

State of the Judiciary  
Chief Justice Robert Benham, Georgia Supreme Court  
Message to the Legislature  
January 11, 1996, in Atlanta, Georgia

To Lieutenant Governor Howard, Speaker Murphy, officers and members of the House and Senate, my colleagues on the Court of Appeals, members of the judiciary, department heads, visitors and friends, it is indeed a pleasure and a privilege to deliver the State of the Judiciary address on behalf of the judicial branch of government.

My presence today makes a dozen times that I have attended a State of the Judiciary address, but it marks the first time I have had the pleasure of delivering the address. As Chief Justice of the Georgia Supreme Court, I would like to thank you for inviting members of the judiciary to appear before a joint session of the House and Senate to inform you as to the state of the judicial branch. I would also like to thank you for extending the invitation to me to deliver the address in 1996 for this year represents an historic occasion for the Court and for my family. The Supreme Court of Georgia held its first session in my home of Bartow County in 1846 and this year it is celebrating the Court's 150th birthday. The Court will celebrate its birthday with various activities during the month of April. The celebration marks the completion of 150 years of the administration of justice and the beginning of many more years of administering justice. During this sesquicentennial year, this Court will hold its proceedings outside of Atlanta in Louisville, Ga., where that court will be celebrating its bicentennial. We will continue our tradition of holding court from time to time outside Atlanta and bringing the court to the people as we have done in Talbotton, Savannah, Athens, Cassville, New Echota and Tifton.

This year also represents my family's 150th anniversary as residents of Georgia: therefore, it is indeed an honor to celebrate the Court's sesquicentennial along with my family's sesquicentennial. We hope that you will join with us later this year during the celebratory activities.

### **Preliminary Remarks**

For the 12 years that I have served on the appellate courts, the Chief Justice has delivered the State of the Judiciary address, outlining the accomplishments of the judiciary and pointing out the needs of the various courts. This year will be no exception. To put things in perspective, a short two years ago, then Chief Justice Harold Clarke thanked you for the pay raise for judges in his address and pointed out the need for adequate funding for the courts. Last year Chief Justice Willis Hunt, in addition to giving you an update on the judicial branch and some vision of the court's future, asked you to fund additional judges for the superior courts of this state. Where possible, you have fulfilled our budgetary requests and you have set in motion steps for the funding of additional judges. In the last year alone, 24 superior court judgeships have been authorized and filled, thereby allowing some relief to our overburdened trial courts. We deeply appreciate your attention to our needs.

### **Judicial Branch in Review**

To give you some glimpse of the heavy caseloads our various courts handle, in 1994, the last year for which statistics are available, over 310,000 cases were filed in the various superior courts: nearly 700,000 cases were filed in state courts; almost 120,000 cases were filed in juvenile court; nearly 236,000 filed in probate court; and approximately 802,000 cases filed in magistrate courts. That year, 3,911 cases were filed in the Court of Appeals, and 1,954 cases were docketed in the Supreme Court. While the figures pertaining to the lower courts include civil and criminal cases, they do not include cases disposed of in the various recorder courts and traffic courts throughout the state. As you can see from these figures, a tremendous amount of litigation takes place in the courts of this state. Therefore, it is imperative that we attract and retain highly qualified individuals to serve as judges in this country and we must maintain a high level of competence by providing adequate compensation and also excellent legal training within the state of Georgia.

This session will see several bills introduced concerning the operation of the courts. We feel it would be improper for us to comment on these bills since from time to time some of these matters might come to the courts on a constitutional challenge, however, we do share the concern of the Court of Appeals as to its tremendous caseload. Having served on that Court for almost six years, I am keenly aware of the tremendous burden placed on it. So I hope you will be able to give the Court of Appeals some assistance in alleviating the heavy burden it already has.

In reviewing the strides of the judicial branch for the past several years, we must begin our focus on the Chief Justice's Commission on Professionalism. Several of my predecessors in office including Chief Justices Hill, Marshall, Clarke, Weltner and Hunt, but especially Chief Justice Clarke, worked to pave the road for the development of the Commission which was to become a model for commissions throughout the country. The Commission strives to assist the State Bar of Georgia's efforts to maintain a level of professionalism that can stand against the negative trends of commercialization and loss of community. The Commission has effectively serviced thousands of people since its inception.

In reviewing the strides of the judicial branch, we must also focus on the juvenile court system. The juvenile court system has remained committed to the notions of rehabilitation, while maintaining means of punishment that have grown increasingly cross-jurisdictional in scope. On one hand, the juvenile court system has followed current "get tough" policies. On the other hand, the juvenile courts seek to change lives and protect children who need protection. With your continued support, the juvenile court will attain its goal of reaching every child in need. We must remain committed to improving the quality of life for our children but we must also be committed to keeping our streets safe at the same time.

In reviewing the achievements of the judicial branch over the past year, I would like to mention several initiatives the judiciary has undertaken about which we are excited and feel will have a favorable impact on the administration of justice. As judges, we are most comfortable dealing with purely legal matters, however, from time to time, we find it necessary to deal with some of the root causes of matters that adversely impact the administration of justice and the quality of life. In addition, many matters that were traditionally addressed by the federal government are now being addressed by the state courts because the federal courts are deferring to the state's decision making process. Some of the new initiatives are as follows:

1. Child Placement Proceedings Project: This project assesses court proceedings dealing with abuse, neglect, deprivation and foster care cases so that improvement strategies can be developed.

