



**Michigan District
Judges Association**

THE FIRST 50 YEARS OF MICHIGAN DISTRICT COURTS

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THE FIRST 50 YEARS OF MICHIGAN DISTRICT COURTS

*By Judge William G. Kelly
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As we celebrate the 50th birthday of the establishment of district courts, it is important to remember the reason for their creation, as well as the transformations, successes, and milestones that they have experienced throughout its existence. The rich history of the district courts and its judges and their work is detailed in this book to preserve the foundations these institutions have laid for our district court system today. From its founding in 1968, district courts have played a vital role in various court functions. As we remember the last 50 years of the district court system, we also look forward to the continued success of this esteemed institution for many more years to come.

Article VI, §26 of the 1963 Michigan Constitution provides, as follows:

The offices of circuit court commissioner and justice of the peace are abolished at the expiration of five years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction, compensation and powers within this period shall be as provided by law. Within this five-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law.

After lengthy debates in the Legislature concerning the establishment of a court or courts of limited jurisdiction,¹ Governor George Romney signed 1968 PA 154 on June 17, 1968, abolishing the offices of justices of the peace and circuit court commissioners and establishing district courts as of January 1, 1969. On January 1, 1969, five years after the effective date of the Michigan Constitution, 150 district court judges took the bench, 124 of them had been elected in November 1968 and 26 were blanketed in as incumbent municipal judges.² Since then, much has changed and much has remained the same.

Courts Change with the Times

In the 50 years since, there have been several changes concerning technology, diversification, court resources, court financing, the district court's jurisdiction, the laws that the district courts preside over, and social trends that have affected the district courts.

Economic downturns in the state budget have affected the district courts with increases in fees and cutbacks in the judicial budget. In 1980, the annual three-day conference up north was canceled and the district court judges met for one day in Lansing. In 1981, the Regional Administrators Offices were closed overnight in order to save money. In 2003, several court fees were increased significantly and the Driver Responsibility Fee was established. In 2008, many district court employees were laid off.

Over the decades, there have been trends to emphasize certain areas of our work. In 1971, President Nixon declared a war on drugs. That war has been fought in the district courts

since then. In the 1980s and 1990s, drunk driving laws were changed significantly. Also, in the 1980s, courts were asked to process cases more promptly and caseflow management guidelines were established. The 1980s also saw discussions about racial bias and gender bias. In the 1990s, prosecutors began to more aggressively prosecute domestic assault cases and district court judges received training on these cases. In the 2000s, there was an emphasis on enforcing collection of fines and costs. In the last decade there has been an emphasis on determining a person's ability to pay and on implicit bias. In the last decade we have seen a number of problem-solving courts created in response to drugs, drunk driving, mental health issues, and the issues affecting veterans.

In the 1980s and 1990s district courts started to computerize their management of cases. Fax machines were installed in courts and at the homes of judges on call. In the 1990s, judges began communicating via e-mail. Now we are beginning to implement statewide e-filing in the courts.

Growth of District Courts

The statute creating the district courts was enacted at the last minute. The court of limited jurisdiction had to be created by January 1, 1969. Judges had to be elected in November 1968. In the *Michigan Bar Journal* December 1968 issue, Tom Downs and Leslie Butler, the chairman and vice chairman of the State Bar Committee on Legislation discussed the debate.

“Some wanted to keep, in effect, the justice of the peace system. Some wanted to allow non-lawyers to serve as district court judges. Some wanted to delay action – but that constitutional deadline for action faced them.

One highlight of the new law is the fact that district court judges must be attorneys and full-time judges, experienced in the laws which they must confront.

Where justices of the peace were paid through fees, a system often criticized, district court judges will receive salaries, a minimum of \$18,000 and a maximum of \$27,500.

Difficulties in the Legislature hinged partly on the need for two-thirds majorities in both the House and the Senate if a new court was to be created. This requirement is in the state constitution.

The new law was admittedly a compromise. Whether it is perfect is no longer the point. If experience shows the need, amendments to the law now can be achieved by a simple majority in the legislative chambers.”

In 1968, many communities decided to retain municipal courts rather than become part of the district court. During the 1970s and 1980s most municipal courts were replaced by district courts. On September 1, 1981, the Detroit Common Pleas Court and the Traffic and

Ordinance Division of the Recorders Court became the 36th District Court. Some district courts of the third class (courts consisting of one or more political subdivisions of a county) were merged with district courts of the second class (courts funded by a county in which there are third class courts) to form district courts of the first class (courts consisting of one or more counties funded by the county government) while other district courts split resulting in courts with the designations of “A” or “B” after the number of the district court. By 1989, only the four municipal courts in the Grosse Pointes remained and those four courts remain in operation today.

Michigan District Court Judges Association

The new district court judges formed the Michigan District Court Judges Association (MDJA) on March 14, 1969. Since then, district court judges and the MDJA have worked hard to improve services to the public and to improve operation of the district courts. MDJA has done this by:

1. working with the legislative and executive branches,
2. improving the sound and efficient administration of justice in the district court, and
3. encouraging among members of the association and the practicing bar, the highest level of judicial and legal competence.

Members of MDJA have worked with the Supreme Court, the State Court Administrative Office (SCAO), the Michigan Judges Association, the Michigan Probate Judges Association, the State Bar of Michigan, the Legislature, the Michigan State Police, the Secretary of State, and other governmental agencies on countless matters.

MDJA's Legislative Committee and the Board review proposed legislation that affects district courts and district court judges. MDJA shares its insights with the sponsors of the bills and leadership in the Legislature. MDJA has also proposed legislation to improve the courts. Judge Don Goodwillie of South Haven was our advocate in the Legislature in the 1970s and early 1980s. He left the bench in 1982 and MDJA became one of the first clients of Governmental Consultants Services, Inc. in 1983.

The MDJA Rules Committee reviews all proposed rules and, when necessary, comments to the Michigan Supreme Court our concerns. The Rules Committee has also proposed amendments to the court rules.

MDJA's Program Committee plans the annual conference in conjunction with the Michigan Judicial Institute. The Communications Committee publishes our newsletter Benchmarks and promotes activities to bring about an increased public awareness of the District Court. The Technology Committee serves as webmaster for the MDJA website.

Technology

One of the biggest changes in the courts today compared to the courts of 1969 is the technology.

Typewriters, carbon paper, and index cards were the technologies used by the district courts in 1969 to prepare documents and to keep track of cases. In the 1970s, the Secretary of State provided each district court with an IBM Selectric typewriter with an OCR font to prepare in triplicate the abstracts of convictions for driving offenses to be sent to Lansing for input into the Secretary of State's computers.

In 1969, the court had to wait until the police department brought the traffic ticket to the court. Then, the clerk had to read the ticket to determine the defendant and the charge and not all of the police officers wrote in a legible manner. The clerk then had to prepare a file and an index card to keep track of the case and log the ticket into the log book. The defendant had a right to a jury trial on the traffic ticket. If the defendant paid the ticket, the file had to be retrieved, the index card had to be updated, and the receipt was prepared in triplicate on a pegboard system. The clerk then had to type out an abstract to send to the Secretary of State.³

In 1971, the Judicial Data Center (JDC) was established with a mission to "foster improvements in the administration of justice through the introduction of modern technological services in the courts of Michigan."

In 1973, all attorneys were issued a P-number so that each attorney would have a unique identification.

In 1975, JDC implemented the District Court System (DCS) in three courts based on a Unisys platform. More courts were added to this platform and they were connected by a line from the courts to the mainframe based in Detroit.

In 1980, Quadtran implemented a case management system using a mainframe connected with terminals in local courts.

In 1986, Judicial Management Systems (JMS) implemented its first district court case management system using the IBM AS400 platform in Cheboygan.

In 1986, the Office of Systems Management (OSM) (formally JDC), implemented its first district court case management system on the IBM AS400 platform in Port Huron. In 2018, most courts throughout the state use a case management systems on the AS400 platform.

In 2001, the Judicial Information Systems (JIS), (formerly OSM), began work on a Statewide Judicial Data Network connecting all trial court locations for electronic submission of Secretary of State and LEIN data. This work was completed in 2005.

In 2002, Saginaw County started electronic citations by which the police issued a ticket on a computer, which then transferred the information into the police department's case management system and the court's case management system.

In 2003, the judicial technology improvement fund was established and it receives 11.1% of Civil Filing Fee Fund, *supra*.⁴

In 2003, the Judicial Data Warehouse came on line, which allowed courts to see data about court cases in other courts throughout the state.

