



OFFICE OF THE KANE COUNTY AUDITOR
Penny Wegman, Kane County Auditor

**Children's Waiting Room
Fund (195)
Compliance Audit**

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2021.01

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Overview

Under the authority of the Illinois State Statute 705 ILCS 105/27.7 – *Children’s Waiting Room* and 55 ILCS 5/3-1005 – *Duties of Auditor*, the Office of the Kane County Auditor was engaged to audit the Children’s Waiting Room Fund.

Illinois State Statute 705 ILCS 105/27.7 – *Children’s Waiting Room* – “*the fund shall be audited by the county auditor.*”

Illinois State Statute 55 ILCS 5/3-1005 – *Duties of Auditor*, is mandated to “*maintain a continuous internal audit of the operations and financial records of the officers, agents or divisions of the county.*”

Timeline

The report will review fiscal year 2014 through 2019. This is a continuation of the previous audit report released in 2014.

Background

History of the Children's Waiting Room

The Children’s Waiting Room (CWR), located at the Judicial Center, is a free, short-term, drop-off supervised care center for children whose parents or guardians have business at the Judicial Center, the Kane County Courthouse (Third Street), Traffic Court, or at the Jail, for such requirements as attending a court hearing as a litigant, being a witness, and other court approved reasons.

The idea of the Children’s Waiting Room was first presented to the County by the Kane County Bar Foundation (KCBF), a not-for-profit charitable organization established in 1996 to facilitate the unrestricted access of all members of the public to the legal programs and services available and necessary for the protection of individual rights and the overall preservation of justice and safety for all residents of Kane County (Website - <https://kanecountybar.org/bar-foundation>).

In 2002, the County Board approved the Kane County Circuit Clerk to collect a Children’s Waiting Room fee and the Kane County Treasurer to maintain a special fund designated as the children’s waiting room fund for the fees collected (Resolution # 02-257).

In 2003, the County Board approved and signed an agreement with the Kane County Bar Foundation to be responsible for building, operating, and maintaining the Children’s Waiting Room (Resolution # 03-300). Using a combination of fees collected and fundraisers hosted by the Kane County Bar Foundation, the Children’s Waiting Room officially opened its doors on Monday, January 5, 2004.

Through today, the Children’s Waiting Room is still operated and maintained by the Kane County Bar Foundation.

Fund Details

The Children’s Waiting Room Fund (195) is a special revenue governmental fund categorized as a restricted fund. It is managed and controlled by the Court Administrator of the Judiciary and Courts Office.

A summary of the fund’s budget as well as change to the budget year over year is summarized in Table 1.

TABLE 1
Features the Children's Waiting Room fund budget and changes year over year from 2014 through 2020.

Year	Budget	Year over Year	
		\$ Change	% Change
2014	125,500		
2015	108,566	(16,934)	-13%
2016	105,558	(3,008)	-3%
2017	117,650	12,092	11%
2018	137,000	19,350	16%
2019	137,000	-	0%
2020	137,000	-	0%

Revenue

The Children’s Waiting Room fund is self-funded. A fee is collected by the Circuit Clerk and then remitted to the County Treasurer on a monthly basis. Judges determine whether a party will be subject to the fee.

Under the court fee structure, this fee is classified as a “cost”, which is deemed a lower priority than fines but a greater priority than fees.

The fee is to be paid at the time of filing the first pleading, paper, or other appearance filed by each party in all civil cases in an amount not to exceed \$10. The fee shall be collected in a manner in which all other fees or costs are collected.

Over 99% of all the funds earned are fees collected by the Circuit Clerk (Charges for Services). Less than 1% is on interest earned on the cash reserve balance (Investment Income).

Expenses

Expenses are limited to the establishment and maintenance of the children’s waiting room, including personnel heat, light, telephone, security, rental of space, or any other item in connection with the operation of a children’s waiting room (705 ILCS 105/27.7). A list of expenses are summarized in the governing state statute as well as the contract agreement with Kane County Bar Foundation.

Over 91% of the fund’s expenses are reported as Contractual Services, while 9% are reported as Transfers to Other Funds (e.g. rent payment to the County).

Authoritative Guidance

The Children’s Waiting Room fund is governed by County Resolutions and Ordinances, in line with Illinois law. Refer to appendix A for a complete list of County Resolutions, State Statutes, and Public Acts that apply to this fund.

Resolution 19-154, which went into effect July 1, 2019, is the most recent authoritative guidance to impact the fund. This resolution was the County’s response to the newly approval public act 100-987.

Public Act 100-987

Public Act 100-987 was passed by the Illinois General Assembly to revise the fees, fines, and assessments imposed on certain classes of cases in the Illinois Circuit Courts. It repealed State Statute 705 ILCS 105/27.7, and with it the mention of collecting a fee for the children waiting room. Instead, the law is allocating a portion of the civil filing fees to a general category labeled “general fund”.

