

State of the Judiciary Address
Chief Justice Duane Benton, Missouri Supreme Court
Message to the Missouri Legislature
January 14, 1998, in Jefferson City, Missouri

Mr. Speaker, Mr. President, members of the 89th General Assembly:

It is an honor today to discuss with you the state of the judiciary.

Over the years, I have worked with the General Assembly in a variety of roles. My first connection to state government was working as an intern in the House. Later, while in law school, I drafted legislation for members of the House. More recently, the Senate confirmed me to four different positions on boards and in the executive branch. I've been at hearings that seemed to last forever, and others that were over in seconds. I must say that we all look much better at 10:30 in the morning, early in the session, rather than at 10:30 at night at the end of session.

Over the years, I have learned to approach the legislature respectfully but directly; prepared but with common sense. In that spirit, my message to you today is straightforward. The judiciary in 1998 is working smarter than ever. We in the courts, though, need your support if we are to continue to provide the highest level of service, access and justice to the people of this state.

The judiciary is working smarter today than ever before. Facing increasing caseloads, the courts are efficiently serving Missourians. The judiciary is doing more and more with proportionately less and less.

The judicial branch is the smallest of the three branches of state government. We spend less than three-fourths of 1 percent of the total state budget. Though a separate, equal branch of government, the judiciary is smaller than 13 of the 15 departments in the executive branch. While our cost is small, our impact is great; we deliver services to all citizens of the state. Court employees work in all 114 counties and the City of St. Louis, in all 34 senate districts, and in almost all, if not all, of the 163 House districts.

- 1) We decide cases that affect citizens throughout this state, from traffic offenses and consumer-merchant disputes, to death penalty cases and multi-million dollar lawsuits.
- 2) We provide ways for people to resolve their disputes informally in small claims court, and for abused persons to get immediate protection from their abusers.
- 3) We do all this in a way that benefits both the people of this state as well as those who make the system work: quickly and for as little expense to the state as possible.

People sometimes think that courts impact mostly lawyers, yet almost one-half of the cases in Missouri courts ordinarily do not involve the lawyers hired by your constituents. Since 1983, leaving aside traffic and ordinance violations, total caseload in Missouri courts has increased over one-half; 58 percent to be precise. During that same 15 year period since 1983, the number of trial judges you provide by law grew by less than 2 percent – one new circuit judge and five new associate circuit judges.

As in the past, the judiciary will not recommend an increase in the number of judges. It is a tribute to our hardworking judges that we do not need to request new judgeships. Missouri judges not only work hard, they also – as judges for the whole state – are flexible enough to serve where needed. Each day, I sign orders temporarily sending judges to work in high-volume courts, often miles from their homes. I stand ready any time to discuss with you, individually or in committee, those laws that require judgeships in courts with smaller caseloads, rather than where they are most needed on a more permanent basis in the courts with heavier caseloads.

When we think of the judiciary, we tend to think only of the judges that serve the public. Judges, of course, are one cornerstone of the judicial system. However, they cannot do their work without the necessary staff. I am reminded of a joke I used to hear before I became a judge: "The Supreme Court is where the finest legal minds in Missouri gather – to serve as law clerks to the judges." Seriously, those of you who have been to court have seen that court clerks make the system work. Clerks perform essential functions in the judicial process – handling case filing, notifying those involved in cases, collecting and disbursing money, recording court action and proceedings, and managing juries. Just like judges, the number of clerks and other employees funded by the budget has barely increased in recent years, yet there have been dramatic increases in the number of cases handled by these employees due to increases in crime, drug use, juvenile delinquency, adult abuse, divorce, and all kinds of litigation.

While the number of clerks has remained about the same, child support collection responsibilities have grown even faster than the case filing rate, and now are a major part of the workload in many circuit courts. In fact, open child support cases have increased over 144 percent during the last ten years. The task is huge – court clerks collected 395 million dollars in child support payments during fiscal year 1997.

Due to the tremendous caseload growth and shifts in Missouri population, many local courts are doing much more with the same number of employees. The clerk shortage varies from court to court. Statewide it is severe. The Circuit Court Budget Committee – composed of judges from all over the state – has requested a total of 147 new clerks in the fiscal year 1999 budget. This number may sound shocking. Please keep it in perspective. There have been no-zero-additional court clerks appropriated for the last two years, so any increase will cover a three year period. The 1,703 court clerks all over Missouri are dedicated and hardworking, but they cannot indefinitely continue to keep pace with escalating workloads.

There is another way you can alleviate the clerk shortage. We must leverage their time and effort, taking advantage of technology to streamline filing, casefile handling, trial, appeal and disposition of cases. We in the judiciary must continue to work smarter, but we need your help to do so.

