

Statewide E-Filing in Michigan
Questions and Answers
August 2014

- *What is the goal of e-filing, and why is it important?*

Statewide e-filing helps trial courts become more efficient and improves service to the public. E-filing allows for the filing of court documents from anywhere in the state at any time of the day without having to drive to a court office or send large amounts of printed materials via a delivery service, thereby saving time, gas, parking fees, copy costs, and delivery charges. A statewide e-filing system will also accommodate electronic notice and service of process and provide other expanded benefits to improve the efficiency of court interactions by attorneys, parties, and the public. Additional savings are generated when e-filing is linked to electronic document management systems in the trial courts so that judges and staff can easily access important files at any time and from any place. This is the next step in technological advancement for our courts, which may someday result in an entirely paperless court system—serving Michigan residents faster and better.

- *Why did the State Court Administrative Office ask for analysis and recommendations from the National Center for State Courts?*

Creating a statewide system that can accommodate a variety of local court needs and resources is complicated and time-consuming. With 244 trial courts and 165 funding units, Michigan has a locally-funded and controlled court system and each jurisdiction has the authority to choose its own computer system, depending on the ability and willingness of municipal or county governments, who fund those courts, to purchase and support those systems. As a result, courts are supported by 150 computer systems using 20 different case management applications statewide. Moreover, while small courts typically have some method of electronically managing cases, they still largely depend on paper files.¹ In contrast, large jurisdictions have electronic systems for both case and document management. In these jurisdictions, users can view case information on their computer screens as well as access related documents without having to handle paper files.

In contrast, the federal government and some states centrally fund and control their court systems. Such a “unified” structure allows for technological improvements such as e-filing to be implemented much more easily – one decision by one unit of government. In Michigan, however, our so-called “non-unified” court system and complicated arrangement of city and county governments, which fund our courts, make the implementation of statewide changes extremely difficult. To put it simply, each court is different and each city or county that funds it is different in terms of needs and resources. The challenge of finding an e-filing approach that takes those differences and limitations into account has slowed progress. To help

¹ In these jurisdictions, case information about parties, the nature of the case and other pertinent information are maintained electronically by court clerks. At best, users can see lists of what documents are on file and then must visit the court to see the paper files and make copies if desired.

resolve these concerns, the State Court Administrative Office (SCAO) asked the National Center for State Courts (NCSC) to bring together subject matter experts to consult with stakeholders, examine experiences in other states, and provide recommendations regarding a path forward.

- *Some Michigan courts already have e-filing. Why can't we just continue with what we're doing now and simply add new courts over time?*

Experimental, or pilot, e-filing projects have been in use in several Michigan courts in recent years. The Michigan Supreme Court authorized these temporary projects so that specific courts could try differing approaches, work out any bugs, and provide experience and knowledge to inform a statewide system. These pilot projects do not share a common e-filing approach and vary in how filing can be accomplished. The goal has been, and continues to be, for court users throughout the state to have access to a uniform e-filing system with one user name and one password no matter where they live or want to file.

- *Why not try an e-filing system like the federal court system?*

As noted previously, our complicated system of local trial courts, different funding sources, and differing computer systems makes a centralized e-filing system like the federal court system virtually impossible. Trying to impose a single system would be prohibitively expensive, jeopardize other court systems that work well,² and could delay the benefits of e-filing even longer.

- *What were the key findings of the NCSC report?*

After convening a diverse group of more than 50 stakeholders, taking into consideration results from pilot e-filing projects and survey results from more than 1000 respondents, and reviewing the experiences of court systems throughout the country, experts from the NCSC recently provided a report and recommendations to the SCAO. They found:

1. Recognizing the limited budgets of local governments and the constraints of Michigan's non-unified court system, Michigan should move forward with a statewide e-filing system that is affordable and meets the needs of both the judiciary and court users.
2. Stakeholders are in general agreement that the state should set basic standards for e-filing while allowing users a choice of how they interact with the system as long as those choices meet the standards.
3. A centralized, state-run system following the federal model is not viable because of the substantial expense and structural obstacles.
4. A funding model based on a per-case filing fee is preferred over transaction fees because the revenue generated is directly related to the cost of building and maintaining the system.

