

State of the Judiciary 2008
Chief Justice Michael G. Heavican, Nebraska Supreme Court
Message to the Legislature
2008

Mr. President, Mr. Speaker, esteemed members of the Legislature, my fellow justices of the Supreme Court, and guests. It is indeed a great honor for me to speak with you today.

I would like to thank all of you for inviting me. I must also give a special thanks to Speaker Flood for this opportunity to showcase the judiciary, the third -- and often least understood -- branch of government.

Let me begin by introducing the other members of the Supreme Court.

To my immediate right is Justice John Wright; to his right is Justice John Gerrard. To the right of Justice Gerrard is Justice Michael McCormack.

To my immediate left is Justice William Connolly. To Justice Connolly's left is Justice Kenneth Stephan. Justice Lindsey Miller-Lerman regrets that she cannot attend because of a prior commitment.

Each of you received a packet for this occasion. The packets have preliminary statistics and charts showing the number of cases filed, caseload distributions, flow charts, and other statistical information for the court system.

While you are certainly capable of reviewing these documents on your own, I want to bring a few of the more notable figures to your attention.

More than 41,000 cases were filed in our district courts in 2007, and a staggering 233,555 cases were filed in our county courts last year. Notably, that figure does not include the 162,855 filings related to routine traffic offenses.

The sheer number of cases our court system handles each year is astonishing considering the judicial branch is allocated just 2 percent of the state's entire budget. In fact, the judicial branch essentially pays for itself, as fees and fines collected by courts are distributed to local school systems, Nebraska Legal Services, the Law Enforcement Improvement Fund, the state's general fund, and other state and local services.

But rather than dwell on statistics, I would like to focus on some of the special initiatives of the court and the judicial branch.

Through the Eyes of the Child

The first initiative involves abused and neglected children whose cases are in the juvenile court system. Many of these children are wards of the state and are in foster care.

As you are aware, Nebraska has an inordinate number of such children. Those children have been a special focus of the courts in 2007.

Former Chief Justice John Hendry convened the Supreme Court Commission on Children in the Courts in January 2005. Chief Justice Hendry's vision and leadership resulted in the first ever Nebraska Children's Summit in September 2006. Participants included most of the state's juvenile court judges, many child welfare workers from the Department of Health and Human Services, members of the Foster Care Review Board, prosecuting attorneys, defense attorneys, and other parties interested in Nebraska's juvenile court system.

I had the privilege of attending that summit after I was appointed Chief Justice, but before I was sworn in. The summit launched the "Through the Eyes of the Child Initiative." Summit participants voted to name the project "Through the Eyes of the Child" so that all participants in abuse-and-neglect cases would be mindful of the child's perspective throughout such proceedings.

The Through the Eyes of the Child Initiative established 25 community-based court teams around the State of Nebraska. Each team is led by a judge of either a county or juvenile court.

The goal of each team is to develop the best way to handle abuse and neglect cases --including cases involving the termination of parental rights -- in their particular courts. All of the teams are working hard to place abused and neglected children in permanent, safe, and stable homes as quickly as possible. At the same time, the teams strive to preserve fairness and the rights of all parties to these proceedings.

The Supreme Court Commission on Children in the Courts also drafted guidelines that were approved this year. These guidelines are for use by guardians ad litem in juvenile court proceedings and provide for training for guardians ad litem, judges, defense attorneys, prosecutors, and other participants in the juvenile court process.

The Supreme Court has placed an emphasis on meeting national and state guidelines for case progression. Almost all of the local committees have come to the conclusion that one of the most important ways to quickly address permanency in these cases is by front-loading the system.

By "front-loading the system," we mean making use of informal preconference hearings. Front-loading has given us the ability, early in the litigation process, to appoint counsel for all parties involved and to obtain assistance for parents suffering from mental health or substance abuse problems. This front-loading feature appears to be paying great dividends.

Dodge County provides a good illustration of the Initiative's effectiveness. Since the Initiative began, the number of children in foster care in Dodge County has dropped 50 percent.

This drop is a direct result of collaboration by judges in Dodge County, workers from the Department of Health and Human Services, and members of the local bar.

I should also note the work of our Court of Appeals regarding abuse and neglect cases. By prioritizing cases involving the potential termination of parental rights, the Court of Appeals reduced the average length of time needed to process an appeal in such cases by 3 months. Although 3 months may not seem much to you and me, 3 months is a long time in the eyes of a child.

Drug Courts

I would next like to speak to you about drug courts. Drug courts handle cases related to use or possession of narcotics, but do so in a somewhat unique manner.

Drug Courts are community based and therefore seek to treat and rehabilitate offenders in local communities rather than simply punish the offenders. Drug courts require an intensive use of judicial resources in the rehabilitative process.

Nonetheless, the strain on judicial resources results in economic savings. It is estimated that it costs \$31,000 to incarcerate an offender for 1 year, while it costs a mere \$3,500 to handle such a case through a drug court. Proponents also feel the recidivism rate for drug court participants will show a significant decline.

Presently, Nebraska has 20 drug courts, most designed to work with adult offenders. However, several drug courts are designed specifically for juveniles. Currently, drug courts are available in 10 of the 12 judicial districts in the State, with interest in establishing programs in the remaining two districts.

As part of our juvenile court system, family drug courts located in Omaha, Lincoln, Scottsbluff, and central Nebraska emphasize treatment for parents. The overarching goal of family drug courts is helping these parents keep their families together.

