently from other civil cases. They tend to be more complex and time-consuming, with discovery issues playing a bigger role in their resolution. Because of their differences, business cases can create a roadblock for the efficient management of other types of cases, causing courtroom backups and wasting the time of waiting lawyers and litigants in non-business cases. There are proven techniques for how to address discovery issues more efficiently, using procedures separate and distinct from how general civil litigation is handled. Training a limited number of judges whose interests and abilities are especially suited to business disputes in how to apply those techniques is a more efficient and effective use of resources than statewide judicial training of all judges, and has the added benefit of promoting the development of a body of business law that is more consistent and uniform statewide.

> Business cases behave very differently from other civil cases and can tie up the smooth processing of all court business.

Solution **Create a specialized business docket in at least the two largest counties, and others as appropriate, as a three-year pilot project.**

- In consultation with the chief judges of the circuits, the Supreme Court should, by administrative order, create pilot business dockets in the Wayne and Oakland circuit courts, and any other circuit deemed appropriate by the Court, designate no more than three judges per circuit to handle the business docket, and appoint an

oversight body of the bench and bar to draft protocols for evaluating the success of the pilot and provide interim reports. The characteristics of the pilot should track those recommended by the Business Impact Committee.

- At the end of pilot, the state court administrator and the Trial Court Judicial Council should evaluate the projects by reviewing the number of cases and time of resolution in the business dockets compared to the general civil division and analyzing the results of user surveys.

Budget Impact **Little or no cost. Large potential savings in time and expense to businesses and other court users.**

If the pilot business court is successful and Michigan's experience is comparable to that of other states, we can expect that a business docket will be met with enthusiasm by the business community both for reducing the time and expense of business litigation and by creating a more reliable body of state business law. In addition, a dedicated business docket has been shown to reduce the time it takes for non-business cases to receive judicial attention as caseflow management within a court with a business docket is improved overall.

◆ ◆ ◆

Fix Fundamental Problems Before They Grow Worse

Critical Challenge **By almost every measure, indigent criminal defense as a whole in Michigan falls far short of accepted standards, undermining the quality of justice, jeopardizing public safety, and creating large and avoidable costs.**

Michigan's public defense system has fallen far short of acceptable standards for decades and is worsening. The challenge of fixing its growing problems in an era of decreasing resources grows more daunting month by month. The cost of properly fixing the system is great; the cost of not fixing it is greater. Most of the costs of justice denied are immeasurable, but those that can be quantified—e.g., the cost of wrongful conviction and of sentences wrongfully imposed and served—are substantial, by some accounts at least several million dollars annually. Both the immeasurable costs of injustice and the costs the system's inadequacies impose haphazardly on local and state governments demand that the system's failings be addressed urgently, even in the face of Michigan's current and ongoing budget crisis.

> The cost of properly fixing our criminal defense system is great; the cost of not fixing it is even greater.

Solution **Create and enforce statewide standards for the delivery of indigent public defense to reduce errors and costs, and shift funding responsibility to the state.**

- Support shifting the responsibility for public defense funding from local government to the state.
- Create the necessary mechanisms to implement, measure, enforce, and fund statewide standards for indigent defense that will meet national norms and thereby reduce costly errors.
- Support statutory changes related to indigent defense that can produce cost savings to be devoted to adequate state funding for a public defense system.
- Encourage and maintain institutional collaboration with civil legal aid providers.

Budget Impact **Large immediate cost. Large potential net savings.**

It will take a sizeable investment to bring indigent public defense services in Michigan to the minimum constitutional standard. Nationally, Michigan ranks at the bottom for the amount of state dollars spent on indigent

public defense. The increased cost will be offset to a significant, but indeterminate extent, by a reduction in appellate costs and corrections expenditures for inmates unjustly convicted or sentenced. Depending on the design of the system, money could also be saved through reducing administrative costs, pre-trial detention, defending lawsuits for wrongful convictions, and other potential litigation based upon constitutional defects of our current system. Savings would accrue at both the county and state level.

