



ROBERT M. BELL
CHIEF JUDGE
COURT OF APPEALS OF MARYLAND
ROBERT C. MURPHY COURTS OF APPEAL BUILDING
361 ROWE BOULEVARD
ANNAPOLIS, MARYLAND 21401-1699



Maryland Association of
COUNTIES, Inc.

169 Conduit Street
Annapolis, MD 21401
(410) 269-0043 (Baltimore Metro)
(301) 261-1140 (Washington Metro)
(410) 268-1775 (fax)
www.mdcounties.org

December 1, 2006

The Honorable Ulysses Currie
Chair
Senate Budget & Taxation Committee
3 West, Miller Senate Office Building
Annapolis, MD 21401-1991

The Honorable Norman H. Conway
Chair
House Appropriations Committee
131 Lowe House Office Building
Annapolis, MD 21401-1991

Dear Messrs. Chair:

Enclosed please find our report on the status of the circuit court jury commissioners and staff, as well as, an update on the Circuit Court Actions Plan as instructed by the 2006 Joint Chairmen's Report. This report is respectfully submitted jointly by the Judiciary and the Maryland Association of Counties (MACo).

While no legislation will be forthcoming this session, the Judiciary and MACo will continue to work together on issues of mutual concern and interest.

Very truly yours,

Robert M. Bell
Maryland Judiciary

James Robey
MACo

Enclosure

cc: The Hon. William D. Missouri
The Hon. Diane O. Leasure
The Hon. Daniel M. Long
Frank Broccolina
Faye Gaskin
Kelley O'Connor

REPORT OF THE JUDICIARY & THE MARYLAND ASSOCIATION OF COUNTIES
ON THE STATUS OF THE 1999 CIRCUIT COURTS ACTION PLAN AND
THE ADMINISTRATIVE PLACEMENT OF JURY STAFF

Introduction

The 2006 Joint Chairmen's Report instructs:

The Judiciary and the Maryland Association of Counties shall submit a report to the budget committees by December 1, 2006, outlining a cooperative agreement between the Judiciary and the Maryland Association of Counties regarding the administrative placement and employment of jury staff personnel under the Jury Commissioner. The report shall also include a status update on the various funding proposals listed in the 1999 Circuit Courts Action Plan.

As a result, representatives of the Judiciary and the Maryland Association of Counties (MACo) have met on several occasions during the interim to discuss the jury staff issue specifically, and the Circuit Courts Action Plan generally. These discussions included a meeting of the MACo Board of Directors with Chief Judge Robert M. Bell, and Circuit Court Judges William D. Missouri and Diane O. Leasure who serve as the Chair and Vice Chair of the Conference of Circuit Judges, respectively. This report is the product of our discussions.

The 1999 Circuit Courts Action Plan and Current Status of Recommendations

In response to the 1999 Joint Chairmen's Report (see Attachment A) directing that the Chief Judge of the Court of Appeals develop a master plan for the State's increased role in the funding of the Circuit Courts, the Judiciary proposed an incremental four-year plan that included:

- Judicial Master Salaries
- Law Clerk Salaries
- Juror Fees
- Courthouse Leasing
- Courtroom Security
- Additional Family Division Judges.

The Joint Chairman's Report stated that if the Chief Judge concluded the State should increase its role in circuit court funding he should consider among other issues: "improved allocation of resources among the circuit courts; development of a statewide judicial personnel system; strategies for ensuring management consistency and compensation uniformity for judicial personnel; and conversion of circuit court employees, including identification of employees to be converted."

The Judiciary partnered with MACo in drafting the 1999 Circuit Courts Action Plan and MACo acknowledged the appropriateness of a county role in Circuit Court funding commensurate with the increased State role the Plan proposed. Previously, MACo had advocated for a full State assumption of the Circuit Courts.

The General Assembly adopted the Judiciary's 1999 Circuit Courts Action Plan (see Attachment B) in principle and ratified over a two-year period the State's assumption of costs heretofore the responsibilities of local governments including: Judicial Masters' salaries and benefits; law clerks' salaries and benefits; an additional \$10 for daily juror fees bringing the State's contribution to \$15 per day; and the creation of two additional judges in each of the Judiciary's five Family Divisions. See Table 1. The counties are presently required to use any fiscal savings resulting from the State assumption of costs to increase local expenditures for circuit court or related public safety purposes.

