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January 27, 2009

To the 2009 Legislature:

I respectfully submit for your consideration the Governor's FY 2010-11 budget proposals for the judicial branch agencies, including the Supreme Court, the Court of Appeals, the Trial Courts, the Legal Professions Boards, and the Board of Public Defense. The Governor respects the separation of powers and the desire of constitutional officers and officials in the judicial and legislative branches to independently present their budget requests directly to the legislature without specific recommendations for the Governor. However, since the Governor is required by law to submit a balanced budget to the legislature, it is necessary to identify funding for those offices as part of preparing a complete budget.

The Governor's general recommendations for the judicial and legislative branches and other constitutional officers reflect his concern with the magnitude of the projected budget shortfall and the desire to protect core government functions. As with the executive branch, the Governor suggests that these offices and institutions individually redesign their operations to increase efficiencies while minimizing the disruption of public services as much as possible.

For the Supreme Court, Court of Appeals, Trial Courts, and the Board of Public Defense, the Governor recommends a general 5% reduction in appropriations for the FY 2010-11 biennium. For the Trial Courts, the Governor also recommends \$5.586 million for increased costs for mandated services. The Legal Profession Boards are fully funded by fees collected under court rules, so no further actions are required on their budgets. The Governor makes no other recommendation regarding specific initiatives put forward by these agencies.

Sincerely,

A handwritten signature in cursive script that reads "Tom J. Hanson".

Tom J. Hanson  
Commissioner

## Agency Purpose

The Minnesota's trial courts resolve citizens' criminal cases and civil disputes.

- ◆ **Mission** – To provide justice through a system that assures equal access for the fair, competent, and timely resolution of cases and controversies.
- ◆ **Vision** – The general public and those who use the court system will refer to it as accessible, fair, consistent, responsive, free of discrimination, independent, and well managed.

## Core Functions

The trial court has original statewide jurisdiction in all civil and criminal actions within district boundaries. There are ten judicial districts, and 289 district court judges. A family court division, juvenile court division, probate division, conciliation court division, and a traffic and ordinance violations bureau exist in the district court.

In support of these core functions, the trial courts are implementing the following service strategies:

- ◆ Set case processing and case management standards, and institute monitoring programs for exceptions to ensure timely disposition of cases.
- ◆ Develop programs to allow litigants meaningful access to the court process, e.g., court interpreter programs, free legal services for the poor, and self-help programs for persons who choose to guide their own litigation.
- ◆ Explore ways to use technology to improve and expedite the work of the courts, including making justice more consumer oriented.
- ◆ Develop programs and technologies to provide judges the critical information needed to make timely and sound case and policy decisions.
- ◆ Delegate legal research and where possible draft decision writing to law clerks, freeing judges to spend more time hearing cases or directing the case dispositional activities.
- ◆ Review and evaluate court practices and policies to identify the need for systemic improvement through the Judicial Council and its committees.
- ◆ Explore greater integration and coordination with other justice and social service agencies.
- ◆ Develop an adequate and stable funding base, and develop a long-term allocation formula to equitably distribute state funding among the ten judicial districts.

## Operations

With more than two million cases filed each year, the work of the trial courts has a substantial impact on Minnesotans.

Judges are assisted in their adjudicative work by law clerks (who perform legal research) and court reporters (who record trial proceedings). Court administrative staff at the county and district level manage scheduling, case flow, finance, personnel, and juries. Judicial District Administrators and staff assist the Chief Judge in each district in carrying out his/her responsibility as the administrative head of all courts within the district.

## At A Glance

- ◆ Each year, there are more than two million cases filed in Minnesota's trial courts.
- ◆ Trial court judges in Minnesota are among the hardest working in the country. They handle an average of 49% more cases each than do judges in states with comparable court systems.
- ◆ Caseloads continue to increase while time per case is being cut.
- ◆ The judiciary has completed a massive transformation, moving from a county-funded to state-funded system. As of FY 2006 all trial courts were state funded.
- ◆ The trial courts have fully implemented in 2008 its new Minnesota Court Information System (MNCIS) technology application.
- ◆ The judicial branch operates in a constantly changing environment.
  - ⇒ Laws, case types, and legal sanctions change annually.
  - ⇒ Caseload volume is determined by other branches and levels of government.
- ◆ The Minnesota courts regularly review their effectiveness by monitoring:
  - ⇒ case filing trends;
  - ⇒ case clearance rates; and
  - ⇒ elapsed case time from filing to disposition.

### Key Goals

The Trial Courts Court conducts its administrative functions in support of the following three strategic priority areas:

- ◆ **Access to Justice** – A justice system that is open, affordable, understandable, and provides appropriate levels of service to all users.
- ◆ **Administering Justice for More Effective Results** – Adopting approaches and processes for the resolution of cases that enhance the outcomes for individual participants and the public.
- ◆ **Public Trust Accountability and Impartiality** – A justice system that engenders public trust and confidence through impartial decision-making and accountability for the use of public resources.

### Key Measures

To further the three goals contained in the branch's strategic plan – Access to Justice; Administering Justice for More Effective Results; and Public Trust Accountability and Impartiality – the strategic plan outlines future priorities. Each of these specific priorities addresses challenges facing the court system by targeting judicial branch resources in a focused manner on achievable and measurable strategies. Implementation of these priorities will take place over the life of the strategic plan with specific performance measures to evaluate their success.

[http://www.mncourts.gov/documents/0/Public/Court\\_Administration/Strategic\\_Plan\\_for\\_Minnesota\\_Courts.pdf](http://www.mncourts.gov/documents/0/Public/Court_Administration/Strategic_Plan_for_Minnesota_Courts.pdf)

### Budget

Of the funding for the trial courts, over 99% is from general fund direct appropriations. Federal (and other) grants and Guardian ad Litem reimbursements represent a very small source of funding.