TABLE 2					
<i>The fee schedule for civil filing and civil appearance per the Public Act 100-987.</i>					
<i>Fund Name</i>	Civil Filing			Civil Appearance	
	Schedule 1	Schedule 2	Schedule 3	Schedule 1	Schedule 2
Court Automation Fund	20.00	20.00	10.00	20.00	4.00
Document Storage Fund	20.00	20.00	10.00	20.00	4.00
Clerk Operations & Administration Fund	5.00	5.00	2.00	5.00	2.00
County's General Fund	250.00	200.00	56.00	125.00	90.00
Total Filing Fee	295.00	245.00	78.00	170.00	100.00

Resolution 19-154

The County’s response to Public Act 100-987 was to pass resolution 19-154 – *Establishing certain fines, fees, and assessment, and repealing prior fees* (approved May 7, 2019). The County Board assigned 25% of the general fund amount to be allocated to the Children’s Waiting Room fund.

TABLE 3

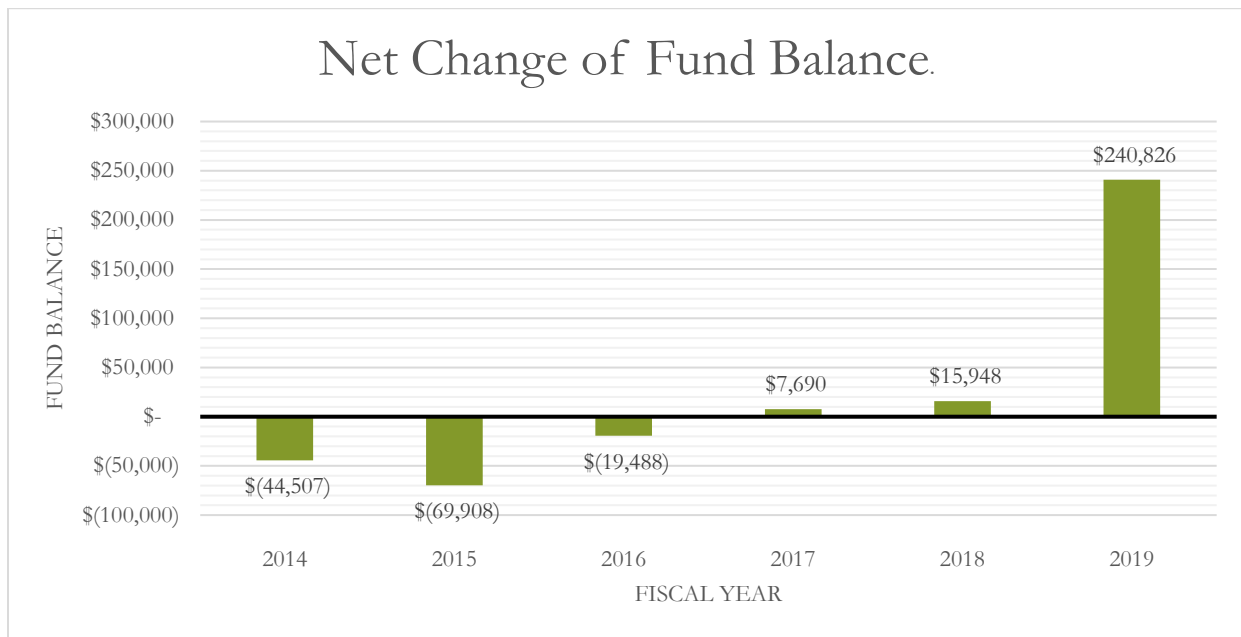
Summary of children's waiting room allocation for civil filing and civil appearance approved by the county board per resolution 19-154.

Fund Name	Percentage	Civil Filing			Civil Appearance	
		Schedule 1	Schedule 2	Schedule 3	Schedule 1	Schedule 2
County's General Fund	100%	250.00	200.00	56.00	125.00	90.00
Children's Waiting Room	25%	62.50	50.00	14.00	31.25	22.50

