

# Legislative Analysis



## TRIAL COURT FUNDING ACT OF 2024

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House Bill 5534 as introduced  
Sponsor: Rep. Kelly Breen  
Committee: Judiciary  
Complete to 3-6-24

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 5534 would create a new act, the Trial Court Funding Act of 2024, to require the State Court Administrative Office (SCAO) to analyze certain trial court costs and revenue sources and develop legislative proposals to change trial court funding.

#### Costs analysis

By May 1, 2026, SCAO, under the direction and supervision of the Michigan Supreme Court (MSC), would have to analyze and determine all of the following:

- The revenue potential lost by each trial court from the elimination of the cost under section 1k(1)(b)(iii) of Chapter IX of the Code of Criminal Procedure.<sup>1</sup>
- The minimum *operational cost* of each trial court, based on a weighted caseload study.
- The additional funds needed, in addition to *maintenance of effort* (see below), at each trial court to reach the court's total operational cost.

*Operational cost* would mean the total costs needed to operate an individual trial court over the course of a fiscal year based on the workload and case volume of each court.

*Maintenance of effort* would mean the average of the *funding unit's* general fund expenditures for trial court operations over the three-year period immediately preceding the creation of the State Court Fund described below. Court-generated revenue that supports court operational expenditures during the same three-year period would have to be accounted for separately. General fund expenditures would have to be calculated as total court expenditures less any and all court-generated revenue to arrive at net expense to the funding unit.

*Funding unit* would mean either of the following:

- A *local unit of government* that funds a trial court.
- If a trial court is funded by more than one local unit of government, those local units of government, collectively.

*Local unit of government* would mean a political subdivision of the state, including a county, city, village, or township.

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<sup>1</sup> Under the Code of Criminal Procedure, if a defendant enters a plea of guilty or no contest, or if the court determines after a hearing or trial that the defendant is guilty, the court must impose the minimum state costs as set forth by statute and may impose certain other fines, assessments, or costs. Section 1k(1)(b)(iii) allows for the assessment of any cost reasonably related to the actual costs incurred by the trial court, including salaries and benefits for relevant court personnel, goods and services necessary to operate the court, and necessary expenses to operate and maintain court buildings and facilities. This provision is set to expire on May 1, 2024.

The analysis described above would have to be completed with input from state and local officials and associations, including at least all of the following:

- The Department of Treasury.
- The Department of Technology, Management, and Budget.
- The Department of Health and Human Services.
- The Michigan Municipal League.
- The Michigan Townships Association.
- The Michigan Association of Counties.
- The Michigan Association of County Clerks.

#### Maintenance of effort

SCAO, under the direction and supervision of the MSC, would have to work with *local units of government* to determine the maintenance of effort, which would have to include costs by the local *funding unit* and could not include state and federal funds. The allocation of costs used to determine the maintenance of effort by the local funding unit would have to be based on expenditures for operating a court, including at least all of the following:

- Judicial benefits.
- Salaries and benefits for the following, regardless of the budget line item associated with those costs:
  - Court operations staff.
  - Court clerks, regardless of whether employed by a court or by the county clerk.
  - Facility staff.
  - Security staff.
- Court facility operation and maintenance.
- Preexisting debt on a court facility related to the construction or maintenance of the facility.
- Indirect costs, such as court supplies, mail, property and liability insurance, and cyber security coverage.
- Court technology, such as case and document management systems, electronic filing systems, internet access and data storage, and computer hardware, such as personal computers, monitors, printers, and scanners.

#### Schedule and standards

SCAO, under the direction and supervision of the MSC, would have to develop for each trial court a schedule of the appropriate portion of the court's operational costs that may be attributed to an individual's case under current law and provide the trial court with its schedule. The assessment of operational costs to an individual would have to be as close as practical to the actual cost of an average case of the individual's criminal case type and could not include additional costs based on the length of time required for the case or related to the exercise of a constitutional right. A schedule would have to include uniform standards for the trial court to determine an individual's indigency and ability to pay in compliance with law.

SCAO, under the direction and supervision of the MSC, would have to develop standards for how a trial court should determine the amount of reimbursable costs to the local unit of government for law enforcement and prosecution costs for any statute that provides for the assessment of the costs to a convicted defendant or person that is responsible for a civil infraction.



#### Statewide uniform collections system

SCAO, under the direction and supervision of the MSC, would have to work with the Department of Treasury to develop and propose a statewide uniform collections system for court debt. The system could build on the existing system of court collections. The proposal would have to include at least all of the following:

- The age of debt to be centrally collected.
- The method of transmitting funds to the state.
- The disposition of funds received by the state.
- The priority of payments for funds collected from an individual who has a financial obligation to one or more governmental agencies.

The Department of Treasury could collaborate, as appropriate, with SCAO to develop and execute a pilot program for the department to collect all or most of a court's debt. The department could use in the pilot program the courts it currently collects court debt for, or any other courts. The goals of the pilot would have to include assisting in the determination of the cost to increase the Department of Treasury's capacity to manage all trial court debt collections and assisting in the development of a statewide approach to the relationships between local units of government and the Department of Treasury related to collection of court debt.