#### Contact

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Dollars in Thousands

	Current		Governor Recomm.		Biennium 2010-11
	FY2008	FY2009	FY2010	FY2011	
<b><u>Direct Appropriations by Fund</u></b>					
<b>General</b>					
Current Appropriation	246,077	252,116	252,116	252,116	504,232
<b>Recommended</b>	<b>246,077</b>	<b>252,116</b>	<b>241,340</b>	<b>243,266</b>	<b>484,606</b>
Change		0	(10,776)	(8,850)	(19,626)
% Biennial Change from 2008-09					-2.7%
<b><u>Expenditures by Fund</u></b>					
<b>Carry Forward</b>					
Miscellaneous Special Revenue	117	0	0	0	0
<b>Direct Appropriations</b>					
General	239,913	258,280	241,340	243,266	484,606
<b>Statutory Appropriations</b>					
General	600	1,369	1,249	1,150	2,399
Miscellaneous Special Revenue	272	374	340	338	678
Federal	982	1,014	990	990	1,980
Miscellaneous Agency	1,173	8,021	16,020	16,020	32,040
Gift	35	46	0	0	0
<b>Total</b>	<b>243,092</b>	<b>269,104</b>	<b>259,939</b>	<b>261,764</b>	<b>521,703</b>
<b><u>Expenditures by Category</u></b>					
Total Compensation	204,120	215,755	203,385	203,385	406,770
Other Operating Expenses	37,406	44,932	40,224	42,049	82,273
Payments To Individuals	2	6	6	6	12
Local Assistance	412	611	524	524	1,048
Other Financial Transactions	1,152	7,800	15,800	15,800	31,600
<b>Total</b>	<b>243,092</b>	<b>269,104</b>	<b>259,939</b>	<b>261,764</b>	<b>521,703</b>
<b><u>Expenditures by Program</u></b>					
Trial Courts	243,092	269,104	259,939	261,764	521,703
<b>Total</b>	<b>243,092</b>	<b>269,104</b>	<b>259,939</b>	<b>261,764</b>	<b>521,703</b>
<b>Full-Time Equivalent (FTE)</b>	<b>2,607.1</b>	<b>2,743.0</b>	<b>2,485.3</b>	<b>2,375.1</b>	

TRIAL COURTS

Change Summary

<i>Dollars in Thousands</i>				
	FY2009	Governor's Recomm.		Biennium
		FY2010	FY2011	2010-11
<b>Fund: GENERAL</b>				
FY 2009 Appropriations	252,116	252,116	252,116	504,232
Subtotal - Forecast Base	252,116	252,116	252,116	504,232
<b>Change Items</b>				
Mandated Services (Gov)	0	1,830	3,756	5,586
Operating Budget Reduction	0	(12,606)	(12,606)	(25,212)
<b>Total Governor's Recommendations</b>	<b>252,116</b>	<b>241,340</b>	<b>243,266</b>	<b>484,606</b>
<b>Fund: GENERAL</b>				
Planned Statutory Spending	1,369	1,249	1,150	2,399
Total Governor's Recommendations	1,369	1,249	1,150	2,399
<b>Fund: MISCELLANEOUS SPECIAL REVENUE</b>				
Planned Statutory Spending	374	340	338	678
Total Governor's Recommendations	374	340	338	678
<b>Fund: FEDERAL</b>				
Planned Statutory Spending	1,014	990	990	1,980
Total Governor's Recommendations	1,014	990	990	1,980
<b>Fund: MISCELLANEOUS AGENCY</b>				
Planned Statutory Spending	8,021	16,020	16,020	32,040
Total Governor's Recommendations	8,021	16,020	16,020	32,040
<b>Fund: GIFT</b>				
Planned Statutory Spending	46	0	0	0
Total Governor's Recommendations	46	0	0	0

## TRIAL COURTS

### Change Item: Mandated Services

Fiscal Impact (\$000s)	FY 2010	FY 2011	FY 2012	FY 2013
General Fund				
Expenditures	\$1,830	\$3,756	\$3,756	\$3,756
Revenues	0	0	0	0
Other Fund				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact	\$1,830	\$3,756	\$3,756	\$3,756

### Recommendation

The Governor recommends \$1.830 million in FY 2010 and \$3.756 million in FY 2011 for mandated services in the courts.

### Background

The Minnesota Constitution, federal and state laws, and Minnesota Court Rules mandate that certain services be provided to individuals in the court system. These services are generally referred to as "mandated services" and include Psychological Services, Interpreter Services, In Forma Pauperis, Guardian Ad Litem and Jury Services.

#### Psychological Services:

M.S. 480.182 provides that the courts will pay the court related costs of examinations under Rule 20 of the Criminal Rules of Procedure and under M.S. Chapter 253B, the civil commitments, including commitments of persons who are mentally ill and dangerous, persons with sexual psychopathic personalities, and sexually dangerous persons. Each court in counties throughout the state requires the services of licensed psychologists, licensed psychiatrists, and licensed medical doctors for these cases. For the past several years the courts have seen substantially increasing costs for psychological examination services. A large part of the increase is due to escalating costs for sexually dangerous person and sexually psychopathic personality examinations and more recent changes in this area of the law. Expenditures for psychological services are expected to increase annually by 11%. The Judicial Branch has moved from individual county to state oversight of this program. Several cost containment measures have been implemented. Initiatives include a statewide payment policy which caps the hourly rate paid for psychological examinations, statewide contracts for services, hiring employee examiners, creation of a roster to ensure quality of the services provided to the court as well as other business practice improvements to conduct business as efficiently as possible while containing costs. Still significant cost increases are expected in FY 2010-11. The biennial recommendation relating to psychological services is \$1.239 million.