Most of you are familiar with statewide court automation, which will automate the records and accounting of the judiciary statewide. Thank you for your vision and foresight in enacting the initial law in 1994 and renewing it last year. Carved in stone in the Rotunda of this building, it says, "Where there is no vision the people perish." You have shown admirable vision and leadership in automating Missouri's courts, just as you have recently automated this very chamber.

Even more recently, during the past two years, you passed legislation allowing automation of the judicial accounting systems. Before, judicial accounting was so convoluted that there was no

dream of computerizing these systems. You may recall the diagram with all the lines going everywhere that Chief Justice Holstein showed you during his first State of the Judiciary speech. You have provided an efficient way to manage court records, to go hand-in-hand with the legal authority for computerization you previously passed.

We stand on the threshold of similar results in overall efficiency. The biggest changes from court automation are just beginning to happen. During the past few years, the clerks, attorneys, and judges on the Court Automation Committee have spent a great deal of time and effort to design a computer system that will meet the needs of Missourians for many years to come. We have moved deliberately, intentionally so, in order to avoid problems that have occurred with other computer systems – some costing two and three times as much as ours – that simply failed to work when installed. When the taxpayer's money and the judiciary's reputation are at stake, the system must work from the time installed.

I have news to announce today. The new system is up and running as I speak. Montgomery County has implemented the new case management system, which operates on the underlying structure of hardware and software designed by the Court Automation Committee. The clerks and judge in Montgomery County like the reduced paperwork, and say they now can do their jobs better. For civil and probate cases, a manual "paper" system is now automated. Previously, court clerks manually created a file, a fee sheet and a docket sheet – then manually indexed and scheduled the case. In the new system, these are all automatically created.

The case management software is next to be installed in Jackson County in Kansas City and Independence, and in the Eastern District Court of Appeals in St. Louis. Once the system works in a smaller rural court, large urban courts, and an appellate court, the system is ready for any court in Missouri. By July 1, the system will be at the "ready to wear" point—that is, proven in small courts, large courts and appellate courts.

We now are at a critical turning point. Under the original plans, installing the new system in all courts was scheduled to take several years, so that some courts would not have the system until the year 2004. Rather than wait years for many of your constituents to see the benefits of court automation, we can provide these benefits now, at a lower total cost to the state. The benefits are clear; in addition to the more efficient installation process I have described:

1. We can provide law enforcement, social services agencies and other courts information about juvenile offenders in order to deal better with juvenile delinquency throughout the state, and implement the new juvenile justice system you enacted in 1995.
2. We can accommodate electronic filing in the courts – to speed case handling; to provide public access to court information; and to allow electronic storage and maintenance of tons of court filings, which is swallowing up all available storage space in some county courthouses.
3. We can build a jury management system that will reflect the population and permit more Missourians to participate as jurors.
4. We can make court records more accessible to more Missourians, easier and at lower cost.

These improvements do not come without cost. However, total costs will be reduced and service improved, if the automated systems are installed within a reasonable time frame.

The Governor has discussed these improvements with me and other representatives of the judiciary. He has expressed support for court automation and for the need to install the system statewide within a reasonable time, as opposed to piecemeal installation. I anticipate that the Governor's budget will properly accommodate these needs. I urge you to consider and support this budget item due to its great benefit to your constituents, the people of Missouri.

Though court automation is the most pressing challenge in the administration of justice, we in the judiciary are also "working smarter" on other issues. The Missouri Judicial Conference recently appointed a Task Force on Drug Courts. Drug courts are working in Jackson, Lafayette, Buchanan and Scott Counties and in St. Louis City. Drug courts have been successful. Graduates have obtained the education and job training to make it in the world without drugs. The vast majority go on with their lives, do not re-offend, and have become productive members of society.

I thank Senators Caskey and Rohrbach, and Representatives May and Ross for serving on this multidiscipline task force, which also includes prosecutors, defense lawyers, educators, job training and drug treatment professionals, and others willing to discuss the structure and procedure of drug courts. Please use the Task Force on Drug Courts as a resource as you tackle the challenges of illegal drugs.

We in the judiciary are always willing to consider other ways to improve judicial operations. Last year, you seriously studied appointing circuit clerks rather than electing them. The circuit clerk has evolved to a highly responsible position that should be a professional manager of court business. In many ways, the circuit clerk should be similar to the positions of the Secretary of the Senate and the Chief Clerk of the House – professional positions here in the legislature. Professionalizing these positions in the judiciary is worthy of your consideration.

I appreciate the opportunity to address you today regarding the state of your judiciary. As Chief Justice, I look forward to working with you over the next two sessions. If you have any questions about court automation, the judicial budget, or any other issue affecting the administration of justice, please let me know. Together we can continue the Missouri tradition: a judiciary of the highest integrity, providing service, access and justice to all Missourians.