2. Family Courts Commission: The State Bar has named a commission to consider family court matters including the potential jurisdiction of family courts over domestic relations cases, child custody and support cases, juvenile cases, criminal cases and other matters. I note that legislation will be introduced during this session to authorize pilot court projects in this area.

3. Commission on Racial and Ethnic Bias: The commission, which completed its report in September 1995, has now been merged with the Commission on Gender Bias to create the Commission on Equality. We thank you for appropriating the money to conduct the study and we appreciate your continued support of our efforts to make justice both color and gender blind.

4. Committee on Substance Abuse and the Courts: The committee is comprised of judges, prosecutors, law enforcement officers, and treatment specialists. Funded by the Criminal Justice Coordinating Council, the work of this committee focuses on case management techniques for drug-related offenses and innovations such as drug courts and alternative sentencing. Currently nine judicial circuits have special programs for drug offenders and 12 other circuits are in the planning stages for their own programs.

5. Georgia Courts Automation Commission: Presently, the primary focus of this commission is the installation of Sustain software in courts throughout the state, and on the coordination of state databases, particularly criminal justice databases. We are making significant strides in this area thanks to the appropriations you provided.

6. Georgia Office of Dispute Resolution: Beginning in 1993, this Court formulated this office to address the need for mediators and arbitrators in offering dispute resolution processes to litigants as an alternative to litigation. By settling disputes prior to or even during the litigation state, the burden on the judicial system is significantly lessened. The office has serviced over 4 million people in 67 counties in Georgia via its programs. We must realize that while the legal forum is available to all citizens it is not a cure-all for all of society's problems. We must continue to encourage citizens to seek solutions to their problems across the dinner table, across the conference table and across the backyard fence before they resort to the courtroom.

7. As you might expect, there are many other projects being undertaken by the courts, including a Commission on Family Violence to develop a coordinated response and comprehensive plan to address family violence, a Commission on Evaluation of Disciplinary Enforcement to evaluate the system of disciplining lawyers; and the Institute of Continuing Judicial Education which plans and coordinates annual training for superior, state, juvenile, probate, magistrate and municipal court judges throughout the state. We also will be receiving a report from the Olympic Planning Committee on recommendations on how to keep our courts operating during the Olympic Games this summer.

There are several other ongoing projects which I do not have time to discuss today, but I will be glad to furnish any information you desire concerning these other commissions and committees.

I would like to reiterate our appreciation for your attention to our past budgetary requests. However, while you have been generous with us in the allocation of funds and the provision for new judges, the administration of justice will be adversely impacted by at least two developments at the national level. In the past you have provided one-third of the funding for the activities of our Resource Center which provides representation in *habeas corpus* matters. Recently, the two-thirds funding at the federal level was eliminated; therefore, we are apt to see some uncertainty and confusion in this area of the law in the not too distant future. Also, the federal Legal Services Corporation has provided funding for the representation of individuals who could not afford a lawyer. However, there has been a cutback on funding and case involvement at the national level, which impacts at the local level. As a result, some citizens will go without adequate legal representation. Because justice should be available to all citizens, despite their income level, the cutback on funding for the Legal Services Corporation will eradicate justice for many. And justice denied to one citizen is justice denied to society as a whole. Any help you can provide in either or both of these areas will be deeply appreciated.

### **Conclusion**

We must now prepare for the delivery of justice in the 21st century. And if Georgia is to maintain its position of leadership in the southeast and improve its leadership position throughout the country, we must cross new frontiers in the area of law and technology. Just as the business world must change to meet the new demands in the marketplace, the courts too must change to meet new demands in the legal arena. We must prepare to travel on the information highway and make court decisions available on that highway. While we must make adjustments to the ways in which we do business, we must be cautious in our approach and hold on to traditions that have held us in good stead in the past, and we must thoroughly evaluate new methods before embarking on uncharted courses.

These are very exciting times for the courts and we are blessed to have a tremendous number of able and extremely capable judges throughout this great state. Compared to judges throughout the nation, Georgia's judges are highly educated, motivated, and committed to justice for all citizens. They are level-headed, open-minded, even-handed, sure-footed and firmly anchored in traditional moral values. They are dedicated to their work, collegial in their dealings with their peers and cordial to those who come before the courts. At the trial court level, institutions are being put in place to assure that all citizens are treated fairly before the law. At the appellate court level, we are seeking to provide the predictability, certainty, and stability that is necessary for the courts to operate in a civilized and progressive society. We realize that the system is not perfect and that from time to time some injustices might occur, but we continue to reevaluate our system to identify its shortcomings and correct any deficiencies before they become systematic in nature. We firmly believe that the courts do not belong to the judges or the lawyers, but that the courts belong to the citizens.

With your help, we will continue to provide a high quality of justice at a reasonable price.

We thank you for this opportunity to report on the state of the judiciary and we look forward to working with you in the coming days, months and years.