#### Interpreter Services:

Both federal and state law mandate that courts provide interpreter services for individuals who are "disabled in communication" (Minnesota Human Rights Act (M.S. § 363.03); Americans with Disabilities Act; Rule 8 of the Minnesota District Court General Rules of Practice; M.S. § 611.31-34) to ensure that they are provided equal access to the courts. This includes both deaf/hard of hearing and non-English speaking persons. The courts have faced an average annual court interpreter expenditure increase of 6% per year since FY 2003. The increasing trend is expected to continue at a rate of 5% each year of the new biennium. The increase in interpreter need has paralleled the increase in non-English speaking persons in Minnesota during the same time period. For example, pursuant to statistics provided by the U.S. Department of Homeland Security and Immigration and Naturalization Services, more immigrants arrived in Minnesota by year end 2006 than in any of the previous 25 years. In that year the number of immigrants coming to Minnesota increased by 18,254. In 2007 another 13,814 immigrants made Minnesota their home. As the non-English speaking population increases, it is anticipated that more individuals appearing in courts across the state will have interpreter needs. The biennial recommendation relating to interpreter services is \$653,000.

#### In Forma Pauperis:

M.S. 563.01 provides that persons who are financially unable to pay the fees and costs related to a non-criminal court case may proceed in forma pauperis (without cost) upon approval by the court. The cost of the service fees, civil transcripts, witness fees, publication costs, courtroom visitors, guardians, substitute decision makers, and guardian background checks needed in these cases is borne by the court system. Expenditures in this budget

have also increased over the last biennium and are expected to continue given the economic downturn and increase in unemployment and poverty. The biennial recommendation relating to in forma pauperis services is \$161,000.

**Guardian Ad Litem:**

Federal and state laws require the appointment of a guardian ad litem in every judicial proceeding involving an abused or neglected child. State law also provides for the permissive appointment of a guardian ad litem in every family court proceeding where the judicial officer has concerns about the child's welfare. The Judicial Branch Guardian Ad Litem (GAL) program has made great strides in making improvements to the GAL system since state funding began in 2001. Current efforts are aimed at improving the qualifications, training, and preparation of GALs. It is becoming increasingly challenging for the program budget to keep pace with the need for guardian ad litem services for all cases. There was growth of 11.6% (789 cases) in GAL appointments across a variety of case types during the last biennium. This includes moderate increases in abuse and neglect and termination of parental rights cases as well as significant increases in mandatory as well as permissive GAL appointments in custody, dissolution, domestic abuse and paternity cases. The biennial recommendation relating to guardian ad litem services is \$3.533 million.

**Jury Services:**

In response to the budget cut in FY 2009, the juror per diem was cut from \$20.00 to \$10.00, which has currently mitigated cost increases in the jury program. No funding increase in the jury program is recommended for FY 2010-11.

**Relationship to Base Budget**

Federal law, Minnesota statutes, Minnesota court rules, and constitutional due process requirements mandate the provision of interpreters and guardians ad litem, psychological examinations and IFP services. Based on historical increases, caseload increases and demographic projections, a base budget increase is recommended for four out of the five mandated services areas. In addition, due to a lack of financial flexibility caused by base budget cuts in FY 2004-05, budget shortfalls in FY 2006-07 and FY 2008-09, each of these budgets is experiencing a structural deficit. A portion of the budget request is to address this deficit.

This request represents a 1.1% increase to the Trial Court biennial base budget.

**Key Goals and Measures**

The key measure for the Psychological Services change level request will be the number of psychological examinations performed and in particular, the number of the most complex civil commitment cases (Sexually Dangerous Persons/Sexually Psychopathic Personality) filed. This will be reflected primarily in the total statewide number of cases filed and examinations ordered by the courts.

The key measure for the Interpreter change level request will be the number of deaf and hard of hearing and non-English speaking persons for whom interpreter services are provided. This will be reflected primarily in the total statewide number of requests for court interpreter services and the number of courtroom events for each case where interpreter services are required.

The key measure for the In forma Pauperis change level request will be the number of persons who are granted IFP status. This will be reflected primarily in the total statewide number of service fees, civil transcripts, witness fees, publication costs, courtroom visitors, guardians, substitute decision makers, and guardian background checks paid for from court funds.

The key measure for the Guardian Ad Litem change level request will be the number of cases and children served as well as the number of hours the GAL is required to spend per case. This will be reflected primarily in the total statewide number of child protection and termination of parental rights cases filed in the courts as well as in the number of family cases where GAL appointments are ordered.

The key measure for jury change level request will be the number of jury trials scheduled across the state and the type of jury trials (civil or criminal) requested; as well as the number of summoned jurors who must report to courthouses for jury service and those that are selected and sworn as jurors on a case. Judicial Council policy on jury management is in place and includes "Key Results and Measures" for monitoring the efficient and effective use of jurors as well as juror satisfaction and fairness and equity for citizens.

### **Alternatives Considered**

Data on all four mandated services programs are continually being monitored and analyzed in order to identify program efficiencies and cost-savings strategies. Strategies that are currently being contemplated or utilized include:

- ◆ Development of a web-based invoicing system for interpreter and psychological examination programs aimed at providing more detailed financial information about each service area, e.g. cost per psychological examination, examiner's hourly rates, travel costs.
- ◆ Implementation of statewide hourly rate and travel policies for psychologists and psychiatrists and other cost containment strategies including hiring staff positions and regional and centralized Request for Proposal (RFP) contracting strategies.
- ◆ Identification and implementation of best practices and other measures to help contain costs.
- ◆ Use of telephone interpreting where feasible and appropriate.
- ◆ Provision of quality training aimed at raising skill levels for guardians ad litem
- ◆ Continuous recruitment of interpreters, especially in the rural area.

However, even with implementation of these strategies, increased caseloads and significant budget pressures will continue in the mandated services area. No additional significant reductions or efficiencies are possible without risking violation of federal, state, or constitutional due process requirements as well as federal and state laws.

**Statutory Change:** Not Applicable.

## TRIAL COURTS

Change Item: Operating Budget Reduction

Fiscal Impact (\$000s)	FY 2010	FY 2011	FY 2012	FY 2013
General Fund				
Expenditures	\$(12,606)	\$(12,606)	\$(12,606)	\$(12,606)
Revenues	0	0	0	0
Other Fund				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact	\$(12,606)	\$(12,606)	\$(12,606)	\$(12,606)

### Recommendation

The Governor recommends a 5% reduction in the agency's base budget.