In 2003, JIS began work on a statewide e-filing system with IBM but later decided to not continue with this program because of the cost.

In 2007, Oakland County Circuit Court received an Administrative Order for E-filing selected case types.⁵ Circuit courts in Wayne, Macomb, Ottawa, Grand Traverse, and Kent County Business Court also received Administrative Orders for e-filing selected case types.

In 2010, JIS began installing video systems in courtrooms targeted at reducing MDOC prisoner transport costs. By 2016, all Michigan judges' courtrooms were equipped with Internet connected video systems and this system has saved more than \$25 million in transportation costs for the state and local funding units.

In 2016, civil filing fees were increased to establish an e-filing fund.⁶ In 2017, ImageSoft was selected as the vendor to provide the e-filing system in the state of Michigan. In 2018, the implementation of e-filing in courts is beginning.

Today, in many district courts, the police officer issues a ticket on a computer, the information is transferred into the police department's case management system and the court's case management system. The defendant has a right to contest the ticket in a formal or informal hearing. The defendant can pay over the Internet. The abstract to the Secretary of State is generated by the court's case management system. In many cases, the clerk does not have to enter anything or prepare any files.⁷

Since each court is locally funded for its operations, the computerization of the courts has been disjointed. Today, some district courts use the case management system provided by the state of Michigan while other district courts use case management systems provided by private vendors, Judicial Management Systems, Quadtran, or Full Court Enterprise.

Diversity

Another major change from the courts of 1969 and today is the diversity of the people coming to court and the diversity of the members of the bench.

Limited English Proficiency

The increase in demand for interpreters in courts has been one of the major changes in the first 50 years of the district courts. Dearborn is home to the largest Arab speaking community outside of the Middle East. Spanish speaking people have moved to Michigan in large numbers. Students from all over the world attend universities in Michigan. Refugees from conflicts around the globe have settled in Michigan. This globalization has resulted in a need for interpreters in court. In 1989, some district courts began using Language Line, an over-the-telephone interpreting service, to communicate with Limited English Proficiency individuals.

In 2013, the Michigan Supreme Court adopted MCR 1.111 and MCR 8.127 concerning the use of interpreters in courts. District court judges were part of the committee that drafted these rules to require that certified or qualified interpreters be used whenever possible. A district court judge sits on the Foreign Language Board of Review that sets the standards for interpreters.

Diversity on the Bench

In 1969, of the 150 judges, there was one African-American district court judge, Charles Pratt of the 8th District Court, and two female district court judges, Mary McDevitt of the 39th District Court and Alice Gilbert of 48th District Court.

Judicial Resources

In 1968, the Legislature determined the number of judges for each district. Bruce Timmons, who started working as an intern in the House of Representatives in 1967 on the District Court Act and stayed with the Legislature until 2012, recalls, “House Judiciary Committee Chair Don Holbrook, Jr, devised his own formula for the initial allocation of district court judges. A key component was caseload. He requested criminal caseload data from every municipal court, justice of the peace records, and every county treasurer to whom justices of the peace had to account. He obtained responses from 82 of 83 counties. I think that Holbrook estimated civil caseload as correlating with population, but he factored in the criminal caseload based on the data he gathered statewide. He combined those two numbers and his formula worked out pretty darned well.”⁸

In the 1980s, SCAO determined the need for judges based on the number of cases that a court started and used a regressive equation method. This favored small courts and made it difficult for larger courts to justify the need for additional judges.

In 1996, the Legislature created the Trial Court Assessment Commission to report to the Legislature regarding the number of trial court judges needed, the need for revisions to the courts or the court system, and the implementation of revisions to the courts or the court system. The Commission was also to study and classify the civil and criminal cases filed in Michigan trial courts, develop criteria for determining the relative complexity of the various types of cases, and recommend a funding formula for the operation of those courts, taking caseload complexity into account.⁹

In 1997, SCAO contracted with the National Center for State Courts (NCSC) to conduct a time study to determine a weighted caseload taking into account the time required to handle the various types of cases that judges preside over.¹⁰ Other time studies were conducted in 2000, 2006, 2010, and 2018. The weighted caseloads are then used to determine the need for judicial resources.

In 2011, the Judicial Resources Report took into consideration how many circuit, probate, and district court judges were in a county and determined how many judges each

county required. Several district court judgeships were eliminated and probate judges were assigned to preside over the district court jurisdiction as well as the probate court jurisdiction.

Court Financing

Court financing has been a frequent topic throughout the 50 years of the district courts. Each district court is an administrative unit and each district court has a funding unit that is a local unit of government. The state pays a portion of the judge's salary and the local funding unit then supplements the state judicial salary up to the maximum salary allowed for a district court judge. All of the other expenses of the district court are paid by the local funding unit.

The revenue from the district courts is distributed to the local funding unit, the county library, and various funds in the state government pursuant to formulae established in the state constitution and a number of statutes. Over the years this has led to a great deal of tension among the courts and various units of government.

In the 1970s, there was a national movement toward equalization of funding for trial courts across states. Since this time there have been many discussions about statewide financing, but only small steps have been taken.

In 1979, Chief Justice Mary Coleman spoke at the MDJA annual meeting and stated that full state funding was expected by 1985.¹¹ It did not happen.

In 1979, the state proposed taking over jury fees, reimbursement for appointed counsel, capital improvements, and funding for uniform salaries.¹² During the 1980s, the state did provide funding for uniform salaries for judges.

On September 1, 1981, the Common Pleas Court and the Traffic and Ordinance Division of Records Court were merged into the 36th District Court in Detroit.¹³ Employees of the 36th District Court became employees of the State Judicial Council for the next 15 years until the State Judicial Council was discontinued.¹⁴ This was to be the first step in state financing of the courts and relieving the counties and the cities of financing the courts. The act provided that the Legislature shall appropriate sufficient funds in order to fund:

1. at least 20% of all court operational expense beginning Oct. 1, 1983
2. at least 40% of all court operational expense beginning Oct. 1, 1984
3. at least 60% of all court operational expense beginning Oct. 1, 1985
4. at least 80% of all court operational expense beginning Oct. 1, 1986
5. at least 100% of all court operational expense beginning Oct. 1, 1988

During the early 1980s, interest rates were very high, unemployment was high, and the state economy was struggling. The next steps did not take place other than providing for uniform judicial salaries statewide.

In 1986, Senator Connie Binsfeld spoke with the MDJA Board and indicated support for state funding of some court services.¹⁵

In 1987, Chief Justice G. Mennen Williams unveiled a three-step program to improve Michigan courts. First, creation of a Racial and Gender Bias Task Force; second, formation of a Caseflow Management Committee; and third, state financing. District court judges participated in the Racial and Gender Bias Task Forces and a report was prepared. District court judges participated in the Caseflow Management Committee and guidelines were established and those standards form the basis of the standards that exist today. Statewide financing did not happen.

In 2013, the Michigan Supreme Court decided the case of *People v. Cunningham*, 496 Mich 145 and ruled that the court had no statutory authority to levy court costs. The Legislature passed an amendment to MCL 769.1k to give courts the authority to assess court costs but the MDJA was successful in inserting a sunset in the bill so that the state could look at the issue of statewide financing of trial courts. As a result of that sunset provision, the Michigan Trial Court Funding Commission has been established at MDJA's request and three district court judges serve on the commission.¹⁶

Increases in Fees Assessed

One way to finance the court and other parts of the government is through court fees. The fees in traffic, criminal, and civil cases have been increased over the years a number of times.

In 1969, a judgment fee of \$3 was added to each criminal judgment.¹⁷ The revenue generated by this fee was to defray the costs of the state in its role of financing the district courts. Over the years, several fees were added and increased to fund various activities in the state court system and the state government outside of the court system.¹⁸

In 1965, the law enforcement officers training fund received 10% of every fine, penalty, and forfeiture imposed and collected by the courts for criminal offense.¹⁹ This was ruled unconstitutional just before the district courts started operating.²⁰ The court ruled that these were supplemental fines and all fines for violating a state statute were to be used exclusively for the support of libraries as required in the state constitution.