◆ ◆ ◆

Critical Challenge **Michigan's court system relies in part on user fees to fund the cost of its operations. The greater the strain on general fund revenues as a source of court funding, the greater the incentive to rely on user fees to support the courts or other governmental functions. The temptation to make up for revenue shortfalls with reliance on user fees is hard to resist, leading to inappropriate penalties and false budgeting. The imposition of fines and costs that are well beyond the capacity of individuals to pay them is ultimately counterproductive, creating negative unintended consequences and in the long run undermining the public's faith and confidence in the justice system. And although the law permits a judge to waive the payment of fines and costs when an individual is indigent, there is no uniform, consistently applied standard for determining indigency, further undermining equal justice and eroding confidence in the courts.**

The imposition of reasonable fees, fines and costs is an important element of the judicial process. Holding court users accountable in part for the costs their conduct has imposed on the system creates incentives for obeying the law. The appropriate waiver of fees, fines, and costs for indigency is also an essential component of a fair and accessible court system. The integrity of the judicial system is undermined if an order to pay fines and costs is not enforced. But if fines and costs are truly beyond an individual's capacity to pay, not only are the fines and costs uncollectable, but the taxpayers must assume the great expense of collection, up to and including prosecution and jail, necessary to uphold the court's order. That is why mandatory fees, fines and costs set at an unreasonable level are ultimately counterproductive. As our general fund revenues shrink, the pressure to increase the share of the expenses paid by court users grows, even as more and more of our population finds itself in financial trouble. In the absence of a uniform and workable standard for indigency, local judges, courthouse staff, and litigants have growing uncertainty about who qualifies for a waiver of fees and costs, as well as for appointed counsel. Because data on waivers are not collected, it is difficult to know the full dimension of the problem, but we do know that the lack of consistent statewide definitions and procedures, and the use of high-cost enforcement tools to punish non-payers, leads to a system which is chaotic, uncertain, and often unjust.

> Mandatory fees, fines and costs set at an unreasonable level are ultimately counterproductive.

Solution **Create statewide standards for indigency and the imposition of reasonable fees, fines and costs, and promote collection and enforcement methods whose effectiveness is based on reliable statewide data.**

- Task the State Court Administrative Office (SCAO) and the Trial Court Judicial Council with producing a set of clear and consistent standards and rules about indigency and about what remedies and procedures may be used by courts to collect payment, for promulgation statewide.
- Support the implementation of statewide standards of indigency and collection with management assistance from SCAO and training from MJI on the assessment of ability to pay and on reasonable, consistent, and effective enforcement practices.
- Use the statewide information management system to collect relevant data on the imposition of fees, fines, and costs; waivers; and collection and enforcement efforts.

Budget Impact Indeterminate.

Finding the ideal set point and practices to maximize collection of fees, fines, and costs cannot be well estimated without better data statewide and close analysis of that data.

◆ ◆ ◆

Critical Challenge **The courts are pivotal players in the child welfare system, and the need for courts to respond more effectively than in the past to child welfare problems is urgent. As Michigan's economy has deteriorated, our child welfare caseloads have increased, but the resources to deal with abuse, neglect, juvenile justice, and homeless and runaway youth problems are diminishing. Failure to deal early and effectively with child welfare problems generates greater costs in later years.**

Despite enormous effort and dedicated leadership, there is ample evidence that Michigan's child welfare system, as well as its interaction with tribal courts on child welfare issues, is not working well and that its failures result in large, avoidable costs to taxpayers. One clear measure of our failure is that children removed from their homes in Michigan are less likely to be reunited with their families within a year than children in other states. Indian children and children of color are particularly vulnerable to the system's deficiencies. Without improvements in how courts handle child welfare cases, more children will wind up in long-term placements, a much more costly outcome than providing appropriate services to children earlier. The Task Force's attention to this problem has been preceded by a number of thorough and credible reports, noted under Resources, recommending credible steps to take to improve child welfare in Michigan. Our recommendations are intended to complement those reports.

Without improvements in how courts handle child welfare cases, more children will wind up in long-term placements, a much more costly outcome than providing appropriate services to children earlier.

Solution **Make improvements in child welfare outcomes, including Indian child welfare, a priority in the conversion to a statewide judicial information system, in judicial education and pro bono training, and in concurrent jurisdiction plans, emphasizing cost-saving collaboration and coordination efforts with local community resources and other non-judicial stakeholders.**

- Support early childhood community-based services that nurture children and support families, in order to reduce child welfare cases.
- Maintain strong central judicial leadership on child welfare issues and extend leadership initiative throughout the court system through the Trial Court Judicial Council and training of chief judges.
- Use the Justice Advisory Board for Access and Fairness as a vehicle to institutionalize ongoing partnerships between the Michigan Supreme Court, SCAO, the tribal courts, the Michigan Indian Judicial Association, lawyers and other stakeholders in Indian/First Nation issues, with the stated goal of preserving and improving meaningful access to justice in our state courts for Indian/First Nation people.
- Collect, analyze, and report data that can be used strategically to improve the performance of the system, as measured by outcomes for families and children at each critical decision-making point. In cooperation with the Department of Human Services, build uniform child welfare data collection into the new statewide judicial information system, and use the data to manage programs, services, resources and staff.
- Promote effective docket management in child welfare cases as a method of assuring quality representation and reducing the length of time children wait for a permanent home.
- Increase and improve training and legal education for both bench and bar on child welfare issues.