The judges who preside over Nebraska's drug courts volunteer for this tough assignment. Drug court cases are more time consuming than most conventional cases. They require a unique balance of perseverance and resolve. I want to personally thank those judges for their leadership and dedication.

Of the court system's 1,118 employees, 464 are probation officers or probation support staff. Probation officers are the backbone of our drug courts and other community corrections efforts. They deserve our appreciation as well.

Minority Justice

I also want to discuss recent efforts by the Nebraska Minority Justice Committee. This committee strives to develop and implement sustainable policy reforms which will not only improve the system of justice, but will also strengthen public trust and confidence in our laws and the court system.

The group's newest project was just announced a few weeks ago. The committee received a grant to improve the justice system's capacity to serve non-English-speaking persons. To that end, the committee coordinated the translation of court forms into Spanish, Vietnamese, and Arabic, the three languages for which interpretive services are most commonly requested.

The practical importance of bilingual forms cannot be overstated: Noncompliance with court terms can result in detention, loss of child custody, or other consequences.

The judicial branch has identified particular forms that, once translated, will help non-English speakers understand both their rights and responsibilities under the law.

Interpreters

Bilingual forms are part of a larger challenge currently facing our courts. That challenge is how to effectively work with non-English-speaking parties.

Although, as noted, the greatest number of such litigants is Spanish-, Vietnamese-, or Arabic-speaking, a variety of other languages require the use of interpreters in our courts. Last year, the use of interpretive assistance in the court system was required in 16 foreign languages, as well as American Sign Language.

Nebraska is one of 40 states working together in a consortium to provide uniform testing to ensure the quality of interpreters used in the courts. Certification, through the consortium and otherwise, is currently available in 13 foreign languages and American Sign Language. The demand for certified interpreters, however, continues to exceed the supply of certified interpreters.

The cost for the certification and utilization of interpreters has rapidly increased. These costs have begun to consume funds anticipated for other court projects.

Pro Se Committee

Another major challenge confronting our courts is the growing number of self-represented litigants in civil cases.

Currently, 42 percent of civil litigants in district court, and over 50 percent of civil litigants in county court, appear without legal representation. These cases are time consuming and try the patience of judges and litigants alike. The Supreme Court Implementation Committee on Pro Se Litigation is working on solutions to this problem.

The programs I have discussed -- drug courts, interpretive services, and responses to prose litigation -- strain already thin judicial resources. As a result, the Supreme Court will grapple, as will this body, with the efficient allocation of resources.

I would like to thank the Nebraska State Bar Association for its work in this area. Last year, the bar association's "Judicial Structure and Administration Task Force" worked to find solutions to

allocation issues. The Supreme Court will continue to support ways to increase flexibility in the apportionment of those resources.

Technology

I would like to spend the remainder of my time by discussing the future of the courts. It is a future that will present a number of challenges. Many of these challenges will be affected by technology.

Through technology, we can enhance citizen access to the courts while simultaneously increasing the efficiency of the court system itself. For example, the judicial branch recently launched an on-line payment program for traffic tickets in many counties.

This new e-payment system offers drivers a secure on-line way to pay traffic citations. This option will save time for motorists and relieve judges and court staff of the many administrative tasks involved in processing these citations.

There are presently 25 counties offering the option of e-payments for traffic tickets, with another 55 counties in the final stages of doing so. We anticipate all counties will have e-payment available by the end of the year.

You can learn more about these projects at the Supreme Court's Web site, www.supremecourt.ne.gov.

E-Filing

Another large-scale project undergoing expansion and development in the courts is electronic filing. While still in the developmental phase, more than 3,000 court documents have been electronically filed through two pilot projects.

E-filing will offer every court in every county the potential of 24-hour-a-day filing. Likewise, court filings, subject to court rules protecting individual privacy, will be available for on-line viewing by litigants and citizens 24 hours a day.

A special thanks goes to the Supreme Court Technology Committee. The committee has successfully moved the court system's technology projects forward.

Cameras in the Court

I began this presentation by noting that the judiciary is often the least understood branch of government. The Supreme Court and Court of Appeals are participants in a proposal of the Nebraska Educational Telecommunications Commission to place permanent cameras in our two courtrooms. There is no better way to showcase the appellate process than by offering live coverage of our proceedings.

We very much appreciate this opportunity to work with NETV in allowing the public to see and hear our judicial system in action.

Several trial courts are also experimenting with increased media coverage. Courts in Beatrice, Tecumseh, and Falls City have some audio coverage in their district courts. Courts in Lancaster, Sarpy, and Douglas Counties are considering limited audio and visual coverage in their courtrooms as well.

We believe Nebraska's courts have a great story to tell. Audio and visual coverage of the courts enhance our ability to tell that story.

Conclusion

Again, I thank you for the opportunity to present this State of the Judiciary address. My comments focused on the efforts of the judicial branch to improve the future for Nebraska's children, to address the unique problems of drug abuse, and to meet the challenges that our courts will face in the future.

I would like to close by commenting on the quality of people who comprise the judicial branch in this State. Since taking the oath as Chief Justice in October 2006, I have had many opportunities to meet with judges, court staff, and probation officers. From these visits, I can say with confidence that Nebraska has exceptional court officers and, consequently, one of the finest court systems in the country.

Some other court systems suffer from significant ethical and criminal scandals; Nebraska's judiciary has never been plagued by such problems. We take for granted the honesty, integrity, and impartiality of our judges and court employees. Those judges and employees deserve great respect. I want to express my appreciation for your past support, your past respect, and ask for your continued support and respect for Nebraska's Judicial Branch.

Thank you very much.