

# **Michigan Indigent Defense Commission**

## **Report to the Legislature per P.A. 166 of 2020, Section 802**

### **Public Act 166 of 2020 requires the following:**

From the funds appropriated in part 1, the Michigan Indigent Defense Commission (MIDC) shall submit a report by September 30 to the senate and house appropriations subcommittees on judiciary, the senate and house fiscal agencies, and the state budget director on the incremental costs associated with the standard development process, the compliance plan process, and the collection of data from all indigent defense systems and attorneys providing indigent defense. Particular emphasis shall be placed on those costs that may be avoided after standards are developed and compliance plans are in place.

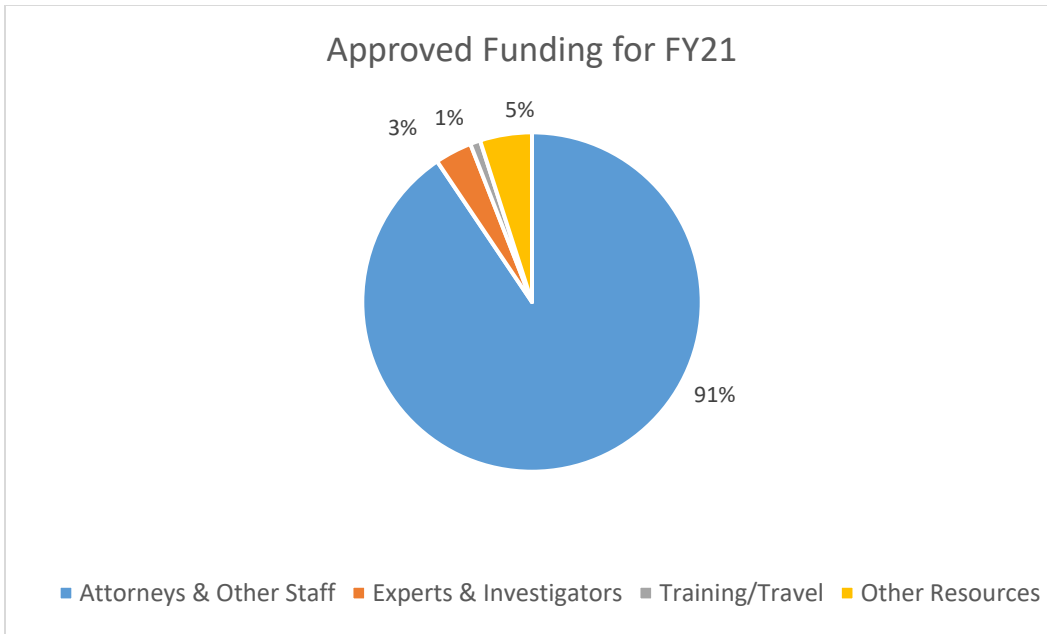
### **Background**

The MIDC was established as a part of the judicial branch. Public Acts 439 – 443 of 2016 re-established the MIDC within the Department of Licensing and Regulatory Affairs.

### **Compliance**

The 2021 fiscal year marked the third year of implementation of the MIDC's indigent defense standards throughout the State. These standards include training, early client visits, encouraging the use of experts and investigators and counsel at first appearance. In FY21, the MIDC contracted with 120 systems and distributed funds. The MIDC Act requires funding to be distributed before systems are required to implement compliance plans for the standards.

Pursuant to a written grant agreement with each local funding unit, the MIDC distributed over \$81 million dollars to systems across the State. The MIDC Act requires local systems to maintain a statutorily-defined local share that is adjusted for inflation annually. In FY 21, the total local share amount was just over \$38 million. COVID-19 resulted in the closing and reopening of courts throughout the state, and many systems had leftover funds from their FY20 distributions. The total unexpended FY20 funds was \$51 million. This funding was applied to systems' FY21 plans to offset funding provided by the state. The breakdown below summarizes funding that was approved in broad categories for FY21.