#### Distribution of court revenue

SCAO, under the direction and supervision of the MSC, would have to work with the Department of Treasury to develop and propose a statewide system to distribute *court revenue* to each funding unit by determining the difference between the operational cost and maintenance of effort for each court. The proposal would have to include both of the following:

- The creation of a State Court Fund to receive and distribute court revenue.
- An estimated range of state general fund expenditures that may be required to address a shortfall in the State Court Fund's ability to meet the aggregate total of trial courts' operational cost.

*Court revenue* would mean all funds collected by trial courts except those paid in restitution to an identified victim of crime.

#### Legislative proposals

SCAO, under the direction and supervision of the MSC, would have to develop legislative proposals to effectuate the provisions described above concerning the schedules and standards, the statewide uniform collections system, and the distribution of court revenue. The proposals would have to include a recommendation on how to provide trial courts with the funds to cover their operational costs without revenue lost from the elimination of the cost under section 1k(1)(b)(iii) of Chapter IX of the Code of Criminal Procedure.

#### Report

By May 1, 2026, SCAO, under the direction and supervision of the MSC, would have to submit a report on the costs analysis and legislative proposals described above to the governor, the legislature, the House and Senate standing committees and appropriations subcommittees responsible for legislation concerning the judiciary, and the House and Senate Fiscal Agencies.

The bill cannot take effect unless an unidentified bill indicated by its request number is also enacted into law.

## **FISCAL IMPACT:**

House Bill 5534 would have an indeterminate fiscal impact on the State Court Administrative Office. As described above, SCAO would be responsible for doing all the following under the bill:

- Analyzing and determining revenue loss to trial courts from eliminating the ability to impose on criminal defendants costs that are reasonably related to actual costs incurred by trial courts.
- Completing an analysis and developing a schedule for each trial court of operational costs that may be attributed to individuals' cases.
- Developing uniform standards for trial courts to determine individuals' indigency and ability to pay.
- Developing standards for how trial courts are to determine the amount of reimbursable costs for law enforcement and prosecution costs for any statute that provides for the assessment of costs to convicted defendants or persons responsible for civil infractions.
- Working with the Department of Treasury to develop and propose a statewide uniform collections system for court debt and a system for distributing court revenue to each funding unit.
- Developing legislative proposals to effectuate requirements of the bill, including a recommendation on how to provide trial courts with the funds to cover operational costs.
- Preparing a report on the analysis of costs and the legislative changes proposed.

According to SCAO, any costs resulting from completing responsibilities required of them under the bill would be absorbed by existing appropriations included in the Judiciary appropriations act.

The bill also is likely to increase costs for the Department of Treasury by requiring the department to collaborate with SCAO to complete an analysis of potential costs and revenues of trial courts as specified in the bill, develop a statewide uniform collections system for court debt, and develop a statewide system to distribute court revenue. The extent of these cost increases are unclear and likely to vary by time and personnel involved.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

# HOUSE BILL NO. 5534

March 05, 2024, Introduced by Reps. Breen and Hope and referred to the Committee on Judiciary.

A bill to require the supreme court to analyze certain trial court costs and revenue sources; and to develop legislative proposals to change trial court funding.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act may be cited as the "trial court funding act  
2 of 2024".

3       Sec. 2. As used in this act:

4       (a) "Court revenue" means all funds collected by trial courts  
5 except those paid in restitution to an identified victim of crime.

6       (b) "Department" means the department of treasury.



(c) "Funding unit" means either of the following:

(i) A local unit of government that funds a trial court.

(ii) If a trial court is funded by more than 1 local unit of government, those local units of government, collectively.

(d) "Local unit of government" means a political subdivision of this state, including, but not limited to, a county, city, village, or township of this state.

(e) "Maintenance of effort" means the average of the funding unit's general fund expenditures for trial court operations over the 3-year period immediately preceding the creation of the state court fund described in section 6(a). Court-generated revenue that supports court operational expenditures during the same 3-year period must be accounted for separately. General fund expenditures must be calculated as total court expenditures less any and all court-generated revenue to arrive at net expense to the funding unit.

(f) "Operational cost" means the total costs needed to operate an individual trial court over the course of a fiscal year based on the workload and case volume of each court.

Sec. 3. (1) Not later than May 1, 2026, the state court administrative office, under the direction and supervision of the supreme court, shall analyze and determine all of the following:

(a) The revenue potential lost by each trial court from the elimination of the cost under section 1k(1)(b)(iii) of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1k.

(b) Based on a weighted caseload study, the minimum operational cost of each trial court.

(c) The additional funds needed, in addition to maintenance of effort, at each trial court to reach the court's total operational

1 cost.

2 (2) The state court administrative office, under the direction  
3 and supervision of the supreme court, shall work with local units  
4 of government to determine the maintenance of effort, which must  
5 include costs by the local funding unit and must not include state  
6 and federal funds. The allocation of costs used to determine the  
7 maintenance of effort by the local funding unit must be based on  
8 expenditures for operating a court, including, but not limited to,  
9 the following:

10 (a) Judicial benefits.

