

State of the Judiciary Address

Chief Justice John D. Minton Jr., Kentucky Supreme Court

Message to Interim Joint Committee on the Judiciary

September 8, 2010, at Laurel County Courthouse, London, Kentucky

Chairmen Jensen and Tilley, Members of the Judiciary Committee and Guests:

Good morning, and thank you for inviting me to be here today. Many of my fellow chief justices across the nation are asked to give a state of the judiciary address to a joint session of the legislature. That is not our tradition in the commonwealth. It is becoming a tradition, I hope, that the chief justice is invited to give the equivalent of a state of the judiciary address at the joint meeting of the judiciary committees, the committees of the Kentucky General Assembly that relate most directly to the work of our branch.

This is the third time I've been asked to present to this interim joint committee, and I can say with all sincerity that it is, as always, an honor. I value the relationship I have built with the members of this committee during my tenure as chief justice and I appreciate the opportunity to provide you all with an annual update on the Kentucky Court of Justice.

Chairman Jensen, it is indeed a pleasure to be in your hometown of London. This is actually my second visit to London in the past 10 days. I had the privilege of appearing on the platform with Chairman Jensen on August 30 at the dedication ceremony for the new Laurel County Judicial Center. It is a magnificent facility that will improve the delivery of judicial services to the citizens of this community for many years to come.

As you can see, a number of my colleagues in the Court of Justice have traveled here to London to join me for this time we have before this committee. They do not have pre-assigned speeches to give, but they are here representing the various constituencies within the Judicial Branch and will be available to help me answer questions you might have. These folks have traveled from all over the state to be here today, so I'd like to take a few moments to introduce them to the committee:

- **Judge Jeff Taylor**, Owensboro, and my colleague from the 2nd Appellate Court District, newly elected chief judge of the Kentucky Court of Appeals
- **Judge Larry Thompson**, Pikeville, Family Court judge for the 35th Judicial Circuit and president of the Kentucky Circuit Judges Association
- **Judge Karen Thomas**, Newport, district judge for the 17th Judicial District, chief regional district judge for the Northern Region and president of the Kentucky District Judges Association
- **Stephanie King-Logsdon**, Calhoun, McLean County circuit court clerk and 1st vice-president of the Kentucky Association of Circuit Court Clerks
- **Laurie Dudgeon**, Frankfort via Somerset, director of the Administrative Office of the Courts

Continuing to discharge our constitutional duty to administer justice through the courts across the commonwealth on a limited budget continues to monopolize the conversation within the Judicial Branch. But the good news is that I'm not here today to discuss our budget woes because

I realize that doing so could be categorized as one of two clichés: I'd either be preaching to the choir or beating a dead horse. But I need to make a couple of budget-related points at the outset.

First, I want you to appreciate the fact that Kentucky is one of a small number of states to operate its court system as a statewide, unified system. Unlike the states that surround us, for instance, Kentucky has a single Court of Justice headed by the chief justice. For funding purposes, the Kentucky Court of Justice operates almost exclusively from the single appropriation to the Judicial Branch Budget approved by the General Assembly.

This organization change in 1976 was revolutionary. And the method of funding the courts is one of the greatest reforms stemming from the adoption of the Judicial Article in 1976. The Judicial Article abolished the old way of funding the local courts with court costs – a system known as the fee-based system of funding the courts. Under that old system most of our local courts depended upon the collection of fines and fees to pay for their operation. The fact that the judge's pay, the clerk's pay and the operation of the court depended upon what the judge and the clerk could raise by imposing fines and fees was perceived as a corrupting influence highly damaging to public confidence in the courts.

We are thankful today for a centralized budgeting process that sends the bulk of all court costs, fines and forfeitures to the state's general fund, uncoupling the delivery of fair and equal justice from the obligation to raise money.

For our unified court system to continue to operate effectively, the single appropriation from the General Assembly must always be adequate to fund the courts. At the same time, the courts must be accountable to the General Assembly that court costs, fines and forfeitures are levied appropriately in every case and that we are able to accurately report this information.

In FY 10, the Judicial Branch collected and remitted a total of \$143.6 million to the General Fund, an amount equal to nearly half of our total appropriation.

Second, I want briefly to update you on the reductions we have made to meet the current budget deficit. Shortly after the conclusion of the 2010 session of the General Assembly, the Judicial Branch announced cuts to its operating budget that included the elimination of several positions and programs within the court system. These were not easy decisions to make. But we have managed to reduce our FY 11 operations by \$6.8 million to live within our total \$290.8 million appropriation. We anticipate further cuts in FY 12.