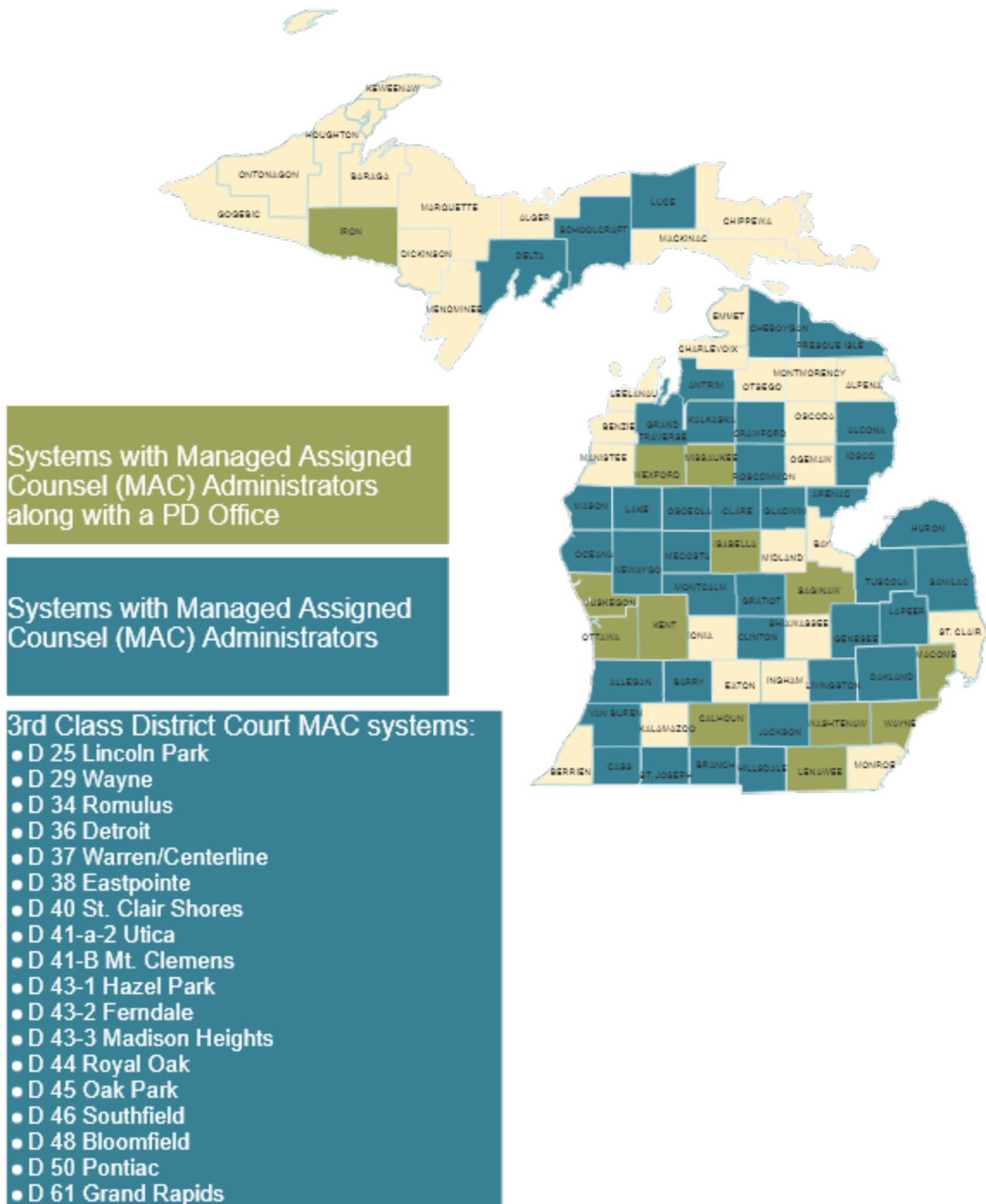


Funding was distributed in three payments in FY21, a payment of 50% of the total state grant amount distributed after the grant agreement was signed and two subsequent 25% payments. The MIDC Act (MCL 780.993(2)) allows systems to “submit to the MIDC an estimate of the cost of developing the plan and cost analysis for implementing the plan under subsection (3) to the MIDC for approval. If approved, the MIDC shall award the indigent criminal defense system a grant to pay the approved costs for developing the plan and cost analysis under subsection (3).” In FY21, seven systems requested funding under this section, those requests were approved.

A spreadsheet including the total approved per system, the unexpended balances from FY20 and amounts reimbursed for planning in FY21 is attached to this document.