Financial Analysis

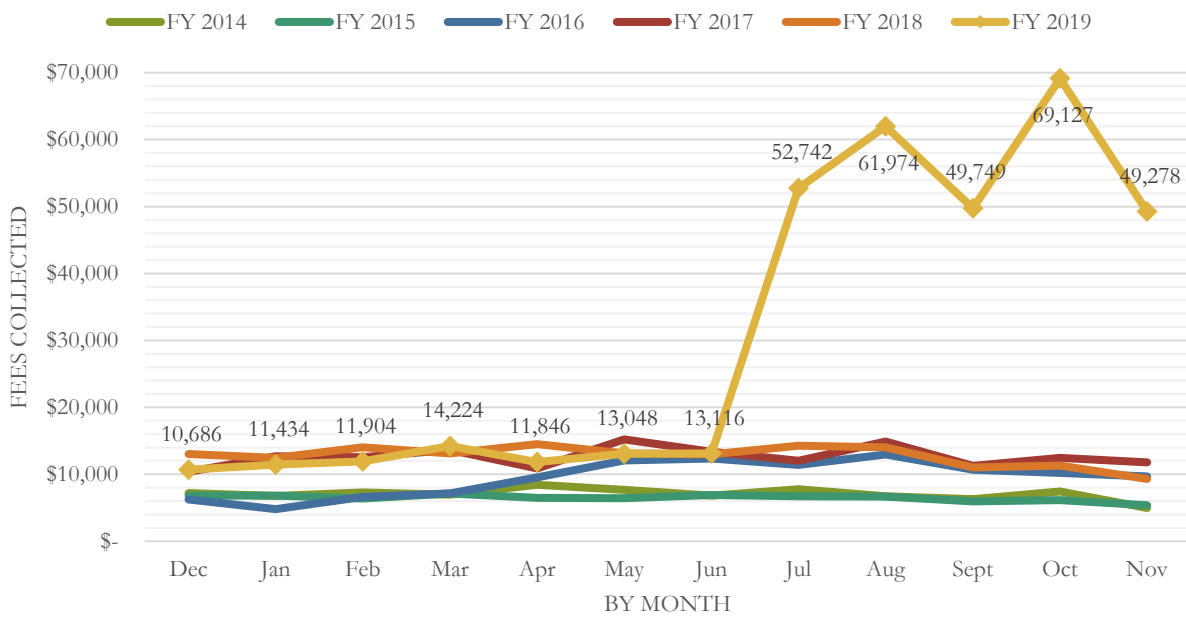
During fiscal year 2014 through 2016, the Children's Waiting Room was expending more than it was collecting in fees to maintain operations. In these years, there was enough cash reserves on hand to pay for the expenditures incurred, which allowed for the negative fund balance.

In 2016, the County Board increased the fee maximum from \$5 to \$10 per civil case filing (Resolution #16-072). The increase balanced the fund, and the fund started to operate within its budget.



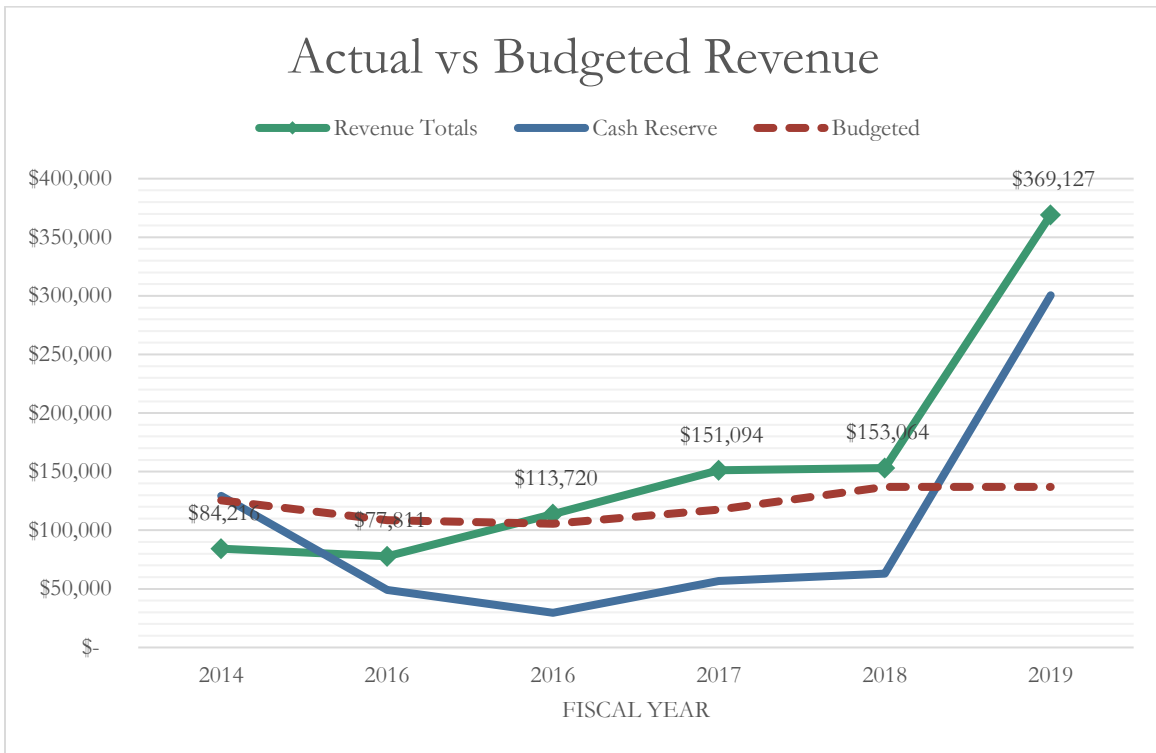
In 2019, the County Board changed the fee structure from a specific dollar amount to a percentage per civil filing (Resolution # 19-154). Since the change, the fee collected and allocated to the Children Waiting Room has significantly increased.

