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Judicial Compensation Overview and Fact Sheet

The Case for Fair, Equitable and Just Compensation
for Judges of the Commonwealth of Massachusetts
Subject to Future Updates
As of March 1, 2022

The Massachusetts Judges Conference (MJC)* (Est. 1982) is the only not-for-profit (501(C)(6)) professional association that represents the interests of Massachusetts' Trial and Appellate Judges, as well as retired judges. Priorities cover fair and equitable compensation, safety and security, military service and pension reform, professional development, media relations, public education, member services, and Legislative and Executive branch communications. The MJC is supported by voluntary membership dues. No public funds are used to support the MJC.

Introduction to Fair and Equitable Compensation

Judicial compensation is established by the Legislature and the Governor for all judges of the Trial and Appellate Courts. There are 416 judicial commissions subject to nomination by the Governor and the advice and consent of the Governor's Council after a public hearing. *(There are two specific references in the Mass. Constitution to judicial compensation, see Pt. 2, C. II, Sec. 1, Art. XIII ("permanent and honourable salaries" for judges shall be established by the Legislature and if "...insufficient shall from time to time be enlarged."); Declaration of Rights Art. XXIX (judges "should have honourable salaries ascertained and established by standing laws."))*

Under the Massachusetts Constitution judges may serve until the mandatory retirement age of 70, and by statute may return to part-time judicial service subject to the approval of the Chief Justice of the Supreme Judicial Court. Judges may also be eligible to retire at age 65 with 15 years of continuous judicial service.

Judicial compensation established by the Legislature is linked by statutes to all elected and appointed Clerks of Court, Clerk Magistrates, Registers of Probate, Register of the Land Court, Registers of Deeds, Clerk of the Supreme Judicial Court, Clerk of the Appeals Court and Court Administrator of the Trial Court, as well as statutory subordinates to each of the above. Compensation is set by statute as a percentage of Chief Justice of the Trial Court or an Appellate Court, or Chief Justice of a Trial Court Department.

The current annual Legislative appropriation for judicial compensation is \$77,139,177.00 for 416 Appellate and Trial Court positions.

For more information write to Massjudges1@gmail.com or call 978-745-7400
or send a text to 781-962-5761
[Hon. Matthew J. Machera, President](#); [Robert P. Clayman, M.Ed., JD., Executive Director](#)

Major findings from the compensation history data:

- As of January 2022, Massachusetts national ranking was 40th when compensation was adjusted based upon a uniform cost-of-living index (See attached 2022 National Judicial Compensation Survey, National Center for State Courts, January 2022)
- Between 2018 and 2022, the cost-of-living reduced the net income of judges by 25% each year
- Between 2018 and 2022, 23 of 34 years has not included an adjustment in compensation that minimally kept pace with inflation
 - The average increase between 1988 and 2022 was 2.58% (see attached MJC Compensation History)
 - Any net loss due to inflation has not been recovered by subsequent compensation increases
- A first-year associate in a major Boston law firm will earn, on average, \$20,000.00 more than a judge with 15 or more years of litigation or other significant experience, and the rate of increase for an associate in his/her first five years would exceed a judge's compensation by more than 33%
- A \$35,000.00 increase in compensation for Trial Court Judges in 2022 would change Massachusetts ranking from 40th to 20th when adjusted for the cost of living

The cost of living in Massachusetts is among the highest in the United States and has a significant impact on judicial compensation.

(There is no provision in Massachusetts law for judges to receive an automatic cost-of-living increase. By contrast, the Governor, Lt. Governor, Constitutional Officers and Members of the Legislature are subject to automatic, bi-annual compensation adjustments. See, Mass. Const., Articles of Amend. CXVIII and G.L. c. 6 sec. 1 and 2; c. 9 sec. 1; c. 10 sec. 1; c. 11 sec. 1; c. 12 sec. 1.)