### Background

The Governor respects the separation of powers and the desire of officials in the judicial and legislative branches and other constitutional officers to independently present their budget requests directly to the legislature without specific recommendations from the Governor. However, since the Governor is required by law to submit a balanced budget to the legislature, it is necessary to identify funding for those offices as part of preparing a complete and balanced budget.

The Governor's general recommendations for the judicial and legislative branches and other constitutional officers reflect his concern with the magnitude of the projected budget shortfall and the desire to protect core government functions. As with the executive branch, the Governor suggests that these offices and institutions individually redesign their operations to increase efficiencies while minimizing the disruption to public services as much as possible.

### Relationship to Base Budget

This reduction represents 5% of the base funding for the FY 2010-11 biennium.

**Statutory Change:** Not Applicable

TRIAL COURTS

Agency Revenue Summary

*Dollars in Thousands*

	Actual FY2008	Budgeted FY2009	Governor's Recomm. FY2010   FY2011		Biennium 2010-11
<b><u>Non Dedicated Revenue:</u></b>					
<b>Other Revenues:</b>					
General	28,499	27,841	27,850	27,850	55,700
<b>Other Sources:</b>					
General	58	0	0	0	0
<b>Total Non-Dedicated Receipts</b>	<b>28,557</b>	<b>27,841</b>	<b>27,850</b>	<b>27,850</b>	<b>55,700</b>
<b><u>Dedicated Receipts:</u></b>					
<b>Departmental Earnings:</b>					
Miscellaneous Special Revenue	27	33	33	33	66
<b>Grants:</b>					
Federal	982	990	990	990	1,980
Gift	15	0	0	0	0
<b>Other Revenues:</b>					
General	620	585	585	585	1,170
Miscellaneous Special Revenue	106	150	150	150	300
Miscellaneous Agency	5,101	11,977	16,000	16,000	32,000
Gift	44	0	0	0	0
<b>Other Sources:</b>					
Miscellaneous Agency	19	20	20	20	40
<b>Total Dedicated Receipts</b>	<b>6,914</b>	<b>13,755</b>	<b>17,778</b>	<b>17,778</b>	<b>35,556</b>
<b>Agency Total Revenue</b>	<b>35,471</b>	<b>41,596</b>	<b>45,628</b>	<b>45,628</b>	<b>91,256</b>



THE SUPREME COURT OF MINNESOTA  
MINNESOTA JUDICIAL CENTER  
25 REV. DR. MARTIN LUTHER KING JR. BLVD.  
SAINT PAUL, MINNESOTA 55155

CHAMBERS OF  
ERIC J. MAGNUSON  
CHIEF JUSTICE

(651) 296-3380

January 20, 2009

To the Honorable Tim Pawlenty and  
Members of the 2009 Legislature:

On behalf of the hundreds of thousands of citizens who come before the Minnesota courts and the 315 judges and 2900 employees of the Judicial Branch, I transmit the FY10-11 budget request for the Minnesota Judicial Branch. I am also providing information on the Judicial Branch mission, services, transformational initiatives now underway, and financial challenges that drive our funding needs.

The Minnesota judiciary is an open door for justice. Our workload is dictated by the needs of citizens and businesses for redress, the needs of children and vulnerable adults for protection, and the policies and practices of law enforcement and prosecutors enforcing state and local laws. The Judicial Branch is unable turn away those who enter the courthouse to seek our services. Unlike state agencies, the Judicial Branch has no discretionary services. The court system adjudicates approximately two million cases brought to it by the citizens of the state on an annual basis.

Article 8, section 1 of the Minnesota Constitution provides that the object of government is to ensure the security, benefit and protection of the people. Government fulfills that obligation by passing and enforcing laws. Without adequate funding, the courts cannot perform their vital role in that process.

The Judicial Council and I want to join with the Governor and Legislature in finding collaborative solutions to stabilize our Judicial Branch budget and provide the citizens of this state with the level of services guaranteed by the Minnesota Constitution and state laws. However, I also need to clearly communicate our current dilemma. We now find ourselves at a tipping point where action is needed to avoid major service disruptions in the next biennium that will seriously jeopardize the justice function.

### **FY10-11 Biennial Budget Request**

Our FY10-11 budget request seeks only to preserve core services and fund increased costs that are unavoidable. It is not a request for service expansion – rather, it is a request to maintain basic judicial operations that are constitutionally and statutorily required.

In addition to the FY10-11 base budget for the Supreme Court, the Court of Appeals, and the District Courts, I present five change requests addressing basic, non-discretionary needs of the Minnesota Judicial Branch for the next biennium. This includes an increase of \$43,035,000 to court operations, which represents a 7.31% increase to our biennial base, with an additional \$6,170,000 requested on behalf of our criminal justice partners and \$4,000,000 for civil legal services:

- \$29,879,000 in projected salary and insurance increases to maintain core justice operations by funding current staffing levels to handle the ever increasing caseloads in our courts. This money will go only to pay for current staff which is 9% short of our need. We are not asking for the restoration of positions lost or any new positions, and are not seeking compensation increases for judges or new judgeships. These estimates are based on potential negotiated settlements;
- \$5,586,000 for growth in mandated services: interpreters, psychological services, guardians ad litem, jury, and in forma pauperis costs which we are required by law to fund. We have no option of not paying these costs;
- \$5,651,000 to pursue strategic technology initiatives needed to transform operations and services provided by the branch. Without this investment in the future, we cannot realize our goals of increased efficiency and productivity;
- \$8,089,000 to continue funding for 37 existing problem-solving courts in the state, with investments included for related public partners costs (\$6,170,000 listed above). These courts represent the kind of creative and forward thinking solutions that, in the long run, result in a more highly functioning and effective justice system; and
- \$4,000,000 for Civil Legal Services for the poor. This is money that does not go to the Judicial Branch but which is still included in our request on a pass-through basis.

### **Transforming the Judicial Branch**

The mission of the Judicial Branch is to provide equal access for the fair and timely resolution of cases and controversies. The Minnesota Judicial Branch is not a state agency – the Minnesota Constitution requires justice to be provided in all cases promptly and without delay.