² Michigan's decentralized system clears nearly 3 million cases each year, virtually all of them within the time limits set by the Michigan Supreme Court.

- *What kind of e-filing system did the NCSC recommend?*

NCSC recommended that Michigan move forward with a plan to provide the basic framework—the brain and spine—of the e-filing system, including a no-cost, no frills application that would allow users from across the state to e-file at anytime from anywhere for free. When users file documents electronically, standardized case information is transmitted to the appropriate trial court for entry into its case management system. Depending on available technology resources, smaller courts might receive and print the documents (just as though the user had filed physical copies), while courts with sophisticated computer systems could have the e-filed documents automatically update their records and even set hearing dates (among other tasks), if desired.

The report also recommended that filers have the option of paying private service providers for more sophisticated value-added applications to link with the state-provided framework. Such third party applications might provide additional features such as customized connections to a law firm’s billing system. As long as they met the standards set by the state, any number of providers could provide such links to the e-filing system. This approach creates a competitive incentive for providers to develop additional features that result in improved service to their customers. This two-tiered approach assures that free, basic e-filing is available statewide and also taps the free market for innovative new features to improve service delivery. Ultimately, no matter which application users choose, the result is more efficient delivery and handling of files and better service to court users.

- *How much should the e-filing system cost?*

While noting that not all costs were included in their analysis, the NCSC report provides a baseline from which more comprehensive estimates can be made and adjusted based on Michigan’s specific needs, the ultimate scope of the project, the bidding process, and other variables. In this regard, it is important to note that Texas has a court system and e-filing approach (with document management) that is similar to Michigan’s, and they estimate costs to be \$72 million over 4 years, plus ongoing costs. Therefore, we estimate that developing the framework for the recommended system—the brain and spine described above—as well as the potential availability of a document management system and required local upgrades to connect trial courts to the system is in the range of \$35 million to \$50 million over 5 years.

- *How should the e-filing system be funded?*

To both develop and fund the e-filing system on an ongoing basis, the NCSC recommends an increase in the per-case filing fee (currently set in state statute at \$150 and one of the lowest in the Midwest). The benefit of this approach is that it fairly spreads the cost of e-filing across all court users who file civil cases with exceptions for the indigent and governmental agencies. Moreover, the revenue generated is directly related to the actual cost of setting up and maintaining the system.

- *Why not fund the e-filing system with a fee for every transaction like in the e-filing pilot courts?*

In the e-filing pilot courts, users are charged a fee for every new transaction (e.g., motion, brief). The problem with such a scenario is that, as evidenced in Texas and in the various Michigan pilot courts, it generated revenue in excess of the cost of e-filing and does not fairly spread the cost of the system to all users. In this regard, Michigan can benefit from the experience in Texas. Although Texas initially funded the system through a fee on each document, it abandoned that approach (for the reasons noted above) and adopted a per-case filing fee. It has now successfully implemented a case filing fee funding system with a state-managed framework and multiple private vendors providing customized links.

- *What should happen to the pilot e-filing projects?*

All pilot e-filing projects have a specific ending date in the order authorizing their creation. We anticipate that these pilots will end either on those specified dates or sooner, depending on the availability of the new e-filing framework. The SCAO has communicated to the courts that the Supreme Court is unlikely to expand or extend the current e-filing pilot programs.

- *What's next?*

Because of the importance of e-filing and the imminent expiration of the e-filing pilots (beginning with Oakland Circuit Court's Family Division in December 2014), the SCAO is working with the Michigan Legislature to develop legislation authorizing and funding the statewide e-filing framework. We hope to begin implementing the framework in 2015.