- Review child welfare policies, procedures, programs and contracts to determine if they disadvantage children, youths and families of color. Develop and enforce policies and practices that create a culture of inclusion, embrace diversity, and engage families and communities of color in issues concerning child welfare.
- Engage parents, youth and children of color (including extended families, tribal members, caregivers, and others who are significant in the life of the child and family) as true partners to shape the child welfare environment.
- Use the Michigan Judicial Institute to foster awareness, acceptance and compliance by state courts with current tribal law.
- Support the enactment of federal ICWA concepts into Michigan law.

Budget Impact **Small state and local costs, with large potential net savings.**

Evidence from other states suggests that the Task Force recommendations in this area, supported and enhanced by other Task Force recommendations, could lead to significant system-wide cost savings, including by the courts, the corrections system, and the child and family welfare entities at the local level, through more efficient handling of cases and better outcomes for families. The recommendation concerning early childhood community-based services requires the restoration of funding that has been reduced over the last several budget cycles, and supports increases in such funding in the future.

◆ ◆ ◆

Critical Challenge **Michigan's court system is not positioned to help the state compete in a global economy, attracting the confidence of international business and the trust of newcomers to the state. We do not have an adequate method of meeting the needs of court users who are not proficient in English, nor is the court system sufficiently attuned to cultural differences among our diverse population to maintain necessary respect for the fairness of our judicial system.**

A court system serves the entire population of the state and all the state's visitors subject to the jurisdiction of the courts. A court system that does not have the trust and confidence of all those it serves fails fundamentally in its essential purpose. In a very real sense, the challenge of responding to the prospects for growing diversity in the state's population is but the latest chapter of the unfinished work underway for decades to address racial, ethnic, and gender bias throughout the justice system.

> A court system that does not have the trust and confidence of all those it serves fails fundamentally in its essential purpose.

According to the 2000 U.S. Census, 850,000 Michigan residents speak a language other than English in the home, not including the tens of thousands of seasonal farm workers and their family members who come to Michigan each year. Without adequate translation assistance, this population's legal rights are in jeopardy in court. In addition, our inadequate interpreter system exposes the state to legal liability and to the loss of federal funding.

The challenge of a diverse population is not just about ensuring justice for all or even simply about avoiding federal sanctions, however. It also concerns a return to economic vibrancy. Our future prosperity requires thriving in a global economy. If we do not attract international immigration, our population as a percentage of the country will continue to shrink and our ability to be economically competitive will be compromised. While our court system is not a driver of these trends, it plays a role in dealing responsibly with them, and in the reputation of the state as a good place to live and do business.

Solution **Improve translation services within courts, train for cultural competency, and remove barriers for international participation in the legal system.**

- Use technology where appropriate and sufficient to meet the needs of court users who are not proficient in English or are hearing impaired.
- Empower the Justice Advisory Board to:
  - Evaluate court administrative processes, forms, manuals, bench books, jury instructions and correspondence for compliance with plain English standards and to identify culturally inappropriate language and explicit and implicit biases.
  - Recommend statewide competency standards and ethics guidelines for court interpreters for promulgation by the Supreme Court. Advise on how to collect and measure court user data for the purpose of identifying any disparate impact of court procedures and decisions on discrete populations, on issues related to language proficiency and interpreter use.
  - Cultivate collaborative relationships with knowledgeable individuals and organizations that specialize in the unique needs and cultures of the diverse communities served.
  - Recommend judicial education, legal education, and school curricula to educate judges, the bar, and the public about implicit and explicit bias, procedural fairness, and the impact of discrimination and stereotyping on court processes.
  - Identify sources of funding to improve interpreting services and interpreter programs and make appropriate amendments to state law, and opportunities for efficiencies through the pooling and sharing of resources.
  - Advise on how best to use technology and software to assist in meeting the needs of court users with English language proficiency.
  - Provide guidance to the State Court Administrative Office in how to improve the identification and track the needs of interpreters in the system, how to monitor court interpretation services, what data to collect, and how to collect it.
  - Develop a Commitment to Service and Procedural Fairness pledge for adoption by the Supreme Court, to be posted in all state courts pursuant to an administrative order of the Supreme Court.
- Make judicial instruction on requirements for the use of competent court interpreters and on cultural diversity and culturally based behavior differences a mandatory part of the Michigan Judicial Institute programming.
- Task the Trial Court Judicial Council with advising on how to ensure court-wide compliance with court interpretation requirements.
- With the input of the Justice Advisory Board, articulate through the Supreme Court a clear policy on the importance of diversity of court personnel, and continue efforts to increase the diversity of the lawyers, quasi-judicial officers, administrative staff and other persons used by courts through contract or court-annexed processes.
- Amend Rule 5 of the Rules of the Board of Law Examiners to provide for a *pro hac vice* rule applicable to an international attorney working for an international company doing business in Michigan.

