

Special Message from the Michigan Supreme Court
Chief Justice James H. Brickley, Michigan Supreme Court
Message to the Michigan Legislature
September 13, 1995, in Lansing, Michigan

Lieutenant Governor Binsfeld, Speaker Hillegonds, Senate Majority Leader Posthumus, ladies and gentlemen of the Legislature. My distinguished colleagues, for whom I am privileged to speak for today, join me in thanking you for the opportunity to bring directly to you, on one of your busiest legislative days of the year, a special message concerning judicial reform.

Last week, a television commentator, discussing daily events in courtrooms around the country, said almost wistfully, "Justice in America is taking a beating these days." It is an uncomfortable time for those of us within the system, but it is also a time of great opportunity. In Michigan it means a chance to bring to a close the decades-long search for a better system to operate and fund our courts. A prominent champion of judicial reform, the Honorable Arthur T. Vanderbilt, said it best: "Court reform is not a sport for the short-winded." But the fact that I stand before you on the second day of your fall session with this special message means that the finish line is finally in sight. All three branches of government are now committed to tackle court reform head on.

I know how aware you are of the problems that must be addressed. There is no longer any doubt from the point of view of an objective observer that our trial court system needs revitalizing. Although the foundation is strong, the structure simply wasn't built for the demands of these times. And the funding of our trial courts, a product of that structure, is increasingly chaotic and uncertain. In many ways, our present court system is like a large Victorian home, intrinsically beautiful but inefficient, its spaces ill-suited to the way we live our lives today, its upkeep costlier than it needs to be.

The system can be modernized, however, and the effort to do so is already under way. With this presentation the Supreme Court announces a multifaceted program for fundamental change. Our Court has already taken steps necessary to initiate this change. We ask you to do your part as the people's representatives to advance this revitalization effort by way of supporting legislation. And we will be calling upon the people of this state to complete our journey toward a new court system by removing constitutional barriers to court reform. We pledge our commitment to this endeavor, and welcome this opportunity to share with you the details of our program.

The seeds of our program came from the people who know our system best, both those who use and those who run our courts. Twelve months ago our Court launched an intensive investigation of our court system called the Michigan Justice Project. That project heard from more than 500 judges, lawyers, litigants and other court users, in 39 meetings in 11 different locations throughout the state. From Southfield to Marquette, from Grayling to Kalamazoo, one message came through to us like a drumbeat: Our citizens ask the Michigan Supreme Court to provide leadership for continuous improvement of a judicial system that is responsive to changing needs.

The work of the project fell on the shoulders of the Michigan Justice Project Planning Committee, whose members distilled their insights into a report to the Supreme Court entitled Charting the Course for Michigan Justice. They are with us in the gallery today, and I ask them to stand so we can acknowledge the invaluable work they have done. They presented our Court with creative solutions to longstanding court reform dilemmas because they set aside their individual interests for mutual goals. As we move forward on the task of court reform, the rest of us should do the same.

Following their example will lead us all to the community of interest that underlies our mission, a community shared among all the citizens of Michigan.

To the task at hand the justices of the Supreme Court have applied their collective experience gained as former circuit, district, probate, and Recorder's Court judges, as well as judges of the federal trial bench and Michigan Court of Appeals. We were aided as well by the insights gained from our years in public office and our frequent contacts with Michigan citizens.

We began to construct our program for reform by defining the elements of what our court system should be. The mission of the judiciary, of course, is to serve the public. To do this we must protect rights, and provide fair, accessible, and responsive forums for the resolution of legal matters. To these ends, our court system must be independent of inappropriate political pressure. It must be accountable to the public for its use of public resources. It must be fair in its treatment of all citizens, and effective in providing principled, timely, and enforceable judgments. It must be accessible to all citizens in a convenient and affordable forum. And it must be sensitive to local needs.