The Minnesota judiciary recently completed its transformation from a confederation of 87 county-funded trial courts to a unified, state-funded branch of state government. The Judicial Council, a single statewide policy-making entity, has replaced the various policy groups associated with the prior court structure. These changes present a tremendous opportunity for the judicial branch to more equitably, efficiently, and effectively serve the citizens of Minnesota.

To address the historic disparity in county funding of trial courts, we've embarked on a long-term effort to equalize resources within our ten judicial districts. It is imperative that citizens of this state have access to similar levels of judicial services regardless of where they live to give meaning to our belief in equal justice under law. Although we have recently achieved an equitable distribution of resources among the ten districts, unfortunately these districts are now equally underfunded due to current budget constraints.

In recognition of the bleak economic outlook and increased demand for scarce state resources, this year we established an Access and Service Delivery Committee (ASD), charged with the responsibility to develop options for restructuring judicial delivery systems, redesigning business processes, expanding the use of technology, and prioritizing functions to provide appropriate levels of access and services at the lowest cost. These transformational goals include:

- Workflow re-engineering through technology enhancements aimed at improving services while cutting labor costs. This includes optimizing our case management system (MNCIS), implemented statewide in April, with web and voice payment options, the ability to process e-citations from local law enforcement agencies, automatic assessment of court fines, and electronically sending delinquent debt to a private collection agency.
- Legislative and court policy reforms, including implementing recommendations from the Non-Felony Enforcement Advisory Commission re-ranking some offenses to reduce workloads, expanding the number of payable offenses, and transferring enforcement of administrative regulations to other government entities to reduce the number of violations that require court appearances.
- Addressing structural and governance issues by administratively consolidating judicial districts or reducing their number through redistricting, expanding the use of less expensive subordinate judicial officers where possible, and centralizing service delivery through ITV to achieve greater efficiencies and effectiveness.

### **Challenges Facing Judicial Performance**

Our courts have made enormous strides in recent times to improve the delivery of prompt, affordable, fair and effective results to a society that relies heavily on its legal system. Minnesota judges carry average caseloads that are 49% higher than in comparable states. Minnesota courts are trusted by the business community and the public – the National Chamber of Commerce survey ranks Minnesota in the top ten states for competence and fairness and a 2007 Minnesota Public Trust and Confidence Survey reflects that 80% of the public has confidence in the Minnesota courts.

We have done all of these things despite severe budget constraints through the innovation and industry of our judges and staff.

### **Current Cost Reductions and Efficiencies**

Funding for all trial court operations became the sole responsibility of the state in 2005 when the transition from county to state funding was complete. During this transition, the Judicial Branch has experienced little financial flexibility because of base budget cuts and underfunding in FY04-05 (\$23 million), insufficient funding in FY06-07, and additional base budget reductions and underfunding in the current biennium (\$19 million).

There are no easy reductions left for us to make. Inadequate funding has already forced painful reductions in staff levels and service delivery. We already:

- Operate 9% short-staffed.
- Have instituted layoffs, voluntary separation programs, leaves without pay, and a hiring freeze.
- Hold open judge vacancies.
- Closed public counters a half day per week in the 3<sup>rd</sup>, 4<sup>th</sup>, and 10<sup>th</sup> judicial districts and permanently closed a satellite court in Washington County.
- Terminated the 4<sup>th</sup> Judicial District arbitration services, court supervised visitation services, and reduced staffing at the domestic abuse service center.
- Reduced juror per diem pay from \$20 to \$10.
- Cut funding for drug courts, retired judge services, and mandated services.
- Reduced operating costs to the lowest levels since the trial courts were brought into state funding.

As a result, delays in case processing and service delivery are occurring across the state.

Our Access and Service Delivery Workgroup is aggressively re-engineering our business practices so we can become as efficient and effective as possible. Unfortunately, progress on many of these initiatives, including our efforts to centralize and automate the 1.2 million payable citations, may be in jeopardy if further budget reductions are enacted.

### **Negative Impact of No Increased Funding or Base Budget Reductions**

The negative impact of no new funding – or worse yet, funding reductions – will be immediate, unavoidable, and dramatic and will significantly affect the basic operation of Minnesota's courts with economic and other consequences for county and state government and public safety. Public trust and confidence in the courts and government will be significantly impacted.

Failure to provide adequate funding to cover unavoidable employee cost increases (mandatory employer health insurance and pension contributions) and budget cuts would require additional staff reductions of hundreds of positions depending on the results of our voluntary separation program, turnover rate over the next six months, and applicable severance costs. This reduction,

on top of our current 9% shortage, means that we will be unable to handle all of our current caseload.

In the interest of providing options to the Governor and the Legislature, at its December 2008 meeting, the Judicial Council reviewed 51 different case categories that are processed by the courts and assigned a priority level to each case type (see enclosed list). In general, lack of funding will force us to stop handling some or all of the following cases in the next biennium:

- Conciliation Court
- Consumer Credit
- Some Estate and Trust cases
- Property Damage
- Harassment
- Default Judgments
- Out of Custody Adult and Juvenile Non-targeted Misdemeanors (public defenders will not be able to assign attorneys for out-of-custody cases)
- Juvenile Status, Truancy, Runaway offenses
- Implied Consents
- Traffic, Ordinance, and Parking Violations, impacting the \$200 million annual revenue flow to cities, counties, and the state general fund.

In addition to not handling these types of matters, increased delays in criminal and juvenile case processing will produce collateral consequences to other public jurisdictions. Defendants will be incarcerated longer while awaiting trial, increasing costs at county jails that are already operating at 105% of capacity. Others will be out of custody longer awaiting disposition, increasing risks to public safety.

These proposed case processing priorities will appropriately generate a vigorous public debate about the stark implications associated with potential lack of funding or budget reductions. We welcome those discussions and are open to any specific suggestions for changes to our proposed priorities. However, any reprioritization must match the workload reduction needed to balance any budget cut imposed. Fewer reductions to our budget would allow us to limit the impact on some case types.