## Standards

In October of 2020, the Director of the Department of Licensing and Regulatory Affairs approved Standard 5, independence from the judiciary. Each system incorporated a plan for complying with each of the standards, including Standard 5, when it submitted its compliance plan and cost analysis in April of 2021. Standard 5 will go into effect in FY22, however several systems have already implemented independence from the judiciary by creating a managed assigned counsel (MAC) to aid with appointing counsel and approving experts and investigators. The map below shows which systems have created MACs since the MIDC’s first standards were approved.



The Director has indicated her intent to sign a standard to aid systems in determining indigency in the fall of 2021. No significant additional costs are anticipated to implement this particular standard. Three additional standards are pending with the Director for her review and approval. Cost estimates for these standards are pending at the time of this report. Those standards address the following issues: defender workload limitations, qualification and review of attorneys accepting assignments in adult criminal cases and economic disincentives or incentives for attorneys practicing indigent defense.

## Data Collection

To assess compliance with the MIDC's approved standards, the MIDC has collected data in three different ways. First, local funding units are required to submit quarterly progress and financial reports that require responses to questions regarding the status of compliance with MIDC standards. Second, MIDC staff is onsite either in person or via Zoom in courts across the State to conduct court-watching and assess individual systems' compliance with the standards. Lastly, MIDC has executed a data sharing agreement with the State Court Administrative Office to access data through the Judicial Data Warehouse.

There are ongoing challenges related to the collection of data regarding indigent defense cases. While information regarding criminal cases have been tracked by SCAO and individual courts, this is the first time that data specific to *indigent* defense cases is being collected. The collection of data is also complicated by the fact that district and circuit courts statewide use different case management systems to collect information regarding criminal cases and record information in different ways. MIDC conducts webinars to assist systems with the reporting process and implementation. In FY21, MIDC implemented an electronic grant management system (EGrAMS). Program and financial reports will be submitted through this system in FY22.

The MIDC contracted with the Urban Institute to develop and conduct a study of standards implementation. This report will be completed by the end of 2021.

Through this study, the MIDC will conduct process and impact evaluations of standards implementation. These findings will be used to guide the ongoing implementation and oversight of standards.

MIDC contracted with Public Sector Consultants to complete a local share study mandated by statute in MCL 780.993(6). That report was finalized and approved by the Commission for publication at its August 2021 meeting.

MIDC tracks data related to continuing legal education completed by attorneys accepting appointments in indigent defense cases. Approximately 2000 attorneys statewide completed training required under Standard 1 at over 300 different programs offered during the calendar year. This includes training offered by bar associations, in-house by defender offices and through vendors, such as the statewide conferences hosted by Criminal Defense Attorneys of Michigan and resources from the National Association of Public Defense and the Criminal Defense Resource Center.

All standards, reports, and materials are available at [www.michiganidc.gov](http://www.michiganidc.gov).

MIDC FY21 Approved Funding (all systems approved)