In a time of great financial uncertainty in the commonwealth, each branch of government must evaluate its expenditures and determine which programs have the greatest impact across the state – both in terms of benefits to the communities they serve and the dollars they save. So I'd like to discuss with you some of the programs within the Judicial Branch that provide benefits to the people and communities you serve and to other agencies within state government. Some of these programs, such as Drug Court and Pretrial Services, should be familiar to this committee. But there are some lesser known programs – like Truancy Diversion and the Citizen Foster Care Review Board – that also have a significant impact across the state.

At a recent meeting of the Conference of Chief Justices, a speaker noted that the "Judicial Branch is uniquely positioned to offer wrap-around services. When you cut the court system, you transfer the burden to other agencies and criminal justice partners." The court programs I will

discuss with you today will show you what we mean by the wrap-around services that make the Judicial Branch the bargain it is in state government.

DRUG COURT

Kentucky first established a statewide adult drug court program through the Administrative Office of the Courts in 1996. However, funding to implement the program throughout the state was not appropriated until the 2006 session. Today, there are less than five states with a statewide drug court program.

Kentucky Drug Court seeks to intervene and break the cycle of substance abuse, addiction and crime by coordinating the efforts of the judiciary, the prosecution, the defense bar, probation and parole, law enforcement and mental health, social services and treatment providers. Today there is irrefutable evidence that Drug Court is achieving what it set out to do – substantially reduce drug use and criminal behavior in drug-addicted offenders. Drug Court accomplishes these goals through a supervised program that successfully combines a strong treatment component with the legal weight of law enforcement.

3,940 individuals have graduated from the Kentucky Drug Court program since its inception in 1996. In the last fiscal year, we had 601 Drug Court graduates. And in July and August alone, an additional 120 people have graduated from Drug Court. These numbers represent lives saved and families reunited. They represent child support and restitution paid. And they represent substantial taxpayer dollars saved by reducing the number of offenders occupying prison beds. It is clear that substance abuse treatment reduces both addiction and drug-related crime. In addition, Drug Court provides alternative services for about 25 percent of the cost of incarceration. Since its inception, Drug Court has saved our prison system over \$51 million. In fact, it is estimated that for every dollar spent on Drug Court, the state saves an average of \$4.14.

PRETRIAL SERVICES

In 1976, Kentucky became the first state in the country to abolish bail bonding for profit. The Kentucky General Assembly created the Pretrial Services Agency to administer a pretrial release program and gave it to the Judicial Branch as a division of the Administrative Office of the Courts. Today, Kentucky remains the only state with a statewide pretrial services program. Other states administer their pretrial program on the county level, either through local courts, jails or sheriff departments. We are also one of the few states with pretrial services attached to the Judicial Branch. According to a 2009 survey of the Pretrial Justice Institute, only 23 percent of pretrial service agencies are court programs.

Pretrial Services operates under the constitutional premise that individuals accused of committing a crime are presumed innocent until proven guilty and are entitled to reasonable bail. Those accused are entitled to the least restrictive release terms possible, depending on whether they are likely to appear in court and whether they present a risk to public safety.

In FY 10, there were 264,755 arrest cases. Of those, 64 percent were released pending trial.

Since 2005, pretrial officers have also saved county governments millions of dollars through the Monitored Conditional Release – or MCR – Program. The MCR Program is operated by Pretrial Services and is available in all 120 Kentucky counties. Pretrial officers use a standardized risk-assessment process to determine which individuals can be released with the assurance they will

appear for future court dates and are unlikely to commit other crimes while their cases are pending.

The conditions of release vary based on a defendant's at-risk behaviors. Some defendants are required to report regularly to their pretrial officer while others must undergo random drug testing, are subject to a curfew or home incarceration or are ordered to maintain employment, seek counseling or obtain a GED. Pretrial officers supervise the defendants until the final disposition of their court cases.

Pretrial Services has designed each county's program around the resources available in that area. While all treatment options may not be available in every county, the pretrial officers work with local governments and community service providers to offer as many resources as possible to address the needs of the defendant.

In FY 10, there were 6,559 referrals to the MCR program. These referrals resulted in a savings of \$33.05 million for local county jails.

I would also like to briefly mention that as a result of HB 377, which I know several members of this committee co-sponsored last session, our pretrial officers are now required to ask during a pretrial interview whether an individual has been involved in combat as a member of the National Guard or the United States Armed Forces. Considering the number of combat veterans who have or will be returning to Kentucky, I think this information is crucial to ensure our veterans are receiving the services and attention they need and deserve. The Louisville Legal Aid Society recently received one of only four federal grants for the improvement of civil legal services to veterans. Kentucky now stands in a unique position to become a national leader in this regard. I want to make sure the court system continues to do its part to ensure veterans receive the services and resources that are available to them.

JUVENILE SERVICES

The Department of Family and Juvenile Services at the AOC provides dependent children's services, the Court Designated Worker program and law-related education, such as Mock Trial and the Kentucky Teen Court program. Included within the umbrella of Juvenile Services are Truancy Diversion and the Citizen Foster Care Review Board.