Our Court has concluded that the Michigan court system can achieve and maintain these high standards only by asserting a new balance of state leadership and local involvement. Our state constitution requires the Supreme Court to administer and superintend all the courts of this state. We will do this through strong direction and clear goals. The new balance will mean alert supervision by the Supreme Court, with ample room for community creativity. A vigilant eye will be kept on statewide performance, while maximum flexibility is fostered at the local level. The new balance applies to the three crucial areas of court management: administration, structure, and funding. Let me discuss each in turn.

Effective trial court administration requires consistent, predictable, and efficient justice throughout the state. The pursuit of these objectives has already begun. Effective immediately, the Supreme Court will appoint the chief judge of each trial court and of the Court of Appeals. Chief judges will be in charge of directing the resources of their courts, and applying the Supreme Court's standards to local conditions. To assist them in carrying out their duties, the Supreme Court is now developing guidelines and minimum standards for statewide court and judicial performance, in consultation with trial court judges and administrators. Guidelines are also being developed for court staffing and facilities. These standards will be implemented through the new chain of responsibility which will start and stop with the Michigan Supreme Court.

The approach we envision will call for heightened management skills. Chief judges will need

help to meet the standards being developed and to tackle these administrative tasks. Help will be provided in the form of mandatory training, with recourse to the best management techniques used in business and government. With your support, chief judges will also be aided by a statewide computerized information system, developed by our Court. Modern technology is a powerful management tool; the efficient functioning of the courts locally and statewide can be advanced considerably through its use.

You will be glad to hear that budgeting, too, will conform to statewide guidelines that standardize procedure and accounting language. Trial court budgets will be prepared locally, where knowledge of local needs is fresh and extensive. The Supreme Court and local funding units will provide appropriate review of local budgets to maintain statewide standards and ensure local accountability.

We are confident that this approach to administration will improve the coordination of trial court functions. It will streamline trial court management of many services, such as friend of the court services, probation, family counseling, court security, recordkeeping, and expanding court access for local citizens. The changes I have just described are already underway. We have begun to implement them through court rule, administrative order, and within the resources of our current appropriation.

Our program for structural reform is a comprehensive one to be carried out in stages. It requires not only your assistance, but constitutional change as well. At the earliest possible time, our two county-based trial courts, the circuit and the probate court, should be merged through constitutional and statutory amendment. This new general jurisdiction court can have divisions based on subject matter—like family, civil, criminal, appellate—that may vary from court to court, depending on local needs. The new court will result in better use of judge time, greater administrative efficiency, and, most importantly, better service to families who will no longer have to wend their way through the system telling their stories, or different pieces of their family story, to different judges in different courtrooms in different courts. Court staff will also be used more efficiently, and caseloads among judges would be brought into better balance.

The feasibility of blending district courts into this new consolidated court is an idea that should be aggressively tested. This will be done through a series of demonstration programs over the next two years. The special features of the district court—our most community-based court, and the court with the most complicated funding arrangement—call for measured change. Such an approach is likely to be more sure-footed in the long run. In the meantime, district court boundaries should be redrawn to reflect changes in population and municipal courts should be merged into the district court system.

Apart from the broader issues of structural reform, our Court today recommends retaining the Recorder's Court of the City of Detroit as a separate court in Michigan's judicial system. We at the Supreme Court are well aware of the intense interest in this subject and the arguments to keep or abolish the court. We also are aware of alternative approaches which have yet to be thoroughly examined by the parties involved. A solution should be developed that brings all parties together in service of the goals we advance today. Haste in this matter will not produce such a solution. Where issues of administration, fair representation, and diversity converge, a

different tack is needed. Discussion, cooperation, and understanding will make us all wiser and our course of action more sound.

Our Court appreciates the unique value of the Recorder's Court, which for over 150 years has enabled efficient and responsive justice where the felony caseload of the state is most concentrated. In recent years, when the civil caseload in Wayne County reached crisis proportions, the contributions of Recorder's Court judges assigned to assist in the Wayne Circuit Court were critical in helping erase a five-year backlog in that court, an achievement that received national recognition. Today, Recorder's Court faces its own caseload crisis, and the Supreme Court recognizes our responsibility to examine, once again, the appropriate administrative distribution of cases between Recorder's Court judges and Wayne Circuit judges. For this reason, I and a delegation from our Court will be meeting shortly with the chief judges of both Recorder's Court and the Wayne Circuit Court to begin discussion on how to resolve these questions.