System Name	FY21 Total System Cost	FY21 Local Share (+2.1%)	MIDC Grant Funding	Unspent FY21 funds	Planning Costs
Plan and Costs Approved					
Alcona County	\$152,650.00	\$40,971.99	\$111,678.01	\$22,834.00	
Alger County	\$429,084.71	\$53,411.62	\$375,673.09	\$117,257.75	\$2,857.56
Allegan/Van Buren Counties	\$2,650,305.00	\$540,374.46	\$2,109,930.54	\$121,451.44	
Alpena County	\$610,435.00	\$163,201.41	\$447,233.59	\$176,111.76	\$7,800.00
Antrim County	\$255,891.40	\$80,078.05	\$175,813.35	\$96,649.75	
Arenac County	\$256,678.28	\$114,224.09	\$142,454.19	\$82,031.35	
Baraga/Houghton/Keweenaw Counties	\$700,178.20	\$158,294.21	\$541,883.99	\$113,049.13	
Barry County	\$911,597.41	\$231,076.12	\$680,521.29	\$265,906.23	
Bay County	\$1,234,010.40	\$605,605.63	\$628,404.77	\$10,988.74	
Benzie/Manistee Counties	\$766,610.24	\$282,873.44	\$483,736.80	\$104,070.88	
Berrien County	\$3,095,791.00	\$574,534.13	\$2,521,256.87	\$509,421.31	
Branch County	\$643,176.00	\$154,555.91	\$488,620.09	\$100,249.66	
Calhoun County	\$3,575,137.02	\$697,606.42	\$2,877,530.59	\$350,710.00	
Cass County	\$473,540.80	\$254,093.20	\$219,447.60	\$37,867.77	
Charlevoix County	\$514,125.60	\$168,311.85	\$345,813.75	\$126,720.54	
Cheboygan County	\$386,704.00	\$144,373.49	\$242,330.51	\$68,886.12	
Chippewa County	\$513,994.30	\$224,154.43	\$289,839.87	\$183,503.69	
Clare/Gladwin Counties	\$1,481,001.28	\$236,294.44	\$1,244,706.84	\$1,281,009.74	
Clinton County	\$1,404,249.81	\$147,696.84	\$1,256,552.97	\$0.00	
Crawford County	\$316,295.80	\$15,014.82	\$301,280.98	\$11,684.21	
D 16 - Livonia	\$648,950.88	\$17,573.31	\$631,377.57	\$88,622.50	\$826.10
D 17 - Redford	\$211,431.17	\$52,565.74	\$158,865.43	\$40,924.06	
D 18 - Westland	\$447,280.00	\$62,895.64	\$384,384.36	\$17,620.00	
D 19 - Dearborn	\$347,081.67	\$78,777.98	\$268,303.69	\$132,291.57	
D 20 - Dearborn Heights	\$224,372.18	\$9,821.67	\$214,550.51	\$104,399.31	
D 21 - Garden City	\$138,584.08	\$8,929.66	\$129,654.42	\$9,162.54	
D 22 - Inkster	\$99,456.08	\$45,945.00	\$53,511.08	\$130,756.54	
D 23 - Taylor	\$433,718.56	\$40,330.52	\$393,388.04	\$29,212.24	
D 24 - Allen Park	\$183,718.00	\$14,817.09	\$168,900.91	\$88,767.77	
D 25 - Lincoln Park	\$500,380.11	\$10,725.44	\$489,654.67	\$193,237.25	

MIDC FY21 Approved Funding (all systems approved)

System Name	FY21 Total System Cost	FY21 Local Share (+2.1%)	MIDC Grant Funding	Unspent FY21 funds	Planning Costs
D 28 - Southgate	\$186,265.04	\$4,682.30	\$181,582.74	\$72,094.34	
D 27 - Wyandotte	\$243,705.80	\$1,460.91	\$242,244.89	\$75,559.18	
D 29 - Wayne	\$179,204.94	\$23,452.78	\$155,752.16	\$181,338.36	
D 30 - Highland Park	\$143,891.19	\$13,783.50	\$130,107.69	\$90,798.72	
D 31 - Hamtramck	\$189,082.71	\$14,472.68	\$174,610.04	\$99,000.00	
D 32a - Harper Woods	\$221,006.72	\$12,648.41	\$208,358.31	\$19,677.03	
D 33 - Trenton	\$297,090.00	\$76,681.87	\$220,408.13	\$110,276.02	
D 34 - Romulus	\$398,233.50	\$55,261.63	\$342,971.88	\$225,303.69	
D 35 - Plymouth	\$385,370.00	\$31,111.46	\$354,258.54	\$101,988.21	
D 36 - Detroit	\$8,323,170.00	\$1,085,610.79	\$7,237,559.21	\$4,704,847.01	
D 37 - Warren and Centerline	\$1,047,942.60	\$122,687.59	\$925,255.01	\$949,139.35	
D 38 - Eastpointe	\$469,842.12	\$52,956.54	\$416,885.58	\$595,874.11	
D 39 - Roseville and Fraser	\$796,130.54	\$90,161.44	\$705,969.10	\$458,172.93	
D 40 St Clair Shores	\$534,636.91	\$7,072.53	\$527,564.38	\$431,630.24	
D 41-a-1 Sterling Heights	\$298,931.00	\$0.00	\$298,931.00	\$365,433.10	
D 41-a-2 Shelby Twp	\$378,519.45	\$0.00	\$378,519.45	\$369,890.09	
D 41b - Mt Cl, Harris., Clinton	\$464,280.86	\$43,576.48	\$420,704.38	\$279,901.38	
D 43-1 Hazel Park	\$848,276.56	\$18,356.90	\$829,919.66	\$410,919.64	\$609.10
D 43-2 Ferndale	\$551,357.44	\$15,293.56	\$536,063.88	\$215,519.55	
D 43-3 Madison Heights	\$558,888.92	\$1,779.63	\$557,109.29	\$272,860.92	
D 44 - Royal Oak	\$638,042.32	\$22,670.29	\$615,372.03	\$402,397.36	
D 45 - Oak Park	\$449,850.00	\$42,128.50	\$407,721.50	\$244,758.18	
D 46 - Southfield	\$579,952.00	\$82,701.00	\$497,251.00	\$406,368.30	
D 47 Farmington/Hills	\$187,828.22	\$21,889.50	\$165,938.72	\$6,437.92	
D 48 Bloomfield	\$531,500.00	\$17,446.43	\$514,053.57	\$206,050.32	
D 50 Pontiac	\$660,703.69	\$18,005.34	\$642,698.36	\$483,006.48	
D 51 - Waterford	\$268,258.26	\$31,776.08	\$236,482.18	\$215,267.86	
D 61 - Grand Rapids	\$655,510.00	\$176,951.55	\$478,558.45	\$96,241.40	
D 62 a - Wyoming (59-1, 59-2, 62B)	\$647,885.74	\$55,335.07	\$592,550.67	\$473,277.74	
Delta County	\$585,443.54	\$109,483.87	\$475,959.67	\$0.00	
Dickinson County	\$541,144.46	\$68,586.69	\$472,557.77	\$131,931.24	