Budget Impact **Moderate state and/or local costs, likely partially offset by the avoidance of federal penalties.**

The lack of systematic data for how language interpreters are used in Michigan courts is a significant barrier to identifying costs and savings due to increasing access to certified language interpreters. Any financial costs to the courts of such a policy would be offset by the potential costs of not doing so, including loss of federal funds due to non-compliance with the Civil Rights Act of 1964.

◆ ◆ ◆

Critical Challenge **Our trial courts are becoming flooded with people attempting to use the court system without the benefit of a lawyer. This trend not only leaves many legal problems unresolved or worsened, it clogs the court system and delays the processing of all cases.**

The root cause of the new trend of more and more people coming to court without legal representation is an age-old problem: the lack of enough resources to provide free legal aid for the indigent and affordable legal services for all others. Lawyers have an ethical duty to help provide legal service to those who can't afford it and Michigan's lawyers do so in large numbers and impressive ways, but despite their contributions there is still a large gap between the need for and the availability of legal representation. In these economic times the problem is likely to worsen, and a sustained and comprehensive effort at providing legal aid and pro bono service becomes ever more urgent. In the meantime, for a limited number of cases, the need for a lawyer can be reduced or even eliminated through carefully constructed and maintained strategies. Identifying those situations and making self-help resources available allow limited resources to be directed to the neediest cases and courts to function more effectively for everyone. Recognizing this, in recent years many courts and court-related agencies throughout the state have begun to provide self-help materials to the public, often through online web pages and links. The result has been much duplication of well-intentioned effort, and many glaring deficiencies. A study undertaken by the Michigan State Bar Foundation identified 158 different web sites that offer self-help resources in Michigan, with a wide variety of quality and usefulness. Many are cumbersome to use, and much of the material on them is incomplete, out of date, or of poor quality. Printed self-help material available to the public has similar deficiencies. Unless the public is steered toward reliable and up-to-date resources that carefully and clearly flag situations in which self-help is not appropriate and point users to someone who can help evaluate need, the use of these resources can delay necessary legal help and make a legal problem worse.

For a limited number of cases, the need for a lawyer can be reduced or even eliminated through carefully constructed and maintained strategies.

Solution **Mobilize, analyze, coordinate, and improve the current patchwork of resources available to people seeking free guidance on legal problems, strengthen pro bono opportunities and training, and further educate the bar about the ethics of representing the poor.**

- Establish a statewide self-help website pilot project using www.illinoislegalaid.org as the primary model, and a network of self-help centers using the pilot website to support their services.
- Work with the Supreme Court and other justice system leaders as well as experts in literacy, cultural awareness and limited English proficiency to improve the uniformity and understandability of forms, including ensuring that all forms and other documents which may be used by the self-represented are written in plain English.
- Develop a more comprehensive self-help curriculum for judicial and court staff training and give courts tools to improve self-help services.
- Educate the bar and bench about the ethics of and appropriate opportunities for limited representation.
- Track the number and type of *pro per* cases throughout the state using court data systems to assist in improving self-help services.
- Ensure that all courts accept and use uniform SCAO forms, even if local courts also accept their own modified versions.

Budget Impact

Assessing the costs and benefits of improving self-help programs in courts is hampered by a lack of statewide consistent data on the number of self-represented litigants, but present evidence supports the conclusion that implementing these recommendations would have a small cost but potentially much greater future cost savings.

Studies of programs in other states support the claim that effective programs could provide significant cost savings for courts with moderate-to-high volumes of self-representing litigants by reducing the time needed to handle each case. There is even evidence that an effective self-help system can increase the use of lawyers by paying clients, by helping the public better understand the need for legal help and reducing anxiety about costs.