Children's Waiting Room Fees Collected December 2013 - November 2019



The average monthly collection of Children’s Waiting Room fee for the first seven months of fiscal year 2019, prior to the change, is \$12,148, which is in line with prior year trends. In 2017, the average monthly fee collected was \$12,567 and in 2018 it was \$12,673. However, the remaining five months of fiscal year 2019, subsequent the change, the average monthly fee collected spiked to \$56,239 increasing the monthly average for the fiscal year to \$30,519.

The Children’s Waiting Room fund ended the fiscal year 2019 with a \$240,826 surplus.



Procedures

The Auditor's Office performed the following procedures:

1. Obtain an understanding of the Children's Waiting Room fund
2. Observe the Children's Waiting Room
3. Review the fund's compliance with state statutes, county resolutions, and contracts
4. Review and test fund activity

Observations and Recommendations

1. (Judiciary) The Kane County Bar Foundation (KCBF) invoices the County monthly for the expenses it incurs operating the Children's Waiting Room. Majority of the invoices submitted only list a summary total of charges and do not provide more detail or support for those charges. In order to validate that charges incurred are in compliance with statute and / or contract, expenses should be detailed and support for those charges should be provided.

Recommendation A

Require KCBF to provide an itemized invoice each month of charges incurred.

Managements Response

Completed, Bar Foundation sends itemized invoice to Chief Judges Office

Recommendation B

Request supporting backup to validate the existence of the actual charges such as W-2s, invoices, receipts, calculation, etc.

Managements Response

KCBF is considering

Recommendation C

The type of charges incurred should be reviewed and scrutinized to determine if the expense is compliant with authoritative guidance and contract (rights and obligations).

Managements Response

Invoices are reviewed by the Court Administrator and Administrative Assistant to the Chief Judge prior to input in finance system

2. (Judiciary) The Kane County Bar Foundation (KCBF) invoices the County monthly for the expenses it incurs operating the Children's Waiting Room. While reviewing the general ledger detail, a couple exceptions were noted during fiscal year 2019 activity. There was one (1) invoice found that was improperly excluded for \$10,578 and one (1) invoice improperly included for \$6,758. A net difference of \$3,820. As the Children's Waiting Room fund is a special revenue fund, expenses incurred should be recorded and paid by the Children's Waiting Room fund.

Recommendation A

Correct the general ledger activity. Properly include the missing invoice, as well as, properly exclude the invoice that was improperly included.

Managements Response

Agreed

Recommendation B

Review the accounts payable procedures and determine where improvements can be made to minimize / prevent inaccurate recordings in the general ledger.

Managements Response

Completed, additional training conducted

3. (Judiciary) The contract between the Kane County Bar Foundation (KCBF) and Kane County states the KCBF shall pay Kane County \$1,000 a month in rent

(annually \$12,000). A monthly payment is not made to the County from the KCBF, but instead, a transfer of funds is recorded semi-annually during the year from the Children’s Waiting Room fund to the County’s general fund.

The KCBF acknowledges the rent expense and passes it through to the Children’s Waiting Room monthly invoices. Per the invoice, rent expense is netted to zero with a credit, to avoid the Children’s Waiting Room Fund paying the rent expense to the KCBF.

