

State of the Judiciary  
Chief Justice Marla J. Luckert, Supreme Court of Kansas  
Message to the Legislature  
January 15, 2025

Mr. Speaker, Mr. President, Governor Kelly, legislators, other honored dignitaries, and my fellow Kansans—good afternoon.

Thank you, Speaker Hawkins and President Masterson, for the opportunity to provide a report on the state of the Kansas judiciary.

I want to first congratulate the new members on your election to the Legislature and the returning members on their re-election. And congratulations to all those elected to a leadership position. New members, I look forward to meeting you. You will soon learn, if you don't already know, that I strongly believe we do better leading our great state when we work together.

This is the fourth time I've had the honor of speaking in this beautiful chamber. In contrast to the previous occasions, I won't be talking about how the courts dealt with a disaster that required re-engineering virtually every business process. I am very, very happy to report we had no worldwide pandemic to deal with, and no attack by foreign cybercriminals.

When I told my oldest granddaughter that I would not be talking about cybercriminals like I did last year when she attended my address to you, her immediate response was, "Sounds kind of boring." Still, she came, along with her parents and her grandfather, who are in the gallery. Her presence means a great deal to me for many reasons. Most relevant to today is the fact she inspires me. She, her sister, her cousins, and their friends motivate me to do all I can to ensure we have a strong, accessible, and trusted legal system for them and generations to come. Sadly, if we maintain the status quo, that dream is at risk.

I make that grim prediction because the stark reality is that we have a justice gap in Kansas and across the country—a growing divide between people with the means to access basic legal services and people who need those services but cannot afford them or, even if they can, are unable to find an attorney within a reasonable driving distance to represent them. As the recently retired Chief Justice of Texas told the United States Congress a few months ago, the "justice gap also threatens the integrity of the rule of law itself, suggesting that it applies not to all and not equally, as promised, but only to people of means." It is our duty to protect the rule of law—that core tenet of our democratic society, which President Dwight Eisenhower described as "ensur[ing] justice between man and man however humble the one and however powerful the other."

When I think of this gap, I see the faces of real people in my courtroom when I was a trial judge. The young mother with small children whose spouse moved them to Kansas for a job and then abandoned them, leaving her with no money, no food, no car, no pride, and no support in a community of strangers. The grizzled combat vet overwhelmed by medical debt from his wife's last illness. The list goes on and on and on.

If we are to help these people and avoid an all-out crisis, complacency cannot be our approach. We must all put on our hero capes and work together to find solutions. I'd like to share some thoughts about how we might do that.

Courts can and are doing many things, including working to simplify procedures without sacrificing due process. Our court system and rules of procedure, both civil and criminal, were built to handle complex cases in which the parties are represented by attorneys. For those complex cases, the system works well and fosters just results. But those cases make up only a small part of the 330,000 plus cases Kansas judges handle every year. In the rest of the cases, those procedures slow resolution, are inefficient, and are costly. And in 80 to 90 percent of cases at least one party appears without an attorney.

Our court system is not well-equipped to serve these self-represented litigants, and they face many barriers.

In one study, researchers identified almost 200 discrete tasks that self-represented litigants must perform in even simple cases. Some are straightforward, but others can be complex, requiring the ability to read complicated documents, research, gather evidence, and understand difficult legal principles.

Missing just one step could mean you have to start the process all over again or even cause the case to be dismissed, sometimes without the option to refile. The failure can carry enormous consequences for an individual—a loss of property, a staggering judgment, a loss of home, a division of their family. Plus, study after study shows that those consequences have a rippling, negative impact on communities, other public services, and the economy.

I have had the honor of chairing a national project that developed guidelines to simplify and expedite procedures for cases like evictions, debt collection, and uncomplicated employment and contract cases. The objective is to make the system easier to navigate for litigants who represent themselves, help connect them with community resources, and make the process more efficient for legal aid providers.