In 2003, the state budget and local budgets were facing enormous strains. The Legislature raised a number of fees upon civil infractions, misdemeanors, and civil filings to fund the courts. The Legislature also added a Driver Responsibility Fee on people convicted of a variety of traffic offenses.²¹

The only fee to remain unchanged is the fee for a judge to perform a marriage. The fee established in 1968 of \$10, which goes to the local funding unit remains the same today.²²

Civil Infractions

When the district courts were started, traffic offenses were misdemeanors and a person charged with a traffic offense had a right to a jury trial. On August 1, 1979, most traffic

violations became civil infractions.²³ Over the years, numerous fees have been added to traffic civil infractions. These fees included the following:

- \$ In 1982, a \$5 fee for the law enforcement officers training fund.²⁴
- \$ In 1987, a \$5 fee as a highway safety assessment to serve as a supplement to, and not as a replacement for, the funds budgeted for the department of state police.²⁵
- \$ In 1991, a \$5 assessment for secondary road patrol and training assessment.²⁶
- \$ In 2001, the secondary road patrol assessment was increased to \$10.²⁷
- \$ In 2001, a Jail Reimbursement Program assessment of \$5.²⁸

Courts were required to account for how much money was collected in each of the fees listed above and then the money was transmitted to the state. In 2003, the Legislature combined the \$25 of fees assessed to each traffic civil infraction into one fee of \$40.²⁹ The district courts were also required to assess \$10 for each non-traffic civil infraction.³⁰

The revenue from the minimum costs for civil infractions went to the Justice System Fund, see *infra*. Unifying the fees simplified the administration for the district courts and allowed the Legislature to slice and dice the revenue into several funds. This fund distributes the money to the funds that received the assessments prior to 2003 and to some other activities.

Minimum Costs on Misdemeanors

The \$3 judgment fee established in 1968³¹ has increased several times.

- \$ In 1970, the \$3 fee was increased to \$4 as costs rather than a “judgment fee” and 35% of the fee was sent to the judicial retirement system.³²
- \$ In 1975, the Legislature provided that the court assess \$5 for each conviction and guilty plea except for parking violations.³³ The statute provided that 6% of these costs would go to the legislative retirement fund, 9% of these costs would go to the judicial retirement system, and the balance would go to the general fund of the state.
- \$ The costs increased in 1993 to \$9 with the extra money sent to the newly created State Court Fund, *infra*.³⁴
- \$ In 2003, the minimum costs were increased to \$60 for a felony, \$45 for a serious or specified misdemeanor listed in the Victim Rights Act, and \$40 for other misdemeanors.³⁵ The revenue generated by these fees are sent to the Justice System Fund, *infra*, which was created at the same time as the increase in these fees.
- \$ In 2009, each of the fees were increased to \$68 for a felony, \$53 for serious or specified misdemeanors, and \$48 for other misdemeanors.³⁶
- \$ In 2011, the assessments were changed to \$50 for any misdemeanor.³⁷ The monies were then sent to the justice system fund, *infra*.

Drivers License Reinstatement Fee

If a person fails to comply with a judgment on a civil infraction or fails to appear in court, the court can ask the Secretary of State to suspend the person's license. After payment of the fines and costs, the driver must pay a reinstatement fee.³⁸

- \$ In 1969, the reinstatement fee was \$2 was paid at the Secretary of State for the Secretary of State.³⁹
- \$ In 1980 the fee was \$10 paid at the court and the money was sent to the local funding unit.⁴⁰
- \$ This fee was increased to \$25 in 1988 with \$15 going to the Secretary of State and \$10 to the local funding unit.⁴¹
- \$ In 2003, the fee was increased to \$45 with \$15 going to the Secretary of State, \$15 going to the local funding unit, and \$15 to the jury reimbursement fund.⁴²

If a person's license is suspended by the Secretary of State, the person must pay a reinstatement fee to the Secretary of State.

- \$ In 1982, the reinstatement fee was set at \$25 and the money was for the Secretary of State.⁴³
- \$ In 1988, this fee was increased from \$25 to \$60 and the additional \$35 was for the Transportation Economic Development Fund in the Department of Transportation. This fund is available to state, county, and city road agencies for immediate highway needs relating to a variety of economic development issues.⁴⁴
- \$ In 1991, this reinstatement fee was increased to \$125 and \$25 of the additional money was sent to Secretary of State, \$10 for the drunk driving prevention equipment and training fund, and \$30 for the drunk driving caseflow assistance fund.⁴⁵

Victim Rights Fee

In 1989, the Legislature created the Victim Rights Assessment Commission to provide for the payment of crime victim rights services. The district courts were required to assess a fee of \$30 for felonies and \$20 for serious misdemeanors listed in MCL 780.811 or specified misdemeanors listed in the statute.⁴⁶ Courts had to be mindful of which misdemeanors required a victim rights assessment. The district court was allowed to send 10% of the assessments to its funding unit to defray the costs of collecting the fee.

In 1994, the assessments were increased to \$40 for felonies and \$30 for serious misdemeanors or specified misdemeanors listed in the statute.⁴⁷

In 1996, the assessments were increased to \$60 for felonies and \$50 for the serious misdemeanors or specified misdemeanors listed in the statute.⁴⁸

From 2008 until 2010, the Legislature provided that any excess revenue that had not been used prior to October 1, 2010, for crime victim compensation could be used for the operation and enhancement of the sex offender registry, the Amber Alert system, treatment

services for victims of criminal sexual conduct, polygraph examinations, and the expert witness testimony of a forensic scientist.⁴⁹

In 2010, the victim rights fee was increased to \$130 for a felony and \$75 for any misdemeanor. The local funding unit receives 10% of the fee. After 2010, any excess revenue that has not been used for crime victim compensation may be used to provide for establishment and maintenance of a statewide trauma system, including staff support associated with trauma and related emergency medical services program activities.⁵⁰ The statewide trauma system now receives \$3,500,000 per year from the Crime Victim Rights Fund through October 1, 2021. The Crime Victim Rights Fund spends about \$16,900,000 on the crime victims' rights and has about \$30,000,000 in the fund.⁵¹

Civil Filing Fees

In 1969, the filing fee was \$10 if the amount in controversy exceeded \$100 and \$5 if it did not exceed \$100. The judicial retirement system received 35% of these fees.⁵² For each civil judgment, a \$2 judgment fee was assessed.⁵³ The funding unit received the judgment fees and the balance of the filing fees. The judgment fee was repealed in 1984.⁵⁴ The filing fees have increased over the years. [See Table 1.] Today, the local funding unit receives:

- \$ \$31 from a \$160 filing fee,
- \$ \$23 from a \$75 filing fee,
- \$ \$17 from a \$55 filing fee, and
- \$ \$11 from a \$30 filing fee.

From the money sent to the local funding unit, \$5 is to be set aside to fund a drug treatment court if the local court has a drug treatment court.⁵⁵

In 1968, 35% of the filing fee was transmitted to the judicial retirement system.

In 1983, the local funding unit received the same amount as they had before and the additional fees were sent to the judicial retirement system.⁵⁶

In 1985, the Legislature set the jury fee in the same amount as the filing fee. The fee was sent to the local funding unit. In 1993, the fee was set at \$40.⁵⁷ In 2003, the fee was increased to \$50 and the additional \$10 was sent to the Juror Compensation Reimbursement Fund, *infra*, which was created at the same time.⁵⁸

With the 1985 increase 45% was sent to the judicial retirement system.⁵⁹

In 1988, all civil filing fees were increased by \$2 and the additional revenue went to the Community Dispute Resolution Fund to support alternate dispute resolution programs.⁶⁰

The increases in 1993 funded the State Court Fund, *infra*.⁶¹ Until 1993, a trial fee equal to the filing fee was required to be paid before trial and this was repealed at the same time the State Court Fund was created.⁶²

Table 1

| | 1969 ⁶³ | 1971 ⁶⁴ | 1972 ⁶⁵ | 1973 ⁶⁶ | 1983 ⁶⁷ | 1985 ⁶⁸ | 1988 ⁶⁹ | 1993 ⁷⁰ | 1998 ⁷¹ | 2003 ⁷² | 2016 ⁷³ |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|----------------------------|--------------------|--------------------|
| Under \$100 | \$5 | | | | | | | | | | |
| \$100 or over | \$10 | | | | | | | | | | |
| Under \$500 | | \$5 | \$5 | | | | | | | | |
| \$500 or over | | \$12 | \$12 | | | | | | | | |
| Under \$600 | | | | | \$10 | \$10 | \$12 | \$17 | \$17 | \$25 | \$30 |
| Over \$600 | | | | | \$17 | \$20 | \$22 | \$32 | \$32 | \$45 | \$50 |
| Small Claims over \$1,750 starting in 2000 | | | | | | | | | \$32 | \$65 | \$70 |
| General Civil over \$1,750 | | | | | | | | \$52 | \$52 | \$65 | \$75 |
| \$3,000 or over | | | \$20 | \$20 | \$25 | \$30 | \$32 | | | | |
| \$10,000 or over | | | | | | | | | \$100 | \$150 | \$160 |
| Possession only in summary proceedings | | | | \$12 | \$17 | \$20 | \$22 | \$32 | \$32 | \$45 | \$55 |
| Trial fee | | | | | | Filing fee | Filing fee | \$0 | \$0 | \$0 | \$0 |
| Motion fee | | | | | | | | | \$20 if case over \$10,000 | \$20 on all cases | \$20 on all cases |
| Jury fee | \$10 | \$10 | \$10 | \$10 | \$10 | Filing fee | Filing fee | \$40 | \$40 | \$50 | \$50 |