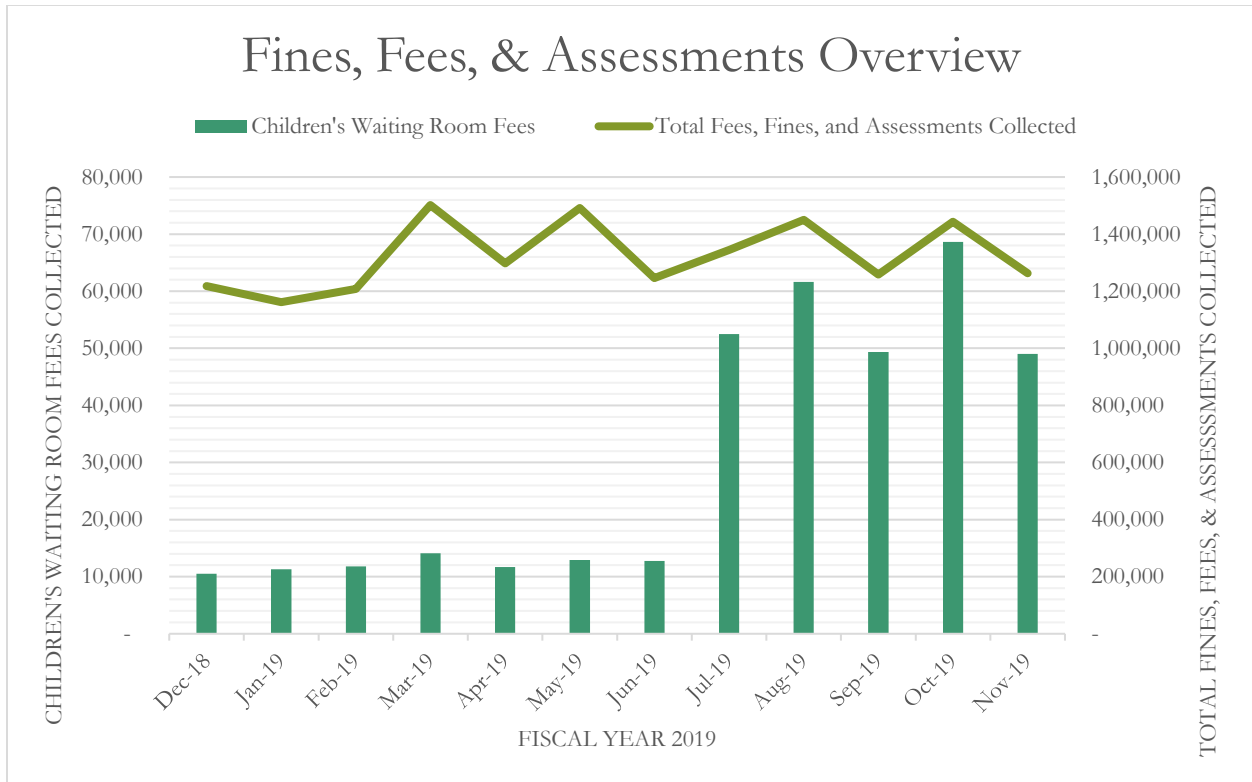
Recommendation

Amend the current contract, which extends to the year 2024, to comply with current practice.

Managements Response

Under consideration, current system was designed by the Finance Department

- (Judiciary) Since the effective date of the Public Act 100-987 and Resolution 19-154, the fees collected and allocated to the Children Waiting Room have significantly increased, while the total fines, fees, and assessment collected by the Circuit Clerk continue to vary slightly within the normal range of the expected operations, averaging around \$1.323 million and the Children’s Waiting Room budget remaining unchanged. Furthermore, the Children’s Waiting Room fund, at the end of fiscal year 2019, had a \$240,826 surplus.



Recommendation

The County Board to review the fees already collected by the Circuit Clerk and remitted to the County Treasurer to determine if the fees already collected should be redistributed to other County funds impacted by resolution 19-154.

Managements Response

Underway, see Judicial/Public Safety January 2021 Agenda for Resolution transferring money to Court Security Fund

5. (Judiciary) The Kane County Bar Foundation maintains a website for the Children's Waiting Room, however, the information on the website is outdated. It currently reads that there is only a \$5 fee collected. This was changed in 2016 and then again in 2019.

Recommendation

Update the Children's Waiting Room website with the most current information. Then periodically review the website to ensure information is accurate and consistent with what is practiced.

Managements Response

Should be completed

6. (Judiciary) A discrepancy appears in who has authority to manage and / or control the Children's Waiting Room Fund. The Court Administrator of the Judiciary and Courts Office currently manages and controls the fund, however, authoritative guidance suggests the fund should be under the management and control of the County Board.

Recommendation

County Board should formally assign the Court Administrator of the Judiciary and Courts Office to manage and control the Children's Waiting Room fund.

Managements Response

That is the County Board's Decision

7. (Judiciary) All financial activity is not captured in the fund detail. Kane County Bar Foundation (KCBF), in addition to the fees received from the Circuit Clerk, obtains donations from various sources. Neither the donations nor the expenses used with the donations are recorded in the fund. Donations, per *GASB Standard No. 33 – Accounting and Financial Reporting for Nonexchange Transactions*, are classed as voluntary nonexchange transactions.

Recommendation

All exchange and non-exchange transactions should be reported and recorded for proper recognition on the County's financial statements.

Managements Response

Kane County Bar Foundation replies that they follow all State, Federal and IRS laws and guidelines in the financial management of the Children's Waiting Room

8. (Finance) Majority of the Children Waiting Room Fund balance is classified as *restricted*. There are five classifications established by the GASB 54 – *Clarifies Fund Balance Distinctions*: nonspendable, restricted, committed, assigned, and unassigned. Restricted fund balances include amounts that can be spent only for the specific purposes stipulated by external resource providers (grant providers), constitutionally, or through enabling legislation (that is, legislation that creates a new revenue source and restricts its use).

Prior to Public Act 100-987, the authority to engage the Circuit Clerk to collect and remit a fee for the Children's Waiting Room (CWR) was given by the County Board. The IL State Statute provided a suggestion to source the fund. It did not mandate local counties to create a CWR or how to fund the CWR. The County Board ultimately approved establishing the CWR, approved the funding source, created the fund, and set the restrictions. All things considered, the fund balance appears to fall under the classification of committed and not restricted. Committed fund balances include amounts that can be used only for the specific purposes determined by a formal action of the government's highest level of decision-making authority.

