

State of the Judiciary
Chief Justice Norman S. Fletcher, Georgia Supreme Court
Message to the Legislature
January 18, 2002, in Atlanta, Georgia

Governor Barnes, Lt. Governor Taylor, Speaker Murphy, members of the General Assembly, my fellow members of the judicial branch, other elected and appointed officials, ladies and gentlemen.

I am honored by your invitation to deliver the State of the Judiciary Address. It is a distinct privilege to represent the Judicial Branch, and I am indebted to my Supreme Court colleagues for placing me in this position. It is my hope that my message today will help you, as together we seek ways to improve the delivery of justice in Georgia.

My remarks will be threefold. First comes good news – a synopsis of some areas where the judicial branch is definitely headed in the right direction. Next, a few words on the budget. And lastly, I will address a few of the higher priority needs.

I am pleased to report that the judges of the Judicial Council have a vision for converting the council into the strong, united body that it should be, setting policy, developing plans, and recommending solutions that will result in an improved and strengthened judicial branch. And, as you will see, the wheels are already in motion. The Council's administrative arm, the Administrative Office of the Courts, under the leadership of its new Director, David Ratley, is restructuring itself so that it can best aid the Council in its quest. The AOC will no longer be seen as merely a case counting agency, it will truly provide the services necessary for the Judicial Council to attain its goals. But, before talking about specific new initiatives, I want to first touch on Supreme Court commissions, and the future role of the AOC as it relates to these commissions.

Courts, just as other governmental agencies, when confronted with problems, often create special purpose commissions to address the problems, but fail to provide sunset provisions when the goals have been attained and the purpose complete. Over the years the number of active commissions operating under the supervision of the Supreme Court grew to a total of eleven. We recognized that it was time to review and evaluate the commissions and determine whether one or more should be phased out because goals were reached or because no longer was a worthwhile purpose being served. So, this past September we obtained court consultants through the National Center for State Courts to evaluate the commissions and make recommendations to the court.

Time will not allow an in-depth review of the recommendations, but I am pleased to report that by year's end, I anticipate that six of the eleven commissions should be phased out totally. Of those six, one is now defunct due to resignations; two have concluded their work, and submitted their final reports; one's original term will expire this year and it is recommended that it not be renewed, with any remaining implementation turned over to the AOC; one completes its work this year, after making its report, with implementation resting on others, including you, the General Assembly; and the sixth has served its purpose and any remaining functions can be

better served administratively through the AOC. The remaining five, several of which were created by legislation, continue to function well, provide invaluable service, and have not completed their mission. One, the Chief Justice's Commission on Professionalism, is a role model for the entire country and operates without one dime of state financial assistance. The overall results of this course of action will allow the Court to direct more of its resources to its more traditional constitutional and statutory duties.

Now, turning back to the Judicial Council and AOC, over the past six months we have commenced two major initiatives and will soon start a third. First, we now have in place an active standing budget committee. It is closely reviewing every item of the Judicial Council budget. It is seeking the historical background for some budget items to determine whether they should be eliminated or merely moved to a more appropriate new home outside the judicial budget. We are concerned that some of the items that do not appropriately fit in a judicial budget may be precluding the courts from receiving other much needed funds which directly impact the delivery of services. This year the Committee is requiring FY 2004 budget requests to be submitted in April, so the requests can be duly analyzed and the Committee's recommendations presented to and voted on by the Council long before the budget must be forwarded to you and the governor.

Secondly, the Judicial Council adopted a resolution calling for analysis and development of impact statements on proposed legislation relating to the judicial branch. Since July, we have developed and put in place a process which will enable us to review each such proposal, determine its effect on the entire judicial branch, not just one level of the system. If it would have a positive impact, the council will endorse it; if not, the council will let you know. There has never been one body speaking on legislation for the entire judicial branch, and, to an unacceptable extent, the result has been further fragmentation of the courts and less efficiency. By working together and taking official positions on legislation, the Judicial Council hopes to attain its ultimate goal of improving our court system by creating a framework that best utilizes available resources.