The 1998 increases went to the Court Equity Fund, *infra*.⁷⁴ A motion fee of \$20 was required if the controversy exceeded \$10,000; \$10 went to the local funding unit and \$10 went to the state court fund.⁷⁵ In 2003, the motion fee was required of motions in all cases.⁷⁶

The 2003 increases went to the Civil Filing Fee Fund, *infra*, which was established at the same time. The Civil Filing Fee Fund distributes the monies to the state court fund, the court equity fund, the judicial technology improvement fund, the community dispute resolution fund, the judicial retirement system, the legislative retirement fund, and to the state general fund. Local units of government and the state received additional money with the increases in the fees. The filing fees were to revert to the prior levels in 2005.⁷⁷

In 2005, the Legislature provided that not less than \$5 shall be used by the district funding unit to fund a drug treatment court if one is planned, established, or operated in that judicial district.⁷⁸

In 2016, additional filing fees were added to fund the electronic filing system, which is being implemented currently.⁷⁹

State Court Administrative Office Funds

Several funds have been established in the State Court Administrative Office over the years to distribute the monies collected in the circuit, probate, and district courts.

State Court Fund

The State Court Fund was established in 1993 for the operational expenses of trial courts and indigent civil legal assistance.⁸⁰ After 2003:

- \$ the first \$1,600,000 plus 76% of the balance of these revenues is for the Court Equity Fund,
- \$ 23% of the balance for indigent civil legal assistance, and
- \$ the remaining 1% for to the state court administrator for oversight, data collection, and court management assistance.

The funds for the state court fund come from the Civil Filing Fee Fund, motion fees, and the justice system fund, minimum costs in misdemeanors.⁸¹

The State Court Fund replaced statutory language added by the bill that created the 36th District Court, which called for the state to gradually assume funding of all trial court operational expenses with full state funding to have been attained by fiscal year 1988-89. The intent of the State Court Fund was to instead promise that the Legislature will fund at least 31.5 percent of all outstate trial court operational expenses for the counties commencing with fiscal year 1993-94.⁸² Previously, only Wayne County and the city of Detroit received funds for the operational expenses of the trial courts.

Court Equity Fund

The court equity fund was created in 1996.⁸³ It receives funds from the state court fund, *supra*, the justice system fund, *infra*, excess court fees from the judicial retirement, and from the state general fund. The court equity fund sends the funds to the county funding units and to the city of Detroit for the operational expenses of the court but not to the cities with third-class district courts.⁸⁴

The bill that created the Court Equity Fund also merged the Recorders Court and the Third Circuit (Wayne County). It also changed the salary tie-bar for the salaries of the judges and created the Trial Court Assessment Commission to study the relative complexity of the various types of cases. The bill also repealed the State Judicial Council. The employees of the

36th District were transferred to Detroit. Wayne County and the city of Detroit received court equity funds to offset the cost. The other 82 counties also received court equity funds.⁸⁵

Justice System Fund

In 2003, in the midst of a severe economic downturn and severe budget strains in local budgets and the state budget, the Justice System Fund was created and funded by the \$40 minimum costs for civil infractions and the minimum costs for misdemeanors and felonies.⁸⁶

The Justice System Fund distributes the monies collected to the funds previously provided for:

- \$ the secondary road patrol and training fund (\$10 for each civil infraction),
- \$ the highway safety fund (at first, 24.7% and now 23.66% of the balance),
- \$ the jail reimbursement program (at first 13%, and now 11.84% of the balance),
- \$ the Michigan justice training fund (at first 13% and now 11.84% of the balance), and
- \$ the legislative retirement system (at first, 1.2% and now 1.1% of the balance).

With the 2003 amendments,⁸⁷ the Justice System Fund also distributed money to new activities:

- \$ the drug treatment court fund that was created at the same time as the Justice System Fund (at first, 2.35% and now, 2.73% of the balance)
- \$ the state forensic laboratory fund (at first, 3.9% and now, 5.35% of the balance)
- \$ the state court fund (at first, 14.3% and now, 12.69% of the balance)
- \$ the court equity fund (at first, 25.5% and now, 24.33% of the balance)
- \$ the state treasurer for monitoring of collection and distribution (at first, 1% and now, .98% of the balance, and
- \$ the state court administrative offices for management assistance and audit (at first, 1% and now, .98% of the balance).

In 2009, the percentages that each entity received were adjusted slightly as noted above and additional recipients were added:⁸⁸

- \$ the sexual assault victims' medical forensic intervention and treatment fund (2.65% of the balance), and
- \$ the children's advocacy center fund (1.85% of the balance)

Civil Filing Fee Fund

In 2003, the Civil Filing Fee Fund was created and receives funds from all filing fees in general civil, small claims, and summary proceedings and then distributes the money according to the following formula.⁸⁹

- (a) To the state court fund created in section 151a (48.5% of the fund balance);

- (b) To the court equity fund created in section 151b (8.2% of the fund balance);
- (c) To the judicial technology improvement fund created in section 175 (11.1% of the fund balance);
- (d) To the community dispute resolution fund created by the community dispute resolution act⁹⁰ (5.2% of the fund balance);
- (e) To the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992⁹¹ (24% of the fund balance);
- (f) To the secretary of the legislative retirement system for deposit with the state treasurer in the retirement fund created by the Michigan legislative retirement system act⁹² (1.5% of the fund balance); and
- (g) To the state general fund (1.5% of the fund balance).

Juror Compensation Fund

In 2003, the juror compensation fund was created.⁹³ It receives its funds from \$10 of the \$50 jury demand fee paid in district courts and from \$25 of the \$85 jury demand fee in circuit court. The juror compensation fund also receives \$15 of the \$45 driver license reinstatement fee paid to reinstate a drivers license after a suspension for failure to appear in court for a traffic misdemeanor or failure to comply with judgment for a civil infraction. The fund can be used to enter into a contract with a jury management software vendor to provide software and ongoing support and maintenance to all state trial courts. The fund also provides for a position in the State Court Administrative Office to provide technical assistance. The balance is sent to the court funding units pursuant to a formula established in the statute.⁹⁴

Drug Treatment Court Fund

In 2003, the drug treatment court fund⁹⁵ was created at the same time as the Justice System Fund and it receives 2.35% of the balance of the funds available after the disbursement to the secondary road patrol. This fund is for the administration and awarding of grants for drug treatment courts throughout the state.

Judicial Technology Fund

The Judicial Technology Fund⁹⁶ was created to develop and support a statewide judicial information system, develop a statewide telecommunications infrastructure to integrate criminal justice information systems, and to pursue technology innovations that will enhance public service and access to local trial courts.

Judicial Compensation

Judicial salaries and retirement plans have been discussed frequently over the last 50 years.

Judicial Salaries

In 1969, the district court judges were paid \$18,000 by the state and the local funding unit could supplement that salary up to \$9,500 per year for a total maximum salary of \$27,500.⁹⁷ In 1971, the state salary increased to \$19,500 and the local funding unit could supplement that salary up to \$12,500 for a total maximum salary of \$32,000 per year.⁹⁸

In 1976, the state salary of a district court judge was set at 90% of the state salary of a circuit judge and the local funding unit could pay an additional \$12,500.⁹⁹ This was passed under the leadership of Judge Don Goodwillie who formed very good relationships with the leadership of the Legislature and was very effective in advocating for the district court.

In 1978, the state salary of a district court judge was set at 90% of the state salary of a circuit judge and the local funding unit could pay an additional amount of up to 60% of the annual salary paid by the state for a Circuit judge.¹⁰⁰

In 1981, when the 36th District Court was created, the state salary of a district court judge was set at 90% of the state salary of a circuit court judge and the local funding unit could pay an additional amount up so that the maximum salary of a district court judge could be up to 88% of the annual salary of a Supreme Court Justice. Court of Appeals judges received 96% of the annual salary of a Supreme Court, circuit court judges could receive up to 92% of the annual salary of a Supreme Court justice, and probate judges, like the district court judges could receive up to 88% of the annual salary of a Supreme Court justice. This was the beginning of the salary tie-bar.