- Massachusetts Trial Judges' annual compensation ranks 40th out of 52 state jurisdictions after applying a uniform Cost of Living formula. (January 1, 2022, National Center for State Courts Judicial Compensation Survey.) The average national ranking for Massachusetts, when adjusted for the cost-of-living between 2012 to 2021 is 42nd. The highest ranking was 34th in 2019. The lowest ranking was 50th in 2013.
- In 34 years Massachusetts Judges received 13 compensation increases between 1988 and 2022. Most increases have been divided over two to three fiscal years. The average increase is 2.58% over 34 years. The average increase between 2014 and 2021 is 5.42%. This analysis provides a clear view of the path to Massachusetts' current national ranking of 40th, reflecting nearly 20 of 34 years without a change in compensation.

Attracting and Retaining Experienced, Skilled and Committed Attorneys to a Judicial Career

In July 2000, the Boston Bar Association Ad Hoc Committee on Judicial Compensation wrote: "Unless appropriate steps are taken to ensure that the judiciary is able to continue to attract and retain qualified, experienced individuals equipped to handle matters of this complexity, our system will fail the citizens of

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Massachusetts. An increasing number of litigants will opt to take complicated and socially significant disagreements to private alternative dispute resolution firms; and an increasing number of qualified lawyers will opt to work for such firms rather than serve on the bench. We as a society run the risk of losing the benefits that spring from the creation of a body of public law...leaving a gap in published court decisions that traditionally guide the conduct of individuals, business entities and governmental bodies.” (See Boston Bar Ad Hoc Committee Report, p. 3.)

- In a competitive Boston based labor market in which a first-year associate at a law firm may be offered \$220,000, or a midcareer litigator may earn in excess of \$400,000, or in-house counsel positions demand competitive salaries, the courts must consider a compensation structure that will attract and retain lawyers to the bench with the requisite knowledge, skills, and long-term commitment to public service, as well as assuming leadership roles.
- Under the Massachusetts Code of Judicial Conduct, judges are limited to specific sources of additional income, such as teaching or publishing. (Rules of the Supreme Judicial Court: Rule 3:09, Massachusetts Code of Judicial Conduct, Canon 4(A)(B) and Canon 5(A)(3). Judges may accept “reasonable and commensurate” compensation from teaching, honoraria or speaking so long as no conflict of interest is created thereby. Massachusetts Judges are required to file an annual statement with the Supreme Judicial Court of income earned in addition to their judicial salary.)
- Whether it is during an economic downturn or the current pandemic, judges’ service to the people of the Commonwealth resulted in uninterrupted access to justice, met the highest standards of due of process of law.
- Massachusetts judges are nationally recognized for innovation in transparent court management, public accountability, sentencing alternatives, meeting the needs of people with complex mental health and substance abuse issues.
- Recruiting new judges and retaining experienced judges must consider future retirements:
 - Mandatory Retirements between 2021 and 2031 (at age 70): 176
 - Number of judges eligible to retire prior to age 70: 171
 - Mandatory retirements 2022-2026: 70
 - Early retirements: 2022-2026:73
- Compensation and benefits are major considerations during the judicial recruiting and retention of judges

Documents Used as Historic References and Sources

- The Massachusetts Constitution and General Laws of the Commonwealth
- Massachusetts Judges Conference Compensation Tracking 1988-2021 (attached)
- National Center for State Courts, National Judicial Compensation Survey, January 2021, July 2021 and January 2022

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- Report to the Legislature of the Commonwealth of Massachusetts By The Advisory Board on Compensation June 20, 2008
- *Judicial Salaries in Massachusetts*, Boston Bar Association, Ad Hoc Committee on Judicial Compensation, 2000
- Massachusetts Executive Office of Court Management, Human Resources and Fiscal Affairs Departments (Mandatory and Early Retirement Data, 2021)
- Consumer Price Index for Urban Workers (CPI-U) for the Northeast Region
- Massachusetts State Retirement Board

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