Furthermore, subsequent the effect of the Public Act 100-987, the Children's Waiting Room source of funding that was suggested by Illinois State Statutes as of July 1, 2019 is repealed. There is no longer any mention of how to fund the Children's Waiting Room. As such, the County Board's approved resolution 19-154, which is the County's highest level of decision-making authority, further driving the point that the Children's Waiting Room funds should be classified as *committed*.

Recommendation

Reclass the Children's Waiting Room fund from a restricted fund to a committed fund.

Managements Response

Public Act 100-987 did not repeal 705 ILCS 105/27.7 regarding the funding of the Children's Waiting Room.

The original statute still applies.

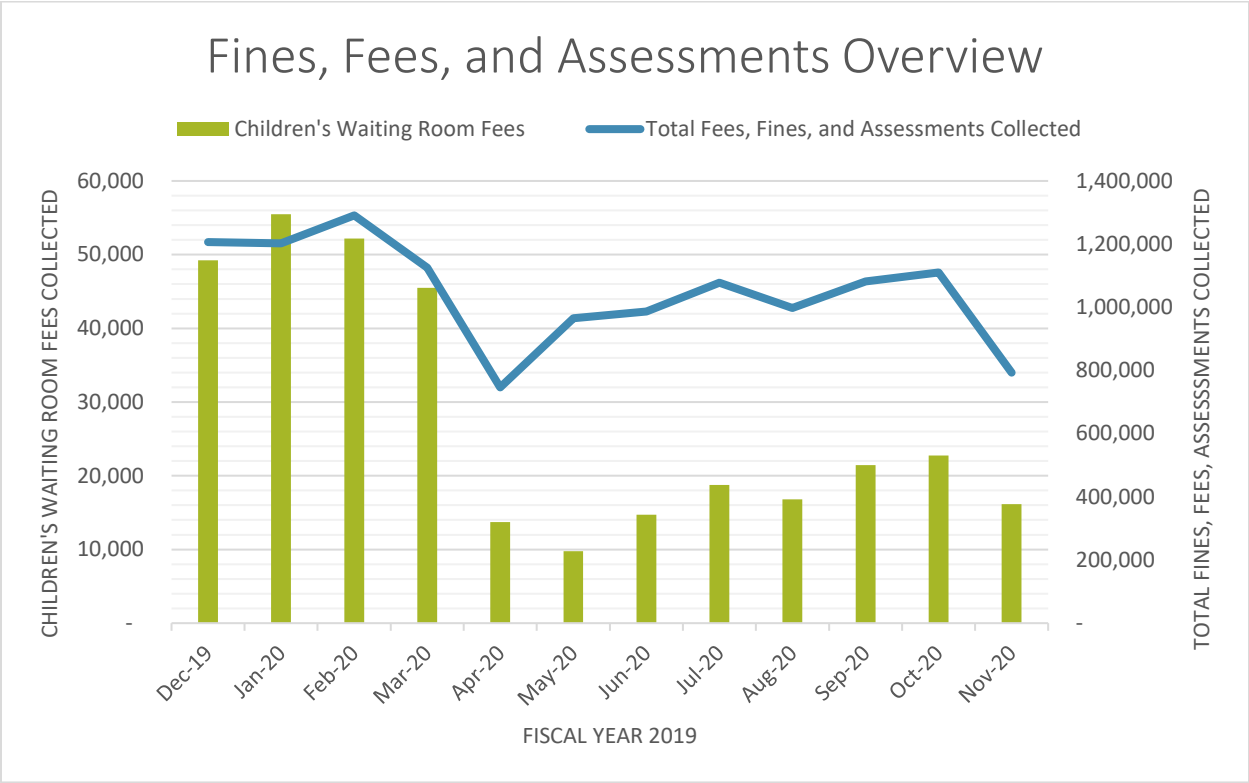
Subsequent Events

On March 10, 2020, the County Board approved Resolution 20-82 to replace the fee structure established by Resolution 19-154. The new proposed fee structure changes the percentage going to the Children’s Waiting Room from 25% to 11% on Civil Filings effective April 2020. Below is a table that breaks out the fee by schedule.

TABLE 4
Summary of children's waiting room allocation for civil filing and civil appearance with the State Attorney's Office proposed motion.

Fund Name	Percentage	Civil Filing			Civil Appearance	
		Schedule 1	Schedule 2	Schedule 3	Schedule 1	Schedule 2
County's General Fund	100%	250.00	200.00	56.00	125.00	90.00
Children's Waiting Room	11%	27.50	22.00	6.16	13.75	9.90