Truancy Diversion

The Truancy Diversion Program assists middle school students at risk of being charged with a truancy offense because of too many unexcused absences. The program uses a team approach to help students develop good attendance habits and improve their overall school experience. Truancy Diversion meets the needs of truant students by using education, prevention, accountability and treatment, if applicable, to address the issues surrounding truancy.

The program requires involvement by judges, who volunteer their time to help local schools and reinforce to students the importance of strong school attendance. Judges involved with the Truancy Diversion Program regularly attend meetings at each of the participating middle schools in their jurisdiction.

The Truancy Diversion Program Review Team meets weekly to ensure that truant middle school students fulfill the obligations outlined in their personal action plan. And court designated workers (CDWs) oversee the program's administrative duties, such as tracking attendance with

the assistance of school personnel, scheduling court reviews, reporting on student participation, working with the county attorney on diversion agreements and assisting the judge.

In FY 10, 7,484 Kentucky students were served by the Truancy Diversion Program. The program helps to increase attendance, increase funding to schools and decrease court referrals. Those jurisdictions with Truancy Diversion Program sites have shown a remarkable decrease in the number of formal court referrals, anywhere from 10 to 85 percent. The financial impact that the Truancy Diversion Program has on schools varies by school district. But, anecdotally, Franklin County Superintendent Harrie Lynn Buecker estimates that even a 1-percent increase in attendance will have a positive financial impact of approximately \$200,000 on her schools.

Citizen Foster Care Review Board

The Citizen Foster Care Review Board is another program with a statewide financial impact. We currently have 755 CFCRB volunteers across the state who review foster case files and advocate for children in their communities. In FY 10, CFCRB volunteers conducted 21,533 reviews on 9,797 children who were in the custody of or who had been committed to the Cabinet for Health and Family Services due to dependency, neglect and abuse. Since 2002, the length of stay for a child in the care of the cabinet has decreased by 16 months. Much of this decrease can be attributed to the work performed by the Citizen Foster Care Review Board volunteers.

STATEWIDE PROGRAMS

In addition to the benefits that I've already mentioned, in FY 10, Drug Court, pretrial services and juvenile services combined accounted for 253,608 community service hours, \$873,600 in restitution and other court obligations and \$472,572 in paid child support. These numbers are significant not only for the state, but also for crime victims and parents.

TECHNOLOGY

As budget shortfalls are expected to continue into the foreseeable future, we are redoubling our efforts to find efficiencies in court processes and expand the use of technology. Most states are turning to technology to help court systems reduce costs and deliver better service. I want to ensure that Kentucky courts take advantage of the latest technology to deliver timely, cost-effective justice.

Our current case management system is 10 years old and is on its fourth version. The program is written in a language that Microsoft no longer supports and the limitations of the system have slowed down our ability to move to e-filing and create an accounts receivable system.

So my focus right now – other than maintaining a balanced budget during this financial crisis – is to move aggressively to increase our use of technology to meet future demands. At one point in the past two decades, the Kentucky Court of Justice was a leader among the states in terms of court system technology. We were the first state to implement video courtrooms, a model that many states are still trying to achieve. But we have fallen woefully behind as our focus has turned away from technology. We must refocus to provide services of a kind and convenience that the public has come to expect from their experiences with other government agencies and private businesses. Courts need to use technology in a sophisticated manner to remain in the mainstream of law and commerce. For example, as I mentioned, we want to develop an integrated statewide case management system that includes e-filing, e-records, video

arraignment, video conferencing and a fully automated payable process. These efforts allow courts to provide a high level of service in a highly efficient manner. We also hope to join other court systems in making documents and court statistics easily accessible online. We have many other innovations in mind as well.

As we turned our attention to technology, we realized that the structure of the AOC Department of Technology Services must change to fit our new focus. Charles Byers, a seasoned information technology professional with expertise in court technology, was appointed chief information officer in May 2010. He is already making progress in restructuring Technology Services and providing leadership for our new initiatives.

I'm also pleased that we've made strides in meeting another of our goals. We've created the Technology Governance Committee to take the work of the former Court Technology Committee and move boldly forward. Court of Appeals Judge Tom Wine has agreed to lead the TGC as its chair and I appreciate him and the committee members for signing on for some difficult and challenging work. Their task is to create a strategic technology plan for the Court of Justice, prioritize technology projects and bring e-filing to Kentucky.

Innovations in technology will shape the future of the Kentucky court system and will help us to operate more efficiently and effectively. Our plan is ambitious but necessary and will require us to invest in equipment and human resources. If we fail to invest in this area, we run the risk of missing the efficiencies demanded in an era of fewer resources and of growing out of touch with the way people live and work today.

CONCLUSION

Thank you again for the opportunity to be here today. Mr. Chairman, if there are any questions, I am ready and willing to answer.