In addition, lack of funding or budget reductions could require us to close or significantly reduce hours/days of operation in some low volume rural courts and several of our high volume suburban courts because of the reduced workforce. Many of our drug courts, which save taxpayer money and improve public safety, could close as well.

At the appellate level, both the Supreme Court and Court of Appeals will be forced to further reduce personnel. Loss of crucial legal staff will result in an expanded backlog of cases at the Court of Appeals and significant delays at the Supreme Court. In the State Court

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Administrator's Office, funding shortages will directly impact efforts currently underway to re-engineer business practices across the court system. Without sufficient funding, progress on technology initiatives such as e-citations, e-filing, e-payments, and automated collections--all of which save long term staff costs and increase state revenue collection--will be significantly impeded if not curtailed. And, cuts to civil legal services will mean that additional families will go without legal assistance in critical areas like mortgage foreclosure and housing, increasing public costs associated with homelessness and domestic violence.

Inadequate funding will jeopardize the justice system as we have known it in this state. Without adjudication of cases, civil and criminal consequences for illegal behavior will go unimposed. It is no exaggeration to say that the rule of law will be at stake.

In tough economic times, we must return to the basics. One of those is mandated by our Constitution: an adequately funded, functioning justice system that resolves disputes promptly in order to ensure the rule of law, protect public safety and individual rights, and promote a civil society. The Minnesota Judicial Branch is not a state agency. Funding should first be provided to institutions such as the Judicial Branch that deliver services directly required by the state Constitution. Justice is not an option. It is a constitutional obligation.

I look forward to the opportunity to discuss these matters with you in further detail.

Very truly yours,



Eric J. Magnuson  
Chief Justice

## TRIAL COURTS

Change Item: Maintain Core Justice Operations

Fiscal Impact (\$000s)	FY 2010	FY 2011	FY 2012	FY 2013
General Fund				
Expenditures	\$8,507	\$17,644	\$17,644	\$17,644
Revenues	0	0	0	0
Other Fund				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact	\$8,507	\$17,644	\$17,644	\$17,644

### Request

The Trial Courts request \$26.151 million in FY 2010-11 to maintain core justice operations.

### Background

As of July 1, 2005, all employees of the trial courts in the state's ten judicial districts became state employees as the judicial branch transitioned to state funding. Currently, the trial courts have 2,454 employee FTEs and 289 judges. The judicial branch is heavily reliant on state general fund appropriations. Less than half of one percent of the employee FTE's are funded from sources other than the state general fund. Trial court employees are compensated under three different union contracts or, for those who are not members of a union, under the judicial branch compensation and pay plan administered by the State Court Administrator's Office (SCAO) under the direction of the Judicial Council.

The judicial branch non-judicial pay plan consists of the same four basic components as the executive branch: across the board adjustments to the salary range, merit or step increases, employer retirement contributions, and the insurance programs negotiated by Minnesota Management & Budget for all state employees.

During the FY 2010-11 biennium, the judicial branch has estimated that additional salary funding will be necessary to implement a pay plan commensurate with other negotiated state and local agreements. This request does not include a comparable salary increase for judges in FY 2010 and FY 2011. Additional funding is also required to fully fund statutorily mandated increases in employer paid retirement plan contributions. Health insurance costs are estimated at 6% increases based on historical increases.

### Relationship to Base Budget

This request represents a 5.1% increase to the Trial Court biennial base budget.

### Key Goals and Measures

Failure to fund negotiated pay plans and mandated employee health insurance will result in large numbers of layoffs. This will significantly impact the ability of the judicial branch to fulfill its constitutional mandate to adjudicate and resolve cases promptly and without delay. The backlog of cases is expected to grow by 117,000 cases or 54% by the end of FY 2011. This will result in case processing delays across the board, but especially civil, family, probate and conciliation affecting businesses, parties to divorce, children receiving child support, families settling estates, landlords dealing with tenant issues and in out of custody criminal cases increasing risk to public safety. It will also mean collateral economic consequences for counties and the state.

### Alternatives Considered

Because human resources costs are nearly 85% of the judicial branch budget, the effective alternatives available to fund salary and insurance costs are few. A reduction in the workforce is the most likely and least desirable. The Trial Courts have already absorbed cuts, combined court administrators in more than one-third of the counties, transferred funds across district and county lines and into the mandated services area to resolve shortfalls, closed some public counters and satellite courts, terminated services, and instituted layoffs, voluntary separation programs, leaves without pay and a hiring freeze. A reduction in the workforce will result in service reductions to the public.

**Statutory Change:** Not Applicable.

## TRIAL COURTS

### Change Item: Mandated Services

Fiscal Impact (\$000s)	FY 2010	FY 2011	FY 2012	FY 2013
General Fund				
Expenditures	\$1,830	\$3,756	\$3,756	\$3,756
Revenues	0	0	0	0
Other Fund				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact	\$1,830	\$3,756	\$3,756	\$3,756

### Request

The Trial Courts requests \$5.586 million in FY 2010-11 for mandated services.

### Background

The Minnesota Constitution, federal and state laws, and Minnesota Court Rules mandate that certain services be provided to individuals in the court system. These services are generally referred to as "mandated services" and include Psychological Services, Interpreter Services, In Forma Pauperis, Guardian Ad Litem and Jury Services.

#### Psychological Services:

M.S. 480.182 provides that the courts will pay the court related costs of examinations under Rule 20 of the Criminal Rules of Procedure and under M.S. Chapter 253B, the civil commitments, including commitments of persons who are mentally ill and dangerous, persons with sexual psychopathic personalities, and sexually dangerous persons. Each court in counties throughout the state requires the services of licensed psychologists, licensed psychiatrists, and licensed medical doctors for these cases. For the past several years the courts have seen substantially increasing costs for psychological examination services. A large part of the increase is due to escalating costs for sexually dangerous person and sexually psychopathic personality examinations and more recent changes in this area of the law. Expenditures for psychological services are expected to increase annually by 11%. The Judicial Branch has moved from individual county to state oversight of this program. Several cost containment measures have been implemented. Initiatives include a statewide payment policy which caps the hourly rate paid for psychological examinations, statewide contracts for services, hiring employee examiners, creation of a roster to ensure quality of the services provided to the court as well as other business practice improvements to conduct business as efficiently as possible while containing costs. Still significant cost increases are expected in FY 2010-11. The biennial request relating to psychological services is \$1,239,000.