MIDC FY21 Approved Funding (all systems approved)

System Name	FY21 Total System Cost	FY21 Local Share (+2.1%)	MIDC Grant Funding	Unspent FY21 funds	Planning Costs
Eaton County	\$2,085,798.00	\$444,892.58	\$1,640,905.42	\$620,115.91	
Emmet County	\$446,636.00	\$162,669.81	\$283,966.19	\$159,195.80	
Genesee County	\$4,833,546.98	\$1,334,291.81	\$3,499,255.17	\$2,107,154.00	
Gogebic County	\$298,453.76	\$104,277.26	\$194,176.50	\$182,861.06	\$863.60
Grand Traverse County	\$1,058,022.80	\$156,805.18	\$901,217.62	\$0.00	
Gratiot County	\$757,347.36	\$83,319.37	\$674,027.99	\$31,940.04	
Grosse Pointe Farms	\$65,974.00	\$15,000.53	\$50,973.47	\$5,773.00	
Grosse Pte City Municipal	\$23,750.00	\$3,229.43	\$20,520.57	\$23,225.00	
Grosse Pointe Park	\$41,110.00	\$10,175.28	\$30,934.72	\$20,625.00	
Grosse Pointe Woods	\$45,375.00	\$3,147.75	\$42,227.25	\$29,890.00	
Hillsdale County	\$407,313.37	\$113,644.44	\$293,668.93	\$65,667.79	
Huron County	\$644,827.26	\$81,103.74	\$563,723.52	\$109,153.20	
Ingham County	\$6,068,854.75	\$920,963.44	\$5,147,891.31	\$511,634.48	
Ionia County	\$543,453.64	\$223,194.34	\$320,259.30	\$121,451.44	
Iosco County	\$307,538.92	\$171,638.20	\$135,900.72	\$19,878.88	
Iron County	\$619,053.86	\$72,999.79	\$546,054.07	\$98,677.18	
Isabella County	\$1,454,506.28	\$238,206.32	\$1,216,299.96	\$453,104.89	
Jackson County	\$3,522,431.66	\$566,779.27	\$2,955,652.39	\$702,512.10	
Kalamazoo County	\$4,312,698.16	\$1,174,957.52	\$3,137,740.64	\$0.00	
Kalkaska County	\$446,774.89	\$39,813.90	\$406,961.00	\$303,070.36	
Kent County C17/D63	\$7,295,853.89	\$2,446,700.91	\$4,849,152.98	\$2,147,295.43	
Lake County	\$286,287.59	\$77,818.17	\$208,469.42	\$127,531.03	
Lapeer County	\$850,016.00	\$109,737.51	\$740,278.49	\$696,012.66	
Leelanau County	\$221,985.72	\$52,780.96	\$169,204.76	\$97,929.04	
Lenawee County	\$1,391,202.72	\$214,605.27	\$1,176,597.45	\$339,950.31	
Livingston County	\$2,266,080.00	\$935,939.47	\$1,330,140.53	\$710,035.33	
Luce County	\$266,954.00	\$30,146.04	\$236,807.96	\$40,492.98	
Mackinac County	\$199,707.56	\$136,696.59	\$63,010.98	\$22,471.35	
Macomb C 16 & D 42-1, 42-2	\$7,556,919.62	\$2,239,945.36	\$5,316,974.27	\$2,027,414.44	
Marquette County	\$1,098,460.19	\$229,695.39	\$868,764.80	\$133,582.31	
Mason County	\$600,658.33	\$156,702.08	\$443,956.25	\$346,165.10	