Since informing you of this new initiative, we have received much encouragement and favorable response from you. I ask you to please be patient, it will take time to test and improve the process. But, I am confident in the next few years you will see favorable results, an improved court system, more efficiently using our resources.

Lastly, you are probably familiar with the results of the performance audit of court fees performed at the Governor's direction and published in November. We're talking about large sums. Implicit in the report is the need for in-depth study of existing structure, determining problems, coming up with remedies, so that the collectible fees are, in fact, collected and then distributed properly. The Judicial Council is committed to undertake a comprehensive study and develop an acceptable management process for the calculation, collection, and disbursement of court fees. This year the AOC will conduct a study and develop administrative remedies, and, if deemed necessary, Council will recommend legislative remedies.

The work of the Alternative Dispute Resolution Commission is truly one great success story. In 1990 only three counties offered any form of alternative dispute resolution in their courts. By the end of FY 2001, 91 counties had ADR programs and, as of today, it has grown to 95 counties. In

FY 2000, 24,470 cases were referred to an ADR process of mediation or arbitration, and over 15,000 cases went through the process. This resulted in more than 14,000 cases being disposed of, providing much relief to crowded court dockets.

The results should please everyone involved: the trial courts, the parties who more quickly and economically resolve their disputes, and you, our lawmakers, for the successful ADR programs play a vital role in reducing the number of new judgeships which otherwise would be required, and the cost to the state for ADR only amounts to one little hiccup in the budget. I wish we had more such efficient and effective innovations. However, we don't, so we will continue to encourage increased utilization of ADR and further expansion of such programs throughout the state.

The delivery of indigent defense has been and continues to be the focus of much attention in the state, and rightfully so, as approximately 80% of those accused of criminal violations in Georgia are indigent. We have a very fragmented indigent defense system in this state, some excellent systems, some woefully inadequate. We asked the Executive and Legislative branches to join us as we seek to implement a system that will meet constitutional muster and provide fairness in all of Georgia's courts.

I am happy to report that our Commission on Indigent Defense, shared by Charles Morgan, vice-president and General Counsel of Bell South, and composed of trial judges, district attorneys, legislators, the criminal defense bar, and concerned citizens from all walks of life, has been diligently working for the past year, gathering data and reviewing successful indigent defense programs of other states. The Spangenburg Group, a nationally recognized consultant firm with a successful track record in North Carolina, Texas, and elsewhere, has been hired, and is presently gathering empirical data from a representative cross-section of our counties. It will analyze the data, make recommendations, and provide other assistance to the Commission.

The Commission's goal is to accurately determine the problems, the needs, and the best possible solution. I am confident that the Commission's findings and recommendations will provide a roadmap for creating a system that will deliver indigent defense services throughout the entire state which meet constitutional standards, a system which is both effective and efficient. While the Commission's recommendations will not reach you this session, it will arrive before the 2003 session. I beg you to step up to the plate and do the right thing at that time. You leaders know that providing quality indigent defense is not only constitutionally mandated, but it is also the right thing, the moral thing to do. As a progressive state, let us do our duty.

Further good news is a result of the work of the Equality Commission, as new rules for interpreters, including certification, are now in place. They will serve our court system well as we face language barriers in our courts arising from our more diverse population.

Turning to the budget, the judicial branch is well aware of the downturn in the economy and the resulting revenue reduction of the state. We will, of course, cooperate to the extent possible with our budget request for FY 2003. At the same time, we must keep the halls of justice open, providing an efficient, fair system for all of our citizens at all times.

As you know, the third branch of government receives only approximately one percent of the state's revenues; almost sixty-nine percent of that sum is allocated to the superior courts and the district attorneys. Additionally, included within that one percent are various flow-throughs, all of which no doubt are meritorious, but some do not directly aid or pay for the operation of Georgia's judicial system.

As your appropriations chairs know, the judicial branch feels both the financial squeeze and the political squeeze as we approach FY 2003, but there is little time left that can be squeezed out of our budget requests and still leave the courts operational. In recent years you have responded kindly to our needs, and I am confident in considering our budget requests you will provide the funds necessary to enable us to maintain a quality justice system in Georgia. For that, we are most appreciative.