#### Interpreter Services:

Both federal and state law mandate that courts provide interpreter services for individuals who are "disabled in communication" (Minnesota Human Rights Act (M.S. § 363.03); Americans with Disabilities Act; Rule 8 of the Minnesota District Court General Rules of Practice; M.S. § 611.31-34) to ensure that they are provided equal access to the courts. This includes both deaf/hard of hearing and non-English speaking persons. The courts have faced an average annual court interpreter expenditure increase of 6% per year since FY 2003. The increasing trend is expected to continue at a rate of 5% each year of the new biennium. The increase in interpreter need has paralleled the increase in non-English speaking persons in Minnesota during the same time period. For example, pursuant to statistics provided by the U.S. Department of Homeland Security and Immigration and Naturalization Services, more immigrants arrived in Minnesota by year end 2006 than in any of the previous 25 years. In that year the number of immigrants coming to Minnesota increased by 18,254. In 2007 another 13,814 immigrants made Minnesota their home. As the non-English speaking population increases, it is anticipated that more individuals appearing in courts across the state will have interpreter needs. The biennial request relating to interpreter services is \$653,000.

#### In Forma Pauperis:

M.S. 563.01 provides that persons who are financially unable to pay the fees and costs related to a non-criminal court case may proceed in forma pauperis (without cost) upon approval by the court. The cost of the service fees, civil transcripts, witness fees, publication costs, courtroom visitors, guardians, substitute decision makers, and guardian background checks needed in these cases is borne by the court system. Expenditures in this budget

have also increased over the last biennium and is expected to continue given the economic downturn and increase in unemployment and poverty. The biennial request relating to in forma pauperis services is \$161,000.

**Guardian Ad Litem:**

Federal and state laws require the appointment of a guardian ad litem in every judicial proceeding involving an abused or neglected child. State law also provides for the permissive appointment of a guardian ad litem in every family court proceeding where the judicial officer has concerns about the child's welfare. The Judicial Branch Guardian Ad Litem (GAL) program has made great strides in making improvements to the GAL system since state funding began in 2001. Current efforts are aimed at improving the qualifications, training, and preparation of GALs. It is becoming increasingly challenging for the program budget to keep pace with the need for guardian ad litem services for all cases. There was growth of 11.6% (789 cases) in GAL appointments across a variety of case types during the last biennium. This includes moderate increases in abuse and neglect and termination of parental rights cases as well as significant increases in mandatory as well as permissive GAL appointments in custody, dissolution, domestic abuse and paternity cases. The biennial request relating to guardian ad litem services is \$3,533,000.

**Jury Services:**

In response to the budget cut in FY 2009, the juror per diem was cut from \$20.00 to \$10.00, which has currently mitigated cost increases in the jury program. No increased funding in the jury program is requested for FY 2010-11.

**Relationship to Base Budget**

Federal law, Minnesota statutes, Minnesota court rules, and constitutional due process requirements mandate the provision of interpreters and guardians ad litem, psychological examinations and IFP services. Based on historical increases, caseload increases and demographic projections, a base budget increase is requested for four out of the five mandated services areas. In addition, due to a lack of financial flexibility caused by base budget cuts in FY 2004-05, budget shortfalls in FY 2006-07 and FY 2008-09, each of these budgets is experiencing a structural deficit. A portion of the budget request is to address this deficit.

This request represents a 1.1% increase to the Trial Court biennial base budget.

**Key Goals and Measures**

The key measure for the Psychological Services change level request will be the number of psychological examinations performed and in particular, the number of the most complex civil commitment cases (Sexually Dangerous Persons/Sexually Psychopathic Personality) filed. This will be reflected primarily in the total statewide number of cases filed and examinations ordered by the courts.

The key measure for the Interpreter change level request will be the number of deaf and hard of hearing and non-English speaking persons for whom interpreter services are provided. This will be reflected primarily in the total statewide number of requests for court interpreter services and the number of courtroom events for each case where interpreter services are required.

The key measure for the In forma Pauperis change level request will be the number of persons who are granted IFP status. This will be reflected primarily in the total statewide number of service fees, civil transcripts, witness fees, publication costs, courtroom visitors, guardians, substitute decision makers, and guardian background checks paid for from court funds.

The key measure for the Guardian Ad Litem change level request will be the number of cases and children served as well as the number of hours the GAL is required to spend per case. This will be reflected primarily in the total statewide number of child protection and termination of parental rights cases filed in the courts as well as in the number of family cases where GAL appointments are ordered.

The key measure for jury change level request will be the number of jury trials scheduled across the state and the type of jury trials (civil or criminal) requested; as well as the number of summoned jurors who must report to courthouses for jury service and those that are selected and sworn as jurors on a case. Judicial Council policy on jury management is in place and includes "Key Results and Measures" for monitoring the efficient and effective use of jurors as well as juror satisfaction and fairness and equity for citizens.

**Alternatives Considered**

Data on all four mandated services programs are continually being monitored and analyzed in order to identify program efficiencies and cost-savings strategies. Strategies that are currently being contemplated or utilized include:

- ◆ Development of a web-based invoicing system for interpreter and psychological examination programs aimed at providing more detailed financial information about each service area, e.g. cost per psychological examination, examiner's hourly rates, travel costs.
- ◆ Implementation of statewide hourly rate and travel policies for psychologists and psychiatrists and other cost containment strategies including hiring staff positions and regional and centralized Request for Proposal (RFP) contracting strategies.
- ◆ Identification and implementation of best practices and other measures to help contain costs.
- ◆ Use of telephone interpreting where feasible and appropriate.
- ◆ Provision of quality training aimed at raising skill levels for guardians ad litem
- ◆ Continuous recruitment of interpreters, especially in the rural area.