Starting in 1981, the state agreed to pay the local funding unit a salary standardization payment of 20% of the difference between the state salary and the maximum salary allowed provided that the local funding unit paid that much to the judge and the judge's total salary, including cost of living allowances did not exceed 88% of the salary of a Supreme Court Justice.¹⁰¹ The judges who were paid less than that amount received a pay increase as a result.

In 1982, the governor, lieutenant governor, the secretary of state, the attorney general, the legislators, and the judges were asked to give up one week of salary to help the state budget. About 30% of the judges voluntarily gave up one week of salary.¹⁰²

In 1988, the Court of Appeals ruled that longevity was a fringe benefit rather than salary so that a judge could receive the maximum salary plus longevity.¹⁰³

In the 1980s the Judicial Salary Standardization Payment (JSSP) increased gradually and the local funding units were required to pass through to the judges' salary any increase in the JSSP until the judge's total salary was 88% of Supreme Court justice's salary. Eventually,

the state reimbursed the local funding unit 100% of the difference between the state salary and 88% of the Supreme Court justice's salary and so all district court judges in the state were paid the same amount.

In 1988, the Supreme Court salary was set at \$100,000. District court judges received 88% of the salary of the Supreme Court justice, \$88,000. At the time, United States District Court judges received a salary of \$89,500.¹⁰⁴

In 1996, the Legislature changed the salary tie-bar with the Supreme Court for district court judges to 83% of the Supreme Court salary while the salary tie-bar for circuit and probate judges was changed to 85%.¹⁰⁵ Later, in 1996, in the bill that created the family division in the circuit court, the tie-bar for district court judges was changed to 84%.¹⁰⁶ The salary for district court judges was frozen at \$104,507 until the salary of a justice of a supreme court exceeded \$124,413.¹⁰⁷ The district court judges did not receive a pay increase from 1996 until 1998 when 84% of Supreme Court salary exceeded the salary that the district court judges had been receiving in 1997 when the salary tie-bar was 88%.

The State Officers Compensation Commission (SOCC) increased the Supreme Court salary by 13.6% on January 1, 2001, and 2.9% on January 1, 2002. As a result, the salary of the district court judges rose by the same percentages to \$138,272. The Supreme Court has not received a raise since then from SOCC. As a result, the salaries of district court judges were frozen for almost 15 years until October 2016 when the judges were tie-barred to the nonexclusively represented employees classified as executives and administrators.¹⁰⁸

As of the summer of 2018, district court judges receive \$98,120.36 from the state of Michigan and \$45,724 from the local funding unit for a total salary of \$143,844.36.

Retirement

Another long running issue in MDJA has been to enhance the retirement benefits for district court judges. In 1969, district court judges became eligible to join the Judicial Retirement System when the district court was created.¹⁰⁹

The Judicial Retirement Act provided a defined benefit plan:

- \$ If the judge had served 12 years and attained the age of 60, the judge could retire on 50% of the state salary;
- \$ If the judge had served 16 years or had served 25 years, the judge could retire at 60% of the state salary; or
- \$ If the judge was 55 and had served 18 years, the judge could retire at 60% of the state salary.¹¹⁰
- \$ A judge with 8 years of service who was disabled could also draw disability benefits.¹¹¹

In 1980, the judges were allowed to convert \$2,250 of the Judicial Salary Standardization payment (JSSP) to the state pension for the purpose of calculating the benefits.¹¹²

In 1982, the judges were allowed to convert 40% of the JSSP to the state pension for the purpose of calculating the benefits.

- § The judges who made this conversion were required to pay 7% of the state salary plus 40% of the JSSP
- § The judges who did not convert the 40% of the JSSP were required to pay 3.5% of the state salary.¹¹³
- § The judges in the 36th District Court paid 3.5% on their total salary.¹¹⁴

The discrepancy between the pensions of the 36th District Court judges being based on the total salary and the other judges whose pensions were based on the state salary and apportion of the supplement was upheld on challenge in the Michigan Supreme Court.¹¹⁵

In the 1980s, MDJA and the other judicial associations sought to enhance the retirement benefits to provide for:

- § a cost-of-living adjustment of 3% on the first \$20,000,
- § health care benefits, and
- § to allow a judge with 20 years of service to collect 68% of the state salary.

Senator John Engler offered support if the salary tie-bar for judges would be adjusted. The tie-bar for district court judges would have been changed to 85% of the Supreme Court justice's salary. The judges would not agree. In the lame duck Legislature in 1990, the House passed the bill. The Senate amended the bill by providing that the salary tie-bar for district court judges would be reduced to 75% of the Supreme Court salary. The bill was defeated in the House after judges from around the state called their legislators to kill the bill that MDJA and the other judicial associations had worked on for the entire decade.

In 1997, the Judicial Retirement Act and other state retirement acts were changed from the defined benefit plan. All judges who took office after March 31, 1997, were placed in a defined contribution plan, a 401K plan. The state would contribute 4% of the judge's salary and would match up to 3% of the judge's contribution.¹¹⁶ Judges who were in the original plan had the option to give up their rights under the original plan and join the defined contribution plan.

Jurisdiction and Procedural Issues

The criminal and civil jurisdiction of the district court has changed significantly over the past 50 years.

Civil Infractions

On August 1, 1979, most traffic tickets were decriminalized and became civil infractions.¹¹⁷ Prior to August 1979, traffic tickets were misdemeanors and a defendant could request a jury trial and the prosecution had the burden of proof of beyond a reasonable doubt. A defendant could contest a civil infraction by requesting a hearing before a judge or magistrate. The burden of proof was changed to a preponderance of evidence.

Jurisdictional Amounts

In 1969, the district court was not a court of record and the maximum civil jurisdiction was \$3,000. The filing fee for a civil case was \$10 if the amount was over \$100 and \$5 if the amount was less than \$100.¹¹⁸ The court also collected a \$2 judgment fee.¹¹⁹ In criminal cases, the court assessed a \$3 judgment fee.¹²⁰

In 1972, the jurisdictional amount for civil cases was raised to \$10,000¹²¹ and in 1998, it was raised to \$25,000.¹²²

Article 1.I(20) of the 1963 Michigan Constitution provided that a jury “may consist of less than 12 jurors in a court not of record.” In 1972, the constitution was amended to provide that a jury “may consist of less than 12 jurors in prosecutions for misdemeanors punishable by imprisonment for not more than 1 year.” In 1973, after this amendment, the district courts became a court of record.¹²³

In 1968, the small claims jurisdiction was up to \$300.¹²⁴ There has been pressure through the years to increase the jurisdiction of small claims court. The Legislature raised the jurisdictional amount to:

- \$ \$600 in 1979¹²⁵
- \$ \$1,000 in 1985¹²⁶
- \$ \$1,500 in 1986¹²⁷
- \$ \$1,750 in 1991¹²⁸
- \$ \$3,000 in 2000¹²⁹
- \$ \$5,000 in 2012¹³⁰
- \$ \$5,500 in 2015,
- \$ \$6,000 in 2018 and then
- \$ \$6,500 in 2021 and then
- \$ \$7,000 in 2024

Removal of Cases from Circuit Court

In the late 1980s and early 1990s, the circuit courts were sending civil cases to what was referred to as “mediation” but was, in fact, case evaluation by panels of three attorneys. If the attorneys decided that the settlement value was less than the jurisdictional amount of the district courts (\$10,000), the case was then “remanded” to the district court pursuant to MCL 600.641 and MCR 4.003. Typically, the settlement amount was low because liability was an

issue but the damages were still potentially very high. These “remand” cases often took weeks of testimony and many verdicts were returned in excess of \$100,000. They also caused numerous problems in the district courts, which had to set aside several days for a trial despite the daily business of the district courts. This was a problem in several counties but most notably in Wayne and Oakland counties. MDJA worked with the Michigan Judges Association and the Supreme Court to find a solution.