Table 1 – 1999 Circuit Courts Action Plan Appropriations

| | FY2002 | FY2003 | FY2004 | FY2005 | FY2006 | FY2007 |
|---------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| | Appropriation | Appropriation | Appropriation | Appropriation | Appropriation | Appropriation |
| Law Clerks | | | | | | |
| Judiciary | 0 | 2,558,041 | 5,240,412 | 5,543,747 | 6,259,475 | 7,682,057 |
| County | | | | | | |
| Contribution | 0 | 0 | 1,350,000 | 1,377,448 | 1,398,110 | 0 |
| Total | 0 | 2,558,041 | 6,590,412 | 6,921,195 | 7,657,585 | 7,682,057 |
| Masters | 5,501,541 | 5,123,566 | 6,712,944 | 6,822,148 | 6,358,150 | 6,481,553 |
| Jurors | 3,784,151 | 3,935,517 | 3,975,000 | 3,975,000 | 3,975,000 | 3,975,000 |
| Lease Cost | 0 | 0 | 0 | 0 | 0 | 250,000 |

In 2001, the State began to experience budget problems that ultimately led to a suspension of further Plan implementation. Specifically, in 2002, legislation was passed authorizing rental payments for Clerk of Court office space used in county facilities, phased in at \$2.50, \$5.00, and \$10 per square foot, over three years. But, although not proposed by the Judiciary the payments were made conditional, *i.e.*, "...to the extent provided in the State budget." The funding option was vested in the Department of General Services (DGS) and not

the Judiciary. *See Chapter 453, Laws of 2002.* DGS has never funded the payments, obviously not viewing them as a priority.

Also, due to State budget pressure, beginning in FY 2004, State payments for law clerks were reduced by 25 percent. The Judiciary and MACo collaborated to restore this funding in FY 2007. *See Chapter 366, Laws of 2006.* This action was consistent with the Judiciary's updated Circuit Court Action Plan, issued in November 2005 (see Attachment C), which also included recommendations for:

- Adoption of annual lease payments to local governments for Clerk of Court office space at \$2.50 per square foot, which the General Assembly reduced to \$250,000 in FY 2007 and, in budget language, restricted the FY 2008 budget allowance to \$500,000.
- Assumption of local government costs associated with courtroom security in juvenile and domestic cases. (The Judiciary withdrew this request in order to conduct a comprehensive examination of security issues related to the Circuit Courts.)

Administrative Placement of Jury Staff

The updated Plan included a new issue of importance to the Judiciary that addressed the asserted need for certain Circuit Courts to assume full management authority for jury operations. As such, the Judiciary sought State-funding support to facilitate the transfer of jury responsibilities from Clerk's Offices to the Circuit Courts. Specifically, legislation proposed that the State reimburse local governments for the creation of 30 positions in 13 jurisdictions to enable those respective Circuit Courts to assume the complete management of jury functions. In addition, the legislation proposed that the remaining 11 local governments also be reimbursed for current long-standing budget expenditures for 25 county-funded jury positions. In the 13 counties where jury staffing is a responsibility of a Clerk's Office, the positions are now State positions, which are fully funded by the State.

Subsequently, MACo determined the Judiciary approach to create these jury positions locally with State funding support to be problematic. Specifically, MACo expressed concern about the fiscal vulnerability associated with continuing State reimbursement for these positions, particularly in the 13 subdivisions where jury management is already a State responsibility. Moreover, MACo urged that the management issue be resolved by transitioning all jury management positions to State positions under the specific control of the Circuit Court. MACo suggested precedent with law clerks and masters, whose positions were transitioned to State positions as part of the implementation of the 1999 Plan. MACo further suggested that transition would be consistent, for positions subject to assumption, with a General Assembly policy, reflected in the 1999 Joint Chairmen's Report, for the "development of a statewide judicial

personnel system.” MACo expressed reservations about moving forward with any new 2005 updated Plan elements before addressing the remaining 1999 Plan elements.

The Judiciary does not believe that the policy intention of the General Assembly is to establish a state-funded personnel system for all support staff in the Circuit Courts. As expressed in the 1999 Circuit Courts Action Plan, the Judiciary *inter alia* rejected the structural consolidation of these courts including the development of a statewide personnel system and, in the alternative, has sought to establish and maintain a critical fiscal balance between State and local government funding of the Circuit Courts.

Conclusion

As of this Report and despite many discussions, the Judiciary and MACo respectively maintain opposite points of view as to the placement of the jury positions in question. Despite these differences, the Judiciary and MACo will continue their dialogue in hopes of reaching a mutually agreed upon approach to this issue. Regardless, the Judiciary and MACo remain committed to fully implementing the 1999 Plan.