However, even with implementation of these strategies, increased caseloads and significant budget pressures will continue in the mandated services area. No additional significant reductions or efficiencies are possible without risking violation of federal, state, or constitutional due process requirements as well as federal and state laws.

**Statutory Change:** Not Applicable.

## TRIAL COURTS

### Change Item: Drug/Mental Health Courts

Fiscal Impact (\$000s)	FY 2010	FY 2011	FY 2012	FY 2013
General Fund				
Expenditures	\$4,149	\$3,940	\$3,940	\$3,940
Revenues	0	0	0	0
Other Fund				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact	\$4,149	\$3,940	\$3,940	\$3,940

### Request

The Trial Courts request \$8.089 million in FY 2010-11 for drug and mental health court costs.

### Background

The majority of cases coming to our courts involve alcohol and other drug (AOD) dependent/addicted persons. AOD use is a factor in 80-90% of Minnesota's criminal cases. It is a pervasive problem in juvenile delinquency, child protection, and family and mental health cases as well. It is estimated that 60-80% of the child protection cases that end up in the courts have AOD addiction as a contributing factor, if not the primary factor. Individuals appearing in court with co-occurring mental health and AOD issues are on the rise; many of which come from and often return to the expensive intervention of crisis medical care in hospitals.

The financial costs to the state for all of the aforementioned cases in adjudication, incarceration and treatment are substantial and rising. Felony drug cases rose from 5,035 in 1999 to 8,268 in 2007. Methamphetamine cases accounted for 36% of the total drug cases. Approximately one out of every nine Minnesotans has a DWI on their record. Every year there are almost 40,000 DWI offenses in Minnesota; 40% of which involve repeat offenders. In 1989 there were only 173 drug offenders which constituted 6% of the overall prison population. Last year, drug offenders accounted for 21% of Minnesota's inmates. During the five years since the enactment of the felony DWI law on August 1, 2002, the prison population has grown by 2,157 offenders. Felony DWI offenders have accounted for 29% of this growth. Combined, DWI and drug offenders were responsible for 53% of the prison population increase from July 2002-July 2007. Eighty percent of those who receive a second DWI are chemically dependent.

Studies conducted around the country show that positive cost-benefit ratios typically result for drug court participants who complete programs that adhere to established best practices. Recidivism is reduced as are incarceration costs. California found that an investment of \$14 million created a total cost avoidance of \$43.3 million over a two year period – 425,014 jail days (\$26 million) and 27,894 prison days (\$13 million) were avoided. Another economic analysis in California concluded that drug courts cost an average of about \$3,000 per client, but save an average of \$11,000 per client over the long term. New York saw an average 29% decrease in recidivism three years after arrest for offenders. Likewise, New York estimates that \$254 million in incarceration costs were saved by diverting 18,000 non-violent drug offenders to problem solving courts. Washington found that the average drug court participant produces approximately \$6,800 in benefits - \$3,800 in avoided criminal justice costs paid directly by taxpayers and \$3,000 in estimated avoided costs to victims.

A combination of federal, state and county funding in recent years has resulted in the development of thirty-seven specialty courts (35 drug and two mental health courts) throughout the state of Minnesota. These courts are still relatively new in Minnesota but are beginning to demonstrate those same positive outcomes proven elsewhere. For example, several drug courts have preliminarily identified avoided costs to the system as a result of an individual's participation in drug court. Wabasha County drug court, which began operations in 2005, estimates the avoidance of \$1.9 million of costs by not sending individuals to prison. Savings for just one family – a husband and wife, both of whom were presumptive commits to prison and whose children were taken into protective custody – are estimated at \$523,000 in prison costs and \$47,000 in out of home placement county costs because the three children were returned to their parents after only a few months. The children remain with their parents more than two years later, and both parents are fully employed. The Faribault-Martin-Jackson multi-county drug court, which started operating in late 2006 estimates, according to the actual stayed sentences of the drug court participants during a one year period, a total of \$466,000 in avoided jail (\$62,000) and prison (\$404,000) costs

between the three counties and the state. The Brown-Nicollet-Watonwan drug court estimates 105.7 years of avoided prison time or a savings of \$2.9 million. A recidivism study of our five oldest drug courts will be available by the end of 2008.

This request seeks funding to sustain the 37 existing specialty courts in the next biennium. The total request is \$8.089 million. Of that amount, \$1.919 million is for court costs and \$6.17 million is funding for local justice system partners. The request includes support for courts initially funded by federal grants that terminate in FY 2010-11 and biennializing the cost of state funded courts which commenced operations at various points in the current biennium. These recommendations were developed by the multidisciplinary Drug Court Initiative Advisory Committee (DCI), which provides oversight for statewide drug court operations and advises the Judicial Council on drug court funding and policy.

### **Relationship to Base Budget**

This request represents a 1.6% increase to the Trial Court biennial base budget.

### **Key Goals and Measures**

The Judicial Council adopted three goals for all offender drug courts: Enhancing public safety, ensuring participant accountability, and reducing costs to society. The primary measure of success is reduced recidivism.

### **Alternatives Considered**

Failure to fund the drug and mental health courts will result in shutting down many of these courts and the loss of at least \$20 million in federal, state and local investments; years of training and experience of drug court team members; local community support across the state; opportunity for offenders to be restored to sober, law-abiding, taxpaying lives; and cost savings to counties and the state. Felony drug cases continue to increase. Failure to address the underlying addiction and mental health issues of offenders will perpetuate a cycle of recidivism and an on-going drain on public resources. It costs approximately \$36,000 per year to incarcerate an addicted offender, compared to approximately \$7,000 to provide drug court services to the same individual. Former Chief Justice Russell Anderson perhaps said it best: "What we are doing now is not working. We have got to find a different solution – for the sake of our communities and the people that our courts serve. Drug courts are part of that solution."

**Statutory Change:** Not Applicable