The Supreme Court amended the court rules in 1987 to read “The circuit court may order an action removed . . . only if (a) it appears that the damages sustained, without regard to questions of liability, may be less than the jurisdictional limitation as to the amount in controversy applicable to the district court.”¹³¹

The Supreme Court amended the rule again in 1994 to not allow removal of cases for medical malpractice, products liability, domestic relations, Elliott-Larsen Civil Rights, and federal civil rights claims. The amendment also set up procedures to resolve disputes between courts.¹³²

The removal statute was repealed effective January 1, 1997,¹³³ and MCR 4.003 was repealed effective July 1, 1997. The repeal of this statute and court rule ended the turmoil that had been created between some circuit and district courts. The repeal of the removal rule paved the way for the district court general civil jurisdiction to be increased to \$25,000.

Concurrent Jurisdiction

In 1996, the family division was created in circuit court with probate judges assigned to the family division.¹³⁴ In 2000, many part-time probate court judges became full-time judges and were expected to assist the district courts in their counties.

In 1996, the district courts in Barry, Washtenaw, Berrien, Isabella, and Lake counties were merged with the circuit and probate courts to form countywide trial courts as an experiment to unify all of the courts in a circuit into one trial court. Also, in 1996, the courts in Otsego, Kalkaska, and Crawford counties were merged into the 46th Trial Court. The 46th Trial Court in Otsego, Kalkaska, and Crawford counties reverted back to circuit, probate, and district courts in 2004.¹³⁵

In 2003, Supreme Court Administrative Order 2003-1 allowed plans of concurrent jurisdiction pursuant to MCL 600.401.¹³⁶ As a result, district court judges have been taking on some of the duties and powers of circuit and probate judges in other counties. Some district court judges have been assigned as the chief judge of the consolidated court. These changes fundamentally change the role of the district court and the district court judges.

Changes in Criminal Law

As society changes and the Legislature changes, there have been several changes in the criminal law in the past 50 years that have affected the district court.

Code of Criminal Procedure

In 1981, the Code of Criminal Procedure was updated to delete all references to justices of the peace and the procedures used by the justices of the peace.¹³⁷ This major effort was led by Judge John Hammond of 5th District Court, Jerold Israel (Executive Director of the Michigan Law Revision Commission), and Bruce Timmons, who drafted the bill adopted by the Legislature. This is one of many bills affecting the district court on which Bruce Timmons collaborated with MDJA.

Drunk Driving

In 1969, driving under the influence of liquor was punishable by up to 90 days in jail and a minimum fine of \$50 with a maximum fine of \$100 and the Secretary of State would suspend the person's license.¹³⁸ Driving while visibly impaired was punishable by up to 90 days in jail with a maximum fine of \$100. One was presumed to be driving under the influence of liquor if the breath test was .15% or more and presumed to not be driving while under the influence of intoxicating liquor if the breath test was .05% or less. In between, there was no presumption either way but the breath test could be considered.¹³⁹

Mothers Against Drunk Drivers (MADD) was formed in 1980. MADD pushed for tougher laws and more enforcement of drunk driving laws. Since then, there have been many significant changes to the drunk driving laws.

In 1981, there were major changes made to the drunk driving law:

- \$ Operating (rather than driving) under the influence of liquor or a controlled substance became illegal.
- \$ Operating a vehicle with a blood alcohol level of .10% or more was presumed to be under the influence and was punishable by up to 90 days in jail with a minimum fine of \$100 and a maximum fine of \$500 (the presumption had been .15%)
- \$ After a conviction for OUIL, the court could suspend up to 2 years and grant a restricted license to drive to and from residence and employment, in the course of employment, to and from and alcohol training program.
- \$ Operating with a blood alcohol level of .07 to .10 was presumed visibly impaired and was punishable by up to 90 days in jail and a fine of up to \$300.¹⁴⁰

In 1983, the Legislature made more major changes in the drunk driving laws:

- \$ A new offense of operating with unlawful blood alcohol level of .10% (UBAL) was created.¹⁴¹
- \$ A person was presumed to be operating while visibly impaired if the breath test was .07% or more and presumed to be under the influence of intoxicating liquor if the test result was .10% or more.¹⁴²
- \$ Courts were required to obtain a substance abuse assessment before sentencing.¹⁴³
- \$ After conviction for UBAL or OUIL, the court could order the person's license suspended a minimum of six months and up to two years and could order that a

restricted license be issued permitting the person to drive to and from work, in the course of employment, to and from alcohol or drug education program, and to school.

- § After conviction for OWVI, the court could order the person's license suspended for a minimum of 90 days and up to one year and could order a restricted license.¹⁴⁴
- § Police officers could administer a preliminary breath test.¹⁴⁵
- § Provision for a court order to withdraw blood from someone who refuses a breath test.¹⁴⁶ District court judges and magistrates have been on call 24/7 to sign search warrants since then.

In 1988, the district court judge could require that an ignition interlock device be installed when a restricted license was ordered.¹⁴⁷

In 1991, in order to qualify for a federal grant, the Legislature ordered that a pretrial in drunk driving cases be scheduled within 35 days after the person's arrest and that, unless there were circumstances out of the court's control listed in the statute, the drunk driving cases be adjudicated within 77 days after the person is arrested.¹⁴⁸ The purpose behind this program was to shorten the period between arrest and any sanctions and rehabilitation that might be imposed.

In 1994, operating a motor vehicle by someone less than 21 years of age with a blood alcohol level of .02% or more became punishable by a fine of up to \$250 and community service up to 45 days.¹⁴⁹

In 1999, UBAL, OUIL, and OWVI became punishable by up to 93 days in jail. Drunk driving with a child under the age of 16 became a separate offense with increased penalties. The district court judge could no longer order that a license be suspended and order that a restricted license be issued by the Secretary of State. Instead the Secretary of State suspended a person convicted of drunk driving without a court order and Secretary of State issued restricted licenses.¹⁵⁰ The district court judge no longer had the discretion to determine the length of the suspension or when to issue a restricted license.

In 2003, UBAL was lowered to .08%.¹⁵¹ Michigan was one of the last states in the nation to reduce the level to .08%. If the level was not reduced to .08%, Michigan would have forfeited 10% of its federal funds for highways.

Prior to 2007, three convictions of drunk driving within 10 years was a felony. In 2007, three convictions of drunk driving in a lifetime was a felony.¹⁵²

In 2007, operating a motor vehicle with a blood alcohol level of .17% or more was added.¹⁵³

Circuit Court Judge Bill Schma in Kalamazoo introduced the first drug court in Michigan in 1992. Judge Harvey Hoffman of the 56A District Court started the first sobriety court in Michigan in 1997. These courts have been proven to reduce recidivism. Michigan has become a leader in establishing problem-solving courts. As of January 1, 2018, there are 127 drug/sobriety courts, 25 veterans courts, and 33 mental health courts operating in Michigan.

Driving While License Suspended

In 1969, driving on a suspended license was punishable by a minimum of three days in jail and up to 90 days in jail and driving on a suspended license second offense was punishable by a minimum of five days in jail and up to one year.¹⁵⁴

In 1978, the jail terms were no longer mandatory if the suspension was for failure to answer a citation.¹⁵⁵

In 1992, the penalty for driving on a suspended was changed to up to 90 days in jail and a fine of up to \$100 if the license had been suspended for failure to comply with a judgment or failure to appear in court and up to 90 days in jail and a fine of up to \$500 if the license had been suspended for any other reason. Driving on a suspended license no longer had a mandatory jail term.¹⁵⁶

In 1999, an additional suspension for a like period of time was imposed by the Secretary of State if one was driving on a suspended license if the license had been revoked or pursuant to MCL 257.319a or MCL 257.319b. A 30-day suspension would be imposed on one's drivers license if the suspension was for an indefinite period such as a suspension for failure to appear in court or failure to comply with a judgment or failure to pay a driver responsibility fee.¹⁵⁷

In 2003, the state started imposing a Driver Responsibility Fee (DRF) of \$500 per year for two years on those convicted of Driving While License Suspended. If one did not pay a DRF, his or her license was suspended. The district courts were flooded with people driving on a suspended license because they could not afford paying the DRF and the DRF suspensions piled up. The state has decided to stop collecting the DRF as of October 1, 2018, and allow those who were suspended for failure to pay a DRF, to reinstate their drivers licenses.

Felony Threshold

The district court has jurisdiction over misdemeanors. In 1968, shoplifting offenses and malicious destruction of property were misdemeanors if the value was \$100 or less. If the value was over \$100, the offense would be a felony. In 1998, the Legislature determined that offenses with a value of \$200 or less would be a 93-day misdemeanor, offenses with more than \$200 but less than \$1,000 would be a one-year misdemeanor and offenses with a value of more than \$1,000 would be a felony. In addition, a second offense of retail fraud more than \$200 with a prior retail fraud involving more than \$200 would be a felony. Not surprisingly, the number of misdemeanors in district court increased and the number of felonies decreased.