11 (b) Regardless of the budget line item associated with the  
12 following costs, court operations staff, court clerks, whether  
13 employed by a court or the county clerk, facility staff, and  
14 security staff salaries and benefits.

15 (c) Court facility operation and maintenance.

16 (d) Preexisting debt on a court facility related to the  
17 construction or maintenance of the facility.

18 (e) Indirect costs, including, but not limited to, court  
19 supplies, mail, property and liability insurance, and cyber  
20 security coverage.

21 (f) Court technology, including, but not limited to, case and  
22 document management systems, electronic filing systems, court  
23 recording systems, video conferencing systems, computer hardware,  
24 including personal computers, monitors, printers, and scanners, and  
25 the cost of internet access and data storage.

26 (3) The state court administrative office, under the direction  
27 and supervision of the supreme court, shall complete the analysis  
28 under subsection (1) with input from state and local officials and  
29 associations, including, but not limited to, all of the following:

1 (a) The department.

2 (b) The department of technology, management, and budget.

3 (c) The department of health and human services.

4 (d) The Michigan Municipal League.

5 (e) The Michigan Townships Association.

6 (f) The Michigan Association of Counties.

7 (g) The Michigan Association of County Clerks.

8 Sec. 4. (1) The state court administrative office, under the  
9 direction and supervision of the supreme court, shall develop for  
10 and provide to each trial court a schedule of the appropriate  
11 portion of the court's operational costs that may be attributed to  
12 an individual's case under current law. The assessment of  
13 operational costs to an individual must be as close as practical to  
14 the actual cost of an average case of the individual's criminal  
15 case type and must not include additional costs based on the length  
16 of time required for the case or related to the exercise of a  
17 constitutional right.

18 (2) A schedule developed under subsection (1) must include  
19 uniform standards for the trial court to determine an individual's  
20 indigency and ability to pay in compliance with law.

21 (3) The state court administrative office, under the direction  
22 and supervision of the supreme court, shall develop standards for  
23 how a trial court shall determine the amount of reimbursable costs  
24 to the local unit of government for law enforcement and prosecution  
25 costs for any statute that provides for the assessment of the costs  
26 to a convicted defendant or person that is responsible for a civil  
27 infraction.

28 Sec. 5. (1) The state court administrative office, under the  
29 direction and supervision of the supreme court, shall work with the



1 department to develop and propose a statewide uniform collections  
2 system for court debt.

3 (2) The proposed system under subsection (1) may build on the  
4 existing system of court collections, and the proposal must  
5 include, but is not limited to, all of the following:

6 (a) The age of debt to be centrally collected.

7 (b) The method of transmittal of funds to this state.

8 (c) The disposition of funds received by this state.

9 (d) The priority of payments for funds collected from an  
10 individual who has a financial obligation to 1 or more governmental  
11 agencies.

12 (3) The department may collaborate, as appropriate, with the  
13 state court administrative office to develop and execute a pilot  
14 program for the department to collect all or most of a court's  
15 debt. The department may use the courts that the department  
16 currently collects court debt for in the pilot program or any other  
17 courts. The goals of a pilot program under this subsection must  
18 include, but are not limited to, assisting in the determination of  
19 the cost to increase the department's capacity to manage all trial  
20 court debt collections and assisting in the development of a  
21 statewide approach to the relationships between local units of  
22 government and the department related to collection of court debt.

23 Sec. 6. The state court administrative office, under the  
24 direction and supervision of the supreme court, shall work with the  
25 department to develop and propose a statewide system to distribute  
26 court revenue to each funding unit by determining the difference  
27 between the operational cost and maintenance of effort for each  
28 court. The proposal under this section must include both of the  
29 following:

1 (a) The creation of a state court fund to receive and  
2 distribute court revenue.

3 (b) An estimated range of state general fund expenditures that  
4 may be required to address a shortfall in the state court fund's  
5 ability to meet the aggregate total of trial courts' operational  
6 cost.

7 Sec. 7. The state court administrative office, under the  
8 direction and supervision of the supreme court, shall develop  
9 legislative proposals to effectuate sections 4, 5, and 6 of this  
10 act. The legislative proposals must include a recommendation on how  
11 to provide trial courts with the funds to cover operational costs  
12 calculated under section 3(1) (a) without revenue lost under section  
13 3(1) (b).

14 Sec. 8. Not later than May 1, 2026, the state court  
15 administrative office, under the direction and supervision of the  
16 supreme court, shall prepare a report on the costs analysis under  
17 section 3 and the legislative changes proposed under section 7. The  
18 report must be submitted to the governor, the legislature, the  
19 house and senate standing committees and appropriations  
20 subcommittees that are responsible for legislation concerning the  
21 judicial branch, and the house and senate fiscal agencies.

22 Enacting section 1. This act does not take effect unless  
23 Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no. 03950'23) of  
24 the 102nd Legislature is enacted into law.