The merging of trial courts is one of the more dramatic features of the Supreme Court's reform program; various versions of the concept have been widely and hotly debated. The Supreme Court has been fortunate, with your assistance, to be able to test limited aspects of trial court consolidation over the last three years in several pilot projects. The projects have focused on various components of trial court restructuring such as cross-assignment of judges, coordinated clerk services across jurisdictions, and integrated court information systems. The projects have proven that, with increased cooperation among the courts of a county, services to the citizens can be improved, administrative structures can be streamlined, and savings to nonjudicial operations can be realized. The Court now intends to bring the components of restructuring together in a series of demonstration projects in selected counties over a two-year period, testing the complete consolidation of probate, circuit, and district courts. Each demonstration project will be administered by a single chief judge and all judges will share responsibility for cases. During the demonstration projects, local revenue will remain local and the employment status of court employees will not change. Only the new costs of the projects, including the cost of full-time cross-assignment of the judges within the demonstration project counties, will be paid from the judiciary's state appropriation.

One resource that the Supreme Court will not be requesting of you in this legislative session is new trial court judgeships. This is a change from past practice, but one that we are making in the pursuit of the higher goal of structural improvement. As structural reform begins to take shape, we are committed to managing the workload of the judiciary with the current number of judgeships. The state constitution requires the Supreme Court to advise you about the need for changes not only in the number of judgeships, but in the geographical boundaries that determine how those judgeships are distributed throughout the state. Beginning today, we invite a discussion of realignment of current geographical boundaries to better utilize our current resources.

Our program for a new balance of state and local control, a stronger chain of responsibility, and a more rational and efficient trial court structure dictates the elements of our improved funding program. Individual taxpayers now fund both the state and local portion of court expenses, and will continue to do so. However, consistent with our structural program for consolidating and

streamlining the functions of the trial courts to implement new efficiencies, the Supreme Court is calling for a new mix of state, local, and fee-based funding sources for the court system. We advocate state funding of core trial court costs. These include salaries and benefits for judges and court staff, due process costs, including the cost of indigent representation, and the cost of statewide information technology. Local government will be responsible for facilities and programs adopted locally to meet local needs. The new chain of responsibility within the judiciary will provide greater accountability in how tax dollars are used for the court system as a whole. With local budgeting decisions in the hands of local chief judges, funding will be allowed to flow quickly to where it is needed most.

If you hear a faint echo in the room regarding funding, it is likely the sound of our decision in *Grand Traverse Co v State of Michigan*. That ruling, which was based upon sound legal principles, recognized the Legislature's option to retain the current funding system. However, in our capacity as managers of the court system, we urge that when the system is altered to implement the proposed structure, the funding system also be altered in favor of the principles incorporated in our plan. State funding of core expenses reinforces our commitment to uniformity, consistency, predictability, and efficiency. At the same time, strong local participation in funding assures a trial court system responsive to local needs and accountable to local citizens.

Today the Supreme Court has announced a new vision for the court system, a program calling for a dynamic new balance of Supreme Court leadership and community involvement. We have told you what we have already done, and what we are prepared to do with your help. The Supreme Court is assuming its full responsibilities for managing the court system, but only the Legislature, with advice from the Supreme Court and the Executive Branch, can enact legislation and initiate constitutional changes to make it happen.

We are encouraged by your generosity and interest in having us come before you today. At a time when justice, the most important ingredient in a democracy, is under such intense scrutiny, court reorganization deserves the best that all of us have to give. We pledge to work with you to reform the structure and funding of the courts, through legislation and constitutional amendments, in order to assure efficient and equal access to quality justice for all Michigan citizens.