MDJA Initiatives

Preliminary Examination Reform

Mike Cox became the Attorney General in 2000. He sought to eliminate preliminary examinations because he claimed too many police officers were spending too much time at

preliminary examinations. He argued that the elimination of preliminary examinations would “put more cops on the street.” The elimination of preliminary examinations would have resulted in significantly less work for district court judges and more work for circuit judges. Nevertheless, MDJA strongly opposed this measure because it believed that preliminary examinations perform an important function of screening cases before they are filed in circuit court.

MDJA proposed that a probable cause hearing would be scheduled within 14 days of the arraignment and that a preliminary exam would be scheduled 5-7 days later. This, we argued, would allow sufficient time for the defense attorney to become familiar with the case so that the probable cause conference would be meaningful and allow enough time to subpoena the witnesses if a preliminary examination was necessary. The attorney general would not agree with this compromise although we had the support of the Criminal Law Section of the State Bar. The Michigan Sheriffs Association was concerned that the jails would become more crowded if the preliminary examination were not held within 14 days of arraignment. After extensive negotiations and working with the Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan, and the Michigan Sheriffs Association, the probable cause conference and preliminary exams were instituted according to the schedule MDJA proposed.¹⁵⁸

Driver Responsibility Fee

In 2003, the state was in dire economic straits. The Legislature did not want to raise taxes nor cut spending any more than they did. As a solution, the Legislature created the Driver Responsibility Fee (DRF).¹⁵⁹ Anyone who was convicted of a variety of offenses such as Operating While Intoxicated or Fail to Stop and Identify at the scene of a Property Damage Accident would have to pay a DRF of \$1,000 the first year and \$1,000 the second year in addition to the fines and costs imposed by the court. Anyone convicted of several other offenses such as Driving While License Suspended or Operating While Visibly Impaired had to pay \$500 per year for two years. Anyone convicted of other offenses such as no proof of insurance had to pay \$150 per year for two years. The person would have 12 months to pay the DRF. Failure to pay a DRF resulted in the suspension of one’s drivers license so the person could no longer legally drive to and from work.

District courts soon saw an increase in the number of people whose licenses were suspended for failure to pay the DRF. Recognizing the disaster, district court judges testified before the Legislature whenever a bill was introduced to amend or repeal the DRF.

In 2008, the person was allowed to set up a payment plan to pay the DRF within 24 months rather than 12 months.¹⁶⁰ If the person did not comply with the payment plan, the person’s license was suspended and the person was not eligible for another reinstatement plan.

In 2010, the DRF was held in abeyance while one participated in a sobriety court program.¹⁶¹

In 2011, the DRF for driving with expired license, no proof of insurance, and no insurance under the insurance code was eliminated and people could perform community service

work in lieu of payments if the person's drivers license had been suspended for failure to pay one of the DRF for one of these offenses.¹⁶²

In 2012, a person was given an opportunity to have three payment plans set up. This bill was introduced by Senator Dave Hildenbrand at the request of Judge Don Passenger of the 61st District Court.¹⁶³

In 2014, MDJA worked very closely with Rep. Joe Haveman, the chair of the House Appropriations Committee, to phase out the DRF. We helped him structure the legislation to phase out the DRF by assessing the DRF for only one year for any offenses committed after October 1, 2014, and not assessing the DRF for any offense committed after October 1, 2017. We gave him arguments to overcome concerns among fellow legislators. The bill passed the House 108-0 but the chair of the Senate Appropriations Committee refused to set the bill for a hearing. MDJA helped craft a compromise package to phase out the DRF by 25% in 2015, 25% in 2016, and 25% in 2018, and not have the DRF assessed after October 1, 2019.¹⁶⁴ Rep. Haveman was able to persuade the Senate leadership and the Governor to enact the compromise. Rep. Haveman said this bill would not have passed without the support of MDJA.

Although the DRF was being phased out, 318,000 Michiganders owed \$630,000,000 in driver responsibility fees in 2017. The Speaker of the House, Tom Leonard, proposed a bill to stop assessing the DRF after October 1, 2018, and to stop the collection of the DRF as of the same date to allow those people to obtain a valid license. Speaker Leonard drafted a letter to the governor to persuade him to sign the legislation. The speaker's letter was signed by 216 district court judges. The governor signed the bill to eliminate the DRF as of October 1, 2018.¹⁶⁵

Indigent Defense

In 1972, the United States Supreme Court held that an indigent defendant was entitled to a court-appointed attorney in misdemeanor cases.¹⁶⁶ In 2002, the United States Supreme Court held that an indigent defendant had a right to a court-appointed attorney even if the person had a suspended sentence or might be incarcerated for a probation violation.¹⁶⁷

District court judges over the years used various systems to appoint attorneys. Some courts had a contract with a group of attorneys who agreed to represent indigent defendants for a set price for the year while other courts appointed attorneys on an individual basis and paid per case or per time spent. The court paid the bills out of money provided by the local funding unit. Courts could seek partial reimbursement.¹⁶⁸

In June 2008, a very critical report¹⁶⁹ was published discussing the state of indigent defense in Michigan. The report noted that judges handpicked defense attorneys, lawyers were appointed to cases for which they were unqualified, defenders met clients on the eve of trial and held nonconfidential discussions in public courtroom corridors, attorneys failed to identify obvious conflicts of interest, defenders failed to properly prepare for trials or sentencings, attorneys violated their ethical canons to zealously advocate for clients, there was inadequate compensation for those appointed to defend the accused, and, there was a lack of sufficient time,

training, investigators, experts, and resources to properly prepare a case in the face of a state court system that values the speed.

Various bills were introduced in the Legislature that concerned the Michigan Judges Association (MJA), the Prosecuting Attorneys Association of Michigan (PAAM), and MDJA. MDJA worked with MJA, PAAM, and the Criminal Defense Attorneys of Michigan to collaboratively draft legislation to address the issues raised in the report. That bill¹⁷⁰ established the Michigan Indigent Defense Commission (MIDC), which is today working to dramatically change the delivery of criminal defense services to the indigent. Standards are being established for attorneys who wish to receive court appointments and the MIDC will appoint judges rather than local judges. Judge Tom Boyd of the 55th District Court sits on the commission.

Jail Overcrowding

In 1975, Michigan prisons had about 10,000 prisoners. Since then, the prisons expanded to a point where about 50,000 people were held in prison and county jails were expanded. Some jails were overcrowded and under federal court order to limit the number of inmates.

District courts were unable to sentence misdemeanants to jail because of overcrowding in several counties, especially in Wayne. Prisoners were transported to jails all over the state that would accept prisoners from overcrowded jails.

Courts began to look to alternatives to incarceration. Starting in the 1980s, several courts began to use community service work or work crews as an alternative to incarceration. Judge John Fields of the 5th District Court started a community garden with the community service workers in his court. Community service programs have been established in most counties today.

Improving the Sound and Efficient Administration of Justice

Improving the sound and efficient administration of justice is the second stated goal of the MDJA. The association has done this in a number of ways.

Court Forms

One of the first committees of MDJA was the Rules and Forms Committee. In 1973, district court judges drafted small claims forms and claim and delivery forms for use in district courts.

In 1975, Judge Sandy Elden from Ann Arbor became the Forms Committee chairman. The Committee established plain English, 8 ½" by 11" standard forms for use throughout the state. Although the State Bar objected to the letter-sized forms, the forms were adopted and are in wide use today.¹⁷¹ In the early 1980s, the State Court Administrative Office took over the responsibility of drafting and revising the forms. District court judges participate in work groups to revise the forms.

The Trial Court Services Division of the State Court Administrative Office is now responsible for developing, revising, approving, and distributing court forms. Part of this process includes review and recommendation by the Michigan Court Forms Committee. The Committee is comprised of eight work groups that include representatives from trial court associations, sections of the State Bar of Michigan, and state departments or agencies. The work groups meet annually to discuss requests for new forms and suggestions to revise existing forms received by the Trial Court Services Division.¹⁷²

Court Rules

The Rules Committee worked with the Supreme Court to establish District Court Rules. The District Court Rules were similar to the General Court Rules used in circuit court but there were many differences. In the 1980s, the Supreme Court drafted the Michigan Court Rules replacing the District Court Rules and the General Court Rules. MDJA reviewed each of the proposed rules and made comments to the Supreme Court before their adoption in 1985.