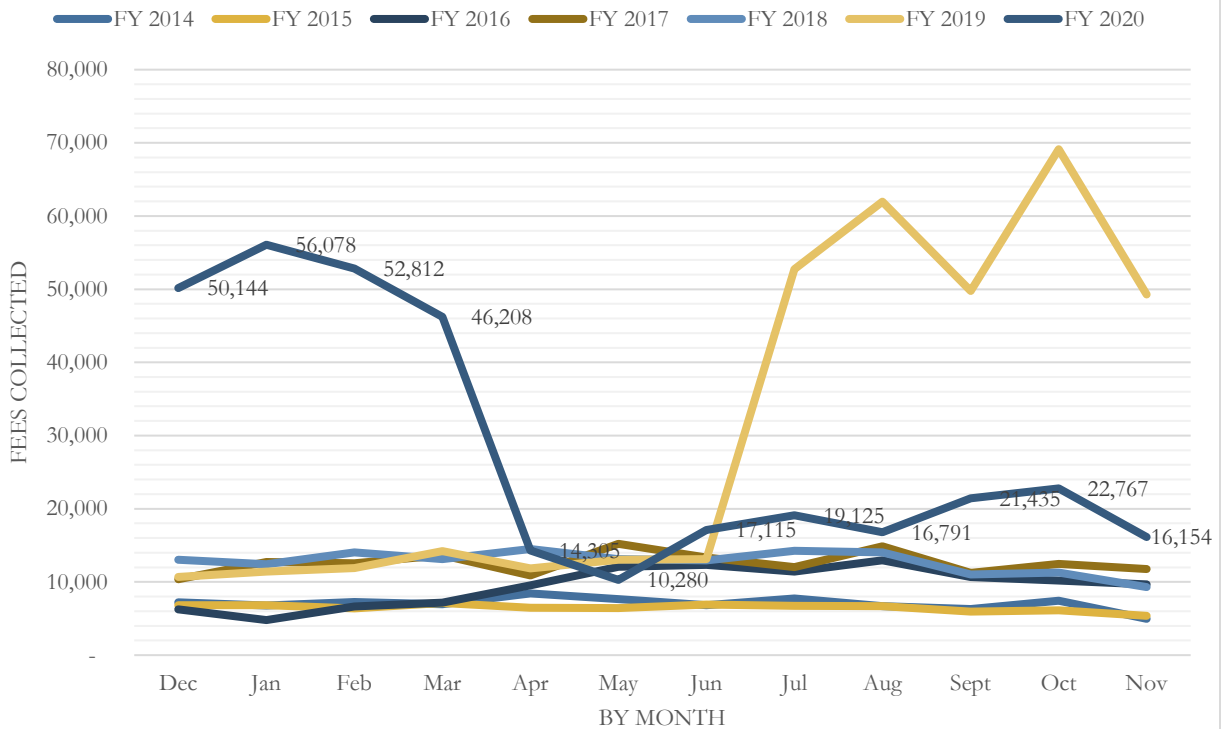
The percentage will impact future fees only. Fees collected between July 2019 and March 2020 are not addressed in this resolution. The chart below shows the impact of the new fee structure during fiscal year 2020.



The following chart below compares the fiscal year 2020 levels to prior year levels.

Children's Waiting Room Fees Collected December 2013 - November 2020*

* Fiscal year 2020 is unaudited and is subject to adjustment



While the fees collected are trending closer to normal levels, they are slightly higher than average from previous fiscal years.

TABLE 5

*Average monthly fee collected for Children's Waiting Room for fiscal year 2016 through 2020**

Fiscal year	Average monthly fees collected	% change
2020	17,246	42%
2019	12,148	-4%
2018	12,673	1%
2017	12,567	38%
2016	9,102	-

* Unaudited amount and is subject to adjustment

Includes the 11% allocation

Excludes fees collect with 25% allocation

TABLE 6

*Features the Children's Waiting Room cash reserves from 2014 through 2020**

Year	Year End Cash Reserve
2014	129,448
2015	49,062
2016	29,596
2017	56,816
2018	63,008
2019	300,492
2020*	541,829

* Unaudited amount and is subject to adjustment

The Children's Waiting Room fund is projecting to end fiscal year 2020 with a \$239,522 surplus increasing its cash reserve to \$541,829.

Closing Remarks

The Auditor's Office would like to thank all those who assisted us in our review. Your cooperation and generous assistance is greatly appreciated.

Regards,

OFFICE OF THE KANE COUNTY AUDITOR



Penny Wegman
Kane County Auditor



Mariola Oscarson
Kane County Deputy Auditor



Kristin Jenkins
Kane County Staff Auditor

Appendix A

Summary of Authoritative Guidance

Summary of Kane County Board approved resolutions relating to the Children’s Waiting Room