MIDC FY21 Approved Funding (all systems approved)

System Name	FY21 Total System Cost	FY21 Local Share (+2.1%)	MIDC Grant Funding	Unspent FY21 funds	Planning Costs
Mecosta County	\$454,799.00	\$166,746.65	\$288,052.35	\$77,901.79	
Menominee County	\$703,571.00	\$116,087.70	\$587,483.30	\$29,934.97	
Midland County	\$489,927.25	\$259,344.82	\$230,582.43	\$163,427.84	
Monroe County	\$973,072.76	\$215,785.28	\$757,287.48	\$152,579.42	
Montcalm County	\$914,421.13	\$224,959.17	\$689,461.96	\$0.00	
Montmorency County	\$235,820.00	\$16,898.57	\$218,921.43	\$131,468.47	
Muskegon County	\$2,959,506.88	\$676,202.18	\$2,283,304.70	\$486,245.30	
Newaygo County	\$821,607.58	\$201,215.03	\$620,392.55	\$144,587.85	
Oakland C 6 & D 52-1, 2, 3, 4	\$7,203,836.12	\$1,867,161.92	\$5,336,674.20	\$2,060,807.84	
Oceana County	\$480,459.40	\$92,863.02	\$387,596.38	\$142,009.44	
Ogemaw County	\$608,093.00	\$147,705.00	\$460,388.00	\$181,577.41	
Ontonagon County	\$162,911.00	\$27,747.04	\$135,163.96	\$120,739.81	
Osceola County	\$424,472.82	\$70,238.68	\$354,234.14	\$72,483.40	
Oscoda County	\$178,857.00	\$54,284.53	\$124,572.47	\$128,429.00	
Otsego County	\$352,745.09	\$82,192.54	\$270,552.55	\$89,092.29	
Ottawa County	\$3,279,235.00	\$942,471.82	\$2,336,763.18	\$262,780.28	
Presque Isle County	\$218,468.51	\$74,828.40	\$143,640.11	\$82,408.45	
Roscommon County	\$399,283.00	\$203,467.61	\$195,815.39	\$249,361.80	
Saginaw County	\$3,795,287.00	\$916,773.25	\$2,878,513.75	\$955,059.60	\$1,186.00
Sanilac County	\$388,001.09	\$65,619.63	\$322,381.46	\$60,083.55	
Schoolcraft County	\$234,547.70	\$36,278.66	\$198,269.04	\$38,455.37	
Shiawassee County	\$909,815.40	\$105,977.76	\$803,837.64	\$337,962.13	
St. Clair County	\$2,788,549.84	\$749,438.51	\$2,039,111.33	\$763,769.84	
St. Joseph County	\$918,293.67	\$422,808.72	\$495,484.95	\$72,974.88	
Tuscola County	\$1,138,982.00	\$253,708.29	\$885,273.71	\$22,512.93	
Washtenaw County	\$6,050,067.42	\$2,645,848.39	\$3,404,219.03	\$3,173,744.58	
Wayne County Circuit Court	\$33,644,985.16	\$7,603,728.02	\$26,041,257.14	\$11,930,812.59	\$8,588.27
Wexford/Missaukee Counties	\$998,590.32	\$146,758.54	\$851,831.78	\$208,750.56	
<b>Total approved for FY21</b>	<b>\$167,614,171.96</b>	<b>\$38,486,171.32</b>	<b>\$129,128,000.64</b>	<b>\$51,706,130.02</b>	<b>\$22,730.63</b>