Now, a few priority needs. I have talked with a number of the elected leaders of those who fall under the umbrella of the Judicial Branch as defined by Article 6 of Georgia's Constitution. At their request, I will address a few of the most pressing needs, all of which I fully support.

First, while the Georgia Court of Appeals is still doing an exceptional job, despite the fact it sorely needs additional judges, the primary immediate need of the Court of Appeals is additional space for its current judges and staff. I understand that various plans are under consideration; hopefully, relief will be forthcoming.

Next, Georgia is blessed with many excellent District Attorneys. The Prosecuting Attorneys Council will be requesting legislative action on a number of very compelling issues. First, as the result of a study and recommendation of the Georgia Legal Loan Forgiveness Task Force, appointed by the Governor and chaired by District Attorney, Kenneth B. Hodges, the Council will propose implementation of a legal loan forgiveness program for young attorneys entering public service as prosecutors, public defenders, and attorneys within the State Law Department. This program is akin to tuition grants for medical students who agree to practice in the more sparsely populated areas of Georgia. Because most law graduates are burdened by substantial college and lost school debt, many are precluded from entering public service as their salaries would not enable them to timely repay their loans. The loan forgiveness program would be a win-win situation. It allows the young lawyer to enter the public sector, satisfying the desire to serve society's needs, and it provides the State with bright, competent young attorneys to fill much needed, but often vacant, public sector positions. I highly recommend this program to you.

Secondly, for the past few years the Strategic Planning Commission of the District Attorneys Association has studied and analyzed the prosecution of cases in Georgia to determine the best way to improve the prosecution function and to identify a method that will appropriately allocate personnel. The results are very enlightening, revealing that under the present system attorneys are forced to perform services which could be more efficiently performed by lower paid administrative and other support staff. The District Attorneys are requesting you to find the implementation of their plan addressing the support staff needs of each circuit. Only after their offices are made more efficient through this process will they be able to accurately address legal staff needs. I commend their Strategic Plan 2002 to you.

I also understand that the district attorneys, as well as the probate judges, are proposing legislation allowing them to be elected on a non-partisan basis. The administration of justice must be cloaked with fairness and impartiality. Anything that casts doubts on the system breeds distrust. Accordingly, there is no room for partisan politics in our courts. Non-partisan elections of appellate and superior court judges have served our state well since the adoption of our 1983 constitution. I urge you to strongly consider these requests.

And last, but certainly not least, curtailing and ultimately ending family violence is a joint goal of all three branches of government. While progress is being made, there is much more to be done. In 1996 you adopted legislation authorizing courts to impose as a condition of probation participation in a family violence intervention program. The courts have heavily used this condition since 1996, but the programs are unregulated and without certification, resulting in unacceptable disparity in the quality of the programs and the effectiveness of the probation condition. I urge you to adopt legislation setting up acceptable standards, eliminating the loopholes that have played this well intended legislation, thereby turning the programs into a meaningful tool, helping to eliminate family violence in Georgia.

No doubt, there is much room for improvement in our judicial system. Many excellent recommendations are contained in the Justice 2000 report published in 1985 and the 2001 report of the Supreme Court's Blue Ribbon Commission on the Judiciary entitled Georgia Courts in the 21st Century. I urge you to consider these recommendations when you evaluate any legislation affecting our courts.

With that said, I now report that your Supreme Court and Court of Appeals are among the most productive and efficient appellate courts in the country, remaining at the top in timely disposition of cases. And, considering available resources, your entire judicial system is in reasonably good order, with one major exception, the delivery of indigent defense, which I mentioned earlier.

In closing, I trust that you were pleased with the good news I delivered; that you will continue to meet the budgetary needs of the Judicial Branch; and that you will fully consider the priority needs mentioned.

On behalf of the entire Judicial Branch, we thank you for this opportunity to address you today and for your continued support of our needs.

May God bless you and may God continue to bless America.