DATE OF APPROVAL	RESOLUTION #	TITLE	SUMMARY
August 13, 2002	02-257	Circuit Court Clerk to Collect Children's Waiting Room Fee	Circuit Clerk shall charge and collect a fee of \$5.00 and remit monthly to the County Treasurer in a special fund designated as the children’s waiting room fund.
October 14, 2003	03-300	Agreement for Operation of Judicial Center Children’s Waiting Room	Resolved that the Board Chairman is authorized to enter in a licensing agreement with the Kane County Bar Foundation (KCBF) for erecting, operating and maintaining the Children’s Waiting Room at the Kane County Judicial Center.
February 10, 2004	04-049	Amending Fiscal Year 2004 Budget, Children’s Waiting Room	Ordained the fund to the county budget. The budget was needed to allow operations to continue and to provide a financial record of all revenues and expenditures for this fund.
November 12, 2013	13-328	Authorizing a License Agreement with the Kane County Bar Association for Use of Space in the Judicial Center	Renewed contract with The Kane County Bar Foundation through January 24, 2024.
March 8, 2016	16-072	Amending the Surcharge on Court Cases (Increasing Children's Waiting Room Fee)	Fee increased from \$5.00 per civil filing to the statutory maximum of \$10 per civil filing. Fee change effective starting April 11, 2016.
May 7, 2019	19-154	Establishing Certain Fines, Fees, and Assessments, and Repealing Prior Fees	Response to Public Acts that were passed that repealed the State Statute. This resolution outlined a breakdown of fees and fines per the new Public Acts for criminal and civil cases.
March 10, 2020	20-82	Establishing the Collection and Distribution of Certain Fines, Fees, and Assessments	Revised the distribution of certain fines, fees, and assessments established in resolution 19-154. Changes effective April 1, 2020.

Summary of approved state legislation relating to the Children's Waiting Room.

EFFECTIVE DATE	REFERENCE #	TITLE	SUMMARY
July 1, 2019	Public Act 100-987	AN ACT concerning fees, fines, and assessments.	Section 905-57. The Clerks of Courts Act is amended by repealing Sections 27.1a, 27.2, 27.2a, 27.3a, 27.3c, 27.3e, 27.3g, 27.4, 27.5, 27.6, and 27.7
August 19, 2016	Public Act 99-859	AN ACT concerning courts.	Updated language: The children's waiting room fee of not more than \$10 is applied through December 31, 2021, but after January 1, 2022 the fee is reduced and is not to exceed \$8.
September 22, 2008	Public Act 95-980	AN ACT concerning courts.	Changed amount: The children's waiting room fee of not more than \$10
June 20, 1998	Public Act 90-655	AN ACT to revise the law by combining multiple enactments and making technical corrections.	Section 155. The Clerks of Courts Act is amended by setting forth and renumbering multiple versions of Section 27.7 as follows: (705 ILCS 105/27.7) Sec. 27.7.
January 1, 1998	Public Act 90-117	AN ACT to amend the Clerks of Courts Act by changing Section 27.7.	Update language: - Added "[...] or for other court purposes as determined by the court may [...]" - Removed the restriction: "in counties over 500,000 and under 3,000,000 in population shall" - Removed "[...] less than \$2 nor [...]"
January 1, 1998	Public Act 89-717	<i>* Reviewed the State of Illinois 89th General Assembly House of Representative Transcription Debate, as the public act is not available</i>	The bill is a means of providing a funding source for those children's waiting rooms in DuPage County and Lake County.
January 1, 1998	705 ILCS 105/27.7	Children's waiting room.	Outline the terms of the children's waiting room fund: - Process of fees and collections - Appropriate expenses - Maintaining funds
REPEALED July 1, 2019	705 ILCS 105/27.7	Children's waiting room.	Outline the terms of the children's waiting room fund: - Process of fees and collections - Appropriate expenses - Maintaining funds

Appendix B

Illinois Compiled Statute 705 ILCS 105/27.7

(repealed as of July 1, 2019)

The expense of establishing and maintaining a children's waiting room for children whose parents or guardians are attending a court hearing as a litigant, witness, or for other court purposes as determined by the court may be borne by the county. To defray that expense in any county having established a children's waiting room or that elects to establish such a system, the county board may require the clerk of the circuit court in the county to charge and collect a children's waiting room fee of not more than \$10 through December 31, 2021 and not more than \$8 on and after January 1, 2022. The fee shall be at the time of filing the first pleading, paper, or other appearance filed by each party in all civil cases. No additional fee shall be required if more than one party is presented in a single pleading, paper, or other appearance. The fee shall be collected in the manner in which all other fees or costs are collected.

Each clerk shall commence the charges and collection upon receipt of written notice from the chairman of the county board together with a certified copy of the board's resolution. The clerk shall file the resolution of record in his or her office.

The fees shall be in addition to all other fees and charges of the clerks, shall be assessable as costs, and may be waived only if the judge specifically provides for the waiver of the children's waiting room fee. The fees shall be remitted monthly by the clerk to the county treasurer, to be retained by the treasurer in a special fund designated as the children's waiting room fund. The fund shall be audited by the county auditor, and the county board shall make expenditure from the fund in payment of any cost related to the establishment and maintenance of the children's waiting room, including personnel, heat, light, telephone, security, rental of space, or any other item in connection with the operation of a children's waiting room.

The fees shall not be charged in any matter coming to the clerk on a change of venue, nor in any proceeding to review the decision of any administrative officer, agency, or body.