One major change for district court judges in 1985 with the adoption of the Michigan Court Rules was the provision in MCR 6.104(G), which requires that a judicial officer shall be available each day of the year to set bail for every person arrested for the commission of a felony. There was no such provision in the court rules before 1985.

Since the adoption of the General Court Rules, MDJA has reviewed every proposed court rule that would affect the district courts.

The guilty plea rule was a subject of significant work in the late 1980s. Defendants would often attack a prior conviction alleging that the district court judge had not complied with the guilty plea rule and the court of appeals issued several decisions on what was required for a valid guilty plea. MDJA proposed several amendments to the court rule.

Jury Instructions

As early as 1981, district court judges worked with the Standard Jury Instructions Committee to draft plain English jury instructions. Before the Standard Jury Instructions, each judge drafted his or her own instructions. Many of the instructions were based on what the appellate courts had deemed not incorrect although challenged by an aggrieved party. The standard instructions in civil and criminal cases have improved the jury system and made the life of a judge easier.

Encouraging the Highest Level of Judicial Competence

Encouraging among members of the association and the practicing bar, the highest level of judicial and legal competence is the third stated goal of the MDJA. The MDJA meets this goal in several ways.

Seminars

The Michigan Supreme Court provided an educational program to the new judges in December 1968. MDJA started providing educational programs as early as 1971. Until the Michigan Judicial Institute was formed in 1977, MDJA was one of the few sources of education for district court judges.

Each year, MDJA would meet and present educational programs along with the annual business meeting as required by statute.¹⁷³ During the 1970s and 1980s, every 3rd year the district court judges would meet at the Grand Hotel on Mackinac Island or Grand Traverse Resort in Acme. Some of the annual meetings were held in conjunction with the circuit court judges and the probate court judges. The annual meeting in 1980 was scheduled to be held in northern Michigan but due to financial difficulties we met for one day at Long's Convention Center in Lansing. The Michigan Judicial Institute did not plan the educational sessions.

In 1977, the Michigan Judicial Institute was created and it provides seminars and other resources for district court judges and the court staff of the district court. Several district court judges have served as faculty of the Michigan Judicial Institute at many programs including the New Judges School held every other year.

Starting in 2003, MDJA started holding annual meetings without financial support from the Supreme Court. This was the year that the state budget was very strained and new fees were added to keep the courts and state government functioning.

The Michigan Judicial Institute now invites circuit, probate, and district court judges to attend seminars in most years in addition to presenting other programs during the year for judges and court staff.

Website and Discussion Groups

In the mid-1990s, MDJA created a website but it was not used much.

In 1997, Judge Don Passenger, of the 61st District Court, assisted Technology Chair Kirk Tabbey, of the 14A District Court, with the redesign and enhancement of the website as well as the addition of a listserv for MDJA member communication.

In 2011, MDJA replaced the listserv with a Google discussion group for district court judges to ask questions of each other about difficulties that a judge was facing in his or her court. Several judges typically respond with suggestions within 24 hours of a request for guidance.

In 2011, the Legislative Committee started using a discussion group on the website to share analyses of pending bills and to archive the analyses and comments.

In 2018, Judge Kirk Tabbey and Judge Mike Carpenter of the 75th District Court are recreating the website with multiple message boards, brief banks, resource links, membership

directory, MDJA program & merchandise vendors, and an active, auto-event calendar for member events, Board tasks and auto-email reminders.

Benchmarks

MDJA publishes a newsletter with items of interest to the membership to keep them abreast of what is happening statewide in the courts and in the Legislature.

Conclusion

Most cases in the court system are handled by the district court. This is truly the people's court. As Tom Downs and Leslie Butler pointed out in the 1968 *Michigan Bar Journal* article, when experience showed the need to amend the law establishing district courts, the Legislature has made changes. The framers of the District Court Act could not have imagined the new technologies that we have available today and demands on the judiciary, just as we cannot imagine the technological developments and changes over the next 50 years. Our society has changed and the demands on the district courts have increased.

In the first 50 years the district court judges have worked to improve the court system and the communities in the state of Michigan with high levels of professionalism. The need for wise and fair judges remains the same today as it did in 1969. We look forward to the next 50 years.

Presidents of the Michigan District Court Judges Association

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|------|---------------------------------------|
| 1969 | Judge Alice Gilbert, Temporary Chair |
| 1970 | Judge Alice Gilbert |
| 1971 | Judge Fred Mather |
| 1972 | Judge Gordy Havey |
| 1973 | Judge Robert Payant |
| 1974 | Judge James Mies |
| 1975 | Judge Mike Hand |
| 1976 | Judge Don Goodwillie |
| 1977 | Judge Woody Yared |
| 1978 | Judge Al Horrigan |
| 1979 | Judge Lysle Hall |
| 1980 | Judge Dean Shipman |
| 1981 | Judge James McCann |
| 1982 | Judge S.J. Elden |
| 1983 | Judge Donald E. James |
| 1984 | Judge John T. Hammond |
| 1985 | Judge Michael Merritt |
| 1986 | Judge William Cannon |
| 1987 | Judge Roger LaRose |
| 1988 | Judge Donald Neitzel |
| 1989 | Judge William Kelly |
| 1990 | Judge Kenneth Post |
| 1991 | Judge Theresa Doss |
| 1992 | Judge Michael Batchik |
| 1993 | Judge Peter O'Connell |
| 1994 | Judge Patrick Bowler |
| 1995 | Judge Stephen C. Cooper |
| 1996 | Judge Carolyn A. Archbold |
| 1997 | Judge Jeanette O'Banner-Owens |
| 1998 | Judge William Runco |
| 1999 | Judge Sara J. Smolenski |
| 2000 | Judge James M. Collins |
| 2001 | Judge Leo Bowman |
| 2002 | Judge Ramona M. Roberts |
| 2003 | Judge Richard Ball |
| 2004 | Judge Tina Brooks Green |
| 2005 | Judge Quinn Benson |
| 2006 | Judge Phyllis McMillen |
| 2007 | Judge Kirk W. Tabbey |
| 2008 | Judge Donna R. Milhouse |
| 2009 | Judge Susan Moiseev |
| 2010 | Judge Kathleen J. McCann |
| 2011 | Judge Terry Clark |
| 2012 | Judge Donald Passenger |
| 2013 | Judge Ronald Lowe |
| 2014 | Judge Brian Oakley |
| 2015 | Judge Richard Hammer |
| 2016 | Judge Katherine Hansen/Judge Tom Boyd |
| 2017 | Judge Thomas Boyd |
| 2018 | Judge Shelia R. Johnson |



Judge William G. Kelly has served as the 62B District Court Judge since January 1, 1979. He succeeded his father, Kentwood Municipal Judge Joseph Kelly who served 1971-1979. Judge Kelly served as the president of the Michigan District Court Judges Association (MDJA) in 1989 and has served on several committees of the MDJA.

Acknowledgment: I want to thank Lynn Seaks, Court Relations Program Coordinator, Michigan Supreme Court for her assistance in researching the public acts that changed the laws affecting the district courts.

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 3. Author's recollection of system in place in 1979 in the 62B District Court.
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 11. *"A dissertation, description, account, statement, report, expose, summary, delineation, vignette, monograph and chronicle of the first 20 years of the recorded (and sometime unrecorded) epic history of the Michigan District Judges Association"* Judge S. J. "Sandy" Elden
 12. *"A dissertation, description, account, statement, report, expose, summary, delineation, vignette, monograph and chronicle of the first 20 years of the recorded (and sometime unrecorded) epic history of the Michigan District Judges Association"* Judge S. J. "Sandy" Elden
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 39. MCL 257.321a; 1968 PA 332
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 41. MCL 257.321a; 1987 PA 232
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 43. MCL 257.320e; 1982 PA 310
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 45. MCL 257.320e; 1991 PA 98
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 55. MCL 600.8371; 2005 PA 151
 56. MCL 600.5756 and MCL 600.8371; 1982 PA 510 and 1982 PA 511
 57. MCL 600.8371; 1993 PA 189
 58. MCL 600.151e; 2002 PA 742
 59. MCL 600.8371; 1984 PA 278
 60. MCL 600.8371; 1988 PA 310
 61. MCL 600.151a; 1993 PA 189
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 63. MCL 600.8371; 1968 PA 154
 64. MCL 600.8371; 1970 PA 248
 65. MCL 600.8371; 1971 PA 202
 66. MCL 600.5756; 1972 PA 120
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