Two Kansas courts—Sedgwick and Douglas Counties—that have implemented these procedures in eviction cases were highlighted during a nationwide webinar series conducted as part of this project. Johnson County also has a similar docket.

These courts and the national effort were aided by the work of the Kansas Ad Hoc Committee on Best Practices for Eviction Proceedings. That committee is chaired by Judge Sarah Warner, who became Chief Judge of the Kansas Court of Appeals on Monday. The committee she chaired developed best practice advice and many resources, including a six-video series explaining the Kansas eviction process.

Johnson County is piloting similar innovations in its domestic dockets. It diverts high conflict or complicated cases to one procedural path and less complicated cases to a more streamlined

process. Again, the goal is to simplify, expedite, and reduce costs without sacrificing due process and justice.

These efforts supplement the growing body of forms, videos, and resource packets made available on many subjects in courthouses, libraries, and online. And the number of self-help centers and court navigator programs designed to assist the self-represented litigants continue to grow.

We also continue to work on providing more online services to self-represented litigants. In previous addresses, I've mentioned our cutting-edge portal. It allows a victim of abuse, stalking, sexual assault, or human trafficking to complete an application for a protective order using a guided form and other tools that explain the process. It also directs the applicant to both legal and nonlegal resources. In calendar year 2024, more than 60% of all protection order petitions filed statewide were filed through the portal. About 40% of these petitions arrived outside of normal business hours, which shows how online services help us meet public needs.

We are also a member of a national project focused on developing guided e-filing systems for self-represented litigants. Our goal is to build a sustainable, secure, and highly navigable e-filing platform for self-represented litigants in Kansas.

Even with these reforms, justice partners who help self-represented civil litigants are overwhelmed. So we have requested a budget increase to support the growth of our various programs designed to help self-represented litigants and to increase the fund that provides grant support for others' efforts to meet these needs. We respectfully request your support for this funding. Your investment will have impact across Kansas and in your communities.

As to the justice gap in juvenile offender cases, each of the three branches has received the National Juvenile Defense Center's assessment of juvenile defense in Kansas. The report presents us with a call to action after noting current deficiencies in meeting the constitutional obligation to provide effective assistance of counsel. It provides us with a roadmap for reform that deserves discussion, and we look forward to participating in that process.

The Juvenile Defense Center's report highlights that there is no substitute for having an effective attorney by your side when you have legal issues. But judges obligated under the United States and Kansas Constitutions to appoint attorneys increasingly struggle to find attorneys to represent people at both the trial and appellate levels. Even where attorneys are taking these cases, they often have high caseloads that hinder their ability to efficiently provide quality representation.

Like judges, everyday Kansans seeking legal assistance often have trouble finding an attorney because we face a shortage, especially in rural Kansas. Two years ago, I established the Rural Justice Initiative Committee to gather data and make recommendations about how to respond to the attorney shortage. The committee, led by Justice K.J. Wall, includes leaders from across the state with a passion and interest in serving rural Kansas, including Senator Elaine Bowers and Senator (formerly Representative) Tory Blew. The committee reported their findings a few weeks ago on December 20.

Some findings were not surprising: For example, they confirmed we have a shortage of attorneys across all counties. But other data points were startling. For example, there are more active attorneys with a Kansas law license practicing in Kansas City, Missouri than in all our Kansas rural communities combined. And in 98 of the 100 Kansas counties classified as rural, there are two or less active attorneys per 1,000 residents, which is half the number reportedly necessary to meet demand. This shortage impacts Kansans with legal needs. But there are other consequences because attorneys run small businesses, they employ people, and they and their families generally strengthen the fabric of their communities as they often take on leadership roles.

The report includes ten recommendations that address the major barriers to recruiting and retaining rural attorneys. These include asking the Supreme Court to collaborate with the Kansas Legislature and our law schools to establish a rural attorney training program and tuition reimbursement incentives for those who attend a Kansas law school and ultimately practice in rural Kansas. These recommendations are modeled after similar initiatives aimed at addressing other professional shortages in rural Kansas, like doctors and veterinarians. We look forward to introducing that legislation this session.