◆ ◆ ◆

Judicial Crossroads Task Force

Chairs:
Barry L. Howard
Edward H. Pappas

Members:
Diane L. Akers
Hon. James M. Alexander
Hon. Marylin E. Atkins
James S. Brady
Thomas W. Cranmer
Hon. Alton T. Davis
Nancy J. Diehl
Hon. Susan L. Dobrich
Andrew S. Doctoroff
Hon. Pat M. Donofrio
George A. Googasian
Michael J. Hodge
Dirk C. Hoffius
E. Christopher Johnson
Hon. Marilyn J. Kelly
Hon. James C. Kingsley
Hon. Milton L. Mack
Richard D. McLellan
Hon. Susan M. Moiseev
Hon. Denise Langford Morris
Margaret J. Nichols
Hon. Maria L. Oxholm
Hon. Victoria A. Roberts
Hon. Kirk W. Tabbey
Hon. Kenneth L. Tacoma
Reginald M. Turner, Jr.
Valdemar L. Washington

Access to Justice Committee

Chairs:

E. Christopher Johnson
Hon. Susan M. Moiseev

Members:

Elizabeth Arnovits
C. Patrick Babcock
Hon. Alfred M. Butzbaugh
Hon. Timothy P. Connors
Judith K. Cunningham
Robert Fair Gillett
Hon. Elizabeth Pollard Hines
Mary I. Hiniker
Dawn A. Van Hoek
Hon. Denise Page Hood
Hon. David A. Hoort
Benjamin D. Inquilla
Sister Monica Kostielney
H. Lynn Jondahl
Michael K. Lee
Ronald J. Schafer
Alicia J. Skillman
Terri L. Stangl
Hon. Cynthia Diane Stephens
Lorraine H. Weber
Kate Birnbryer White

Staff:

Gregory Conyers
Candace Crowley
Nkrumah Johnson-Wynn

Business Impact Committee

Chairs:

Diane L. Akers
Andrew S. Doctoroff

Members:

Peter M. Alter
Charles E. Barbieri
Georgi-Ann Bargamian
Steven M. Bieda
Hon. Robert M. Bondy
Rockwood W. Bullard III
Mark J. Burzych
Lynn P. Chard
Francine Cullari
Robert L. Katz
Ronald D. Keefe
Dennis C. Kolenda
Robert S. LaBrant
Kathleen A. Lang
Elvin C. Lashbrooke
David Graham Leitch
Andrew D. Portinga
Nicholas J. Stasevich
Norman D. Tucker
Alan M. Valade
Douglas A. Van Epps
Carl E. Ver Beek

Staff:

Cliff Flood
James Horsch

Structure and Resource Committee	Technology Committee
Chair: Hon. Alton T. Davis Vice Chair: Hon. James M. Alexander Members: Hon. Louise Alderson Hon. Monte J. Burmeister Hon. George S. Buth Hon. James H. Fisher Hon. Archie L. Hayman Hon. Donald R. Hemingsen Hon. David B. Herrington Hon. David A. Hogg Hon. John A. Hohman, Jr. Hon. M. Randall Jurrens Hon. Kathleen J. McCann Hon. Cylenthia LaToye Miller Hon. Frederick R. Mulhauser Hon. Neil G. Mullally Hon. Philip E. Rodgers, Jr. Hon. Virgil C. Smith Hon. David S. Swartz Hon. Karen A. Tighe Hon. Mark S. Wickens Hon. Allen C. Yenior Hon. Tracey A. Yokich Staff: Elizabeth Lyon Anne Vrooman Janet Welch	Chair: Hon. Kirk W. Tabbey Members: Jeff Albaugh Donna Beaudet Michael D. Carpenter Denise Devine Marc Dobek Christopher J. Falkowski Joseph H. Firestone Kim Foster Steven M. Gray Ashish S. Joshi Hon. William G. Kelly Jeffrey E. Kirkey Sandra Schultz Mengel James R. Neuhard Hon. Donald H. Passenger Hon. Michael David Warren, Jr. Staff: William Kramer Brian Hildreth

Reporter: Janet Welch
Editors:
Nancy Brown, Candace Crowley, Dawn Evans, James Kingsley, Linda Rexer, Naseem Stecker
Editorial Assistant: Jasper Frank
Design: Sarah Nussbaumer, Michael Smith

Executive Staff:
Elizabeth Lyon, Anne Vrooman

Production Staff:
Marge Bossenbery, Michelle Erskine, Carrie Sharlow