We also see a justice gap in Child in Need of Care cases. We have already taken steps to help with this problem and, working together, we have made monumental strides thanks to our three-branch child welfare initiative. This initiative is chaired by Justice Melissa Standridge. Last April, more than 700 participants came together at the first Child Welfare Summit to discuss ways to make lasting improvements for children and families navigating our child welfare system.

If you know Justice Standridge, then you know this wasn't a sit-and-get kind of conference. This summit called for leaders at all levels—district judges, child welfare workers, advocates, agencies, and state elected officials—to work collaboratively to identify strategies and best practices.

In the months following the summit, three significant projects have started. The first is being called "Child Welfare Reimagined." It is a legislative project that came about at the direction of House Majority Leader Chris Croft. The project has been led by former Representative Susan Concannon and Representative Jarrod Ousley. The goal is to identify child welfare policy reforms to be initiated over the next three to five years.

The second project is Families Ad Astra, a judicial branch project that brings together local and statewide legal partners to improve court processes and legal advocacy in Kansas child protection cases.

The third project relates to bringing the specialty court model to family court. You may have heard me speak before about our growing use of specialty courts to handle criminal cases in which drug or alcohol abuse or mental illness is detected as an underlying cause of a person's criminal behavior. The Family Treatment Courts use a similar concept when one or more family members have a substance abuse addiction. Like all other specialty courts, family treatment courts use a multidisciplinary team to coordinate services, hold the participants accountable, and provide them support in meeting their goals—all in a non-adversarial environment the parents

voluntarily enter. Participants agree to the court's policies and procedures, which include increased court participation, chemical dependency treatment, and intense case management so they can reunite with their children.

In September, three pilot family treatment courts began operating in Miami, Lyon, and Cowley counties. This effort would not have been possible without support from the Department for Children and Families and the Department for Aging and Disability Services. The interbranch collaboration on this project has been amazing, and we are thankful for everyone's hard work.

We also saw more and more other specialty courts. Our district courts operate drug courts, veteran treatment courts, behavioral and mental health courts, and youth courts. What we know, and now have data to support, is that people who graduate from a specialty court program have a better chance of living a stable life without repeat offenses that would bring them back into the court system. Unfortunately, these programs are not available in every judicial district. So we have a gap in access.

But we have taken steps to address this problem through the work of a statutorily created 12-member committee. The committee has already undertaken a variety of projects, including evaluating funding resources and recommending legislation and rules to aid developing specialty courts.

The Specialty Court Funding Advisory Committee includes four legislators: Senator Rick Billinger, Senator Kellie Warren, Senator Ethan Corson, and now-Senator (formerly Representative) Stephen Owens. This year, that committee is recommending the appropriation of \$3 million to support the ongoing work of specialty courts.

We look forward to sharing with the Judiciary and Budget committees the work being done by our specialty courts and to explain how they offer a powerful return on investment for Kansas.

As I close, I want to express appreciation for your support. I also want to invite you to listen to arguments before the Supreme Court a week from today at 5:30 p.m. in what was formerly the Supreme Court courtroom on the third floor of this building. The case involves the interpretation of a statute you passed as part of the Kansas Tort Claims Act.

To all in the chamber, thank you for your service, your leadership, and your dedication to the great state of Kansas. And thank you to all judicial branch employees and judges. It's been a trying year in the aftermath of the cyberattack and the completion of our transition to a statewide case management system. Not only have you endured those trials, but it's also your inspiring work that has brought about the innovation and reforms I have discussed.

Together we are making great strides in improving and strengthening our courts and serving our communities. But much work remains to be done. Together, let's do all we can to give future generations a justice system that protects the rule of law and provides access to justice for every Kansan regardless of means or where they live.

May you and our great state be blessed. Thank you.