

State of the Judiciary
Chief Justice Sharon L. Kennedy
Message to the Ohio Judicial Conference
September 14, 2023

Well, good afternoon. Thank you, Judge Giulitto, for that gracious introduction.

I would also like to thank retired Justice Paul Pfeifer, executive director of the Ohio Judicial Conference for your friendship and support throughout my entire time at the Ohio Supreme Court. Thank you, Paul. And many thanks to you and the staff of the Ohio Judicial Conference for the work the organization does every day on behalf of Ohio's judiciary.

My colleagues, Justices Pat Fischer, Pat DeWine, Mike Donnelly, Melody Stewart, Jennifer Brunner and Joe Deters and I wish to express our gratitude for the service of judges gathered here from around the state. What you bring to your communities and to the people of Ohio. Thank you for your service.

Change. It is the only constant in our life. Throughout this year, change has come. And change will continue to happen. So, this year's theme for the conference, the "Ohio Judiciary in Changing Times" is fitting.

In 2023. Across Ohio, 59 new judges assumed office for the first time. Bringing our new roles into the New Year together, we have brought a wealth of experience and a fresh perspective. But it's balanced by the sage advice of learned colleagues.

Traveling the state from Appalachia to the Lake Erie shores, the farmlands of Van Wert to the Ohio River Valley, you have been generous with your time and your words. Whether newly invested or long standing, you have taken my calls, answered my letters, and embraced collaboration, teamwork, and served as a resource for one another.

A special thank you to all the retired judges who sit by assignment. Thank you for taking my calls and for the unvarnished truth that you have shared, especially Judges Pat Carroll and Michael Ciconetti. There is much joy and hope that springs from those conversations in my life.

This year's conference agenda has timely topics about our changing society and how the legislature is responding. The Judicial Conference is keeping judges abreast of the changes in the law and the changes in science. The more you know, the better equipped you are to evaluate, mediate and decide.

But change is not new to members of the judiciary. As judges, you have embraced opportunities to change lives, while you pivot and change with our changing times, while preparing to adapt to the changes you see on the horizon.

Amidst all that change, Ohio's judiciary remains constant in our deeply rooted principles of strong, independent judiciary, teaching citizens about the importance of the judicial branch and the role of a judge in their lives.

As judicial officers, faced with any challenge or any change, the overriding question we need to ask ourselves: what is best for the people we serve? Every answer. Every solution begins and ends with the people we serve. Not what is easiest. Not what is most expedient. But what is best for them?

With your commitment to service, you are changing lives. As of today, there are 214 judges who are directly changing lives of people who stand before you by operating a certified specialized docket.

You represent 36% of the 596 judges across the state who are eligible to run a specialized docket. Obtaining certification and operating these dockets takes commitment of time and energy. But also, a personal commitment of hope. Hope that today you can help make someone whole. The very essence of compassionate justice. I am grateful to all of the judges already engaged in this difficult work of changing lives and futures.

But there is room to grow more specialized dockets. The Commission on Specialized Dockets is led by Judges Teresa Dellick and Ian English. Thank you for serving on the commission and thank you to all the judges who serve on the commission as well. Your leadership and adhering to best practices, evidence-based treatment protocols, and finding holistic ways to support people from returning into the justice system is admirable.

And while I will continue my efforts to grow specialized veterans' treatment dockets. There is no more a compelling story of change and hope than those I have heard in CATCH court when I visited.

In 2009, Franklin County Municipal Court Judge Paul Herbert, now retired, created CATCH court: Changing Actions to Change Habits. It was the first specialized docket for victims of human trafficking in Ohio. People who have been trafficked need support and unwavering belief that they can transform their life of dependency to one of freedom, of breaking chains.

In 2021, Judge Jody Thomas took over that specialized certified docket. And Judge Thomas endeavors to break the cycle of abuse for those being human trafficked in sex exploitation. Today, CATCH court currently reports serving 95 victims of human trafficking.

Inspired by CATCH court, Akron Municipal Court Judge Ron Cable created RISE: Restore Individual Self-Empowerment. In its first Summit County docket for adult victims of human trafficking and sex exploitation, RISE reports that it is now serving 14 victims of human trafficking.

Ohio courts collectively are now serving 262 victims of human trafficking in seven certified dockets. Six specialized in the municipal courts, one in a juvenile division, and this year the first in a general division in Cuyahoga County. Thank you, judges, for caring.

Another area where judges and community support can make a big difference in changing lives is reentry.

We all have an opportunity to break the revolving door of recidivism by helping those who achieve a life restored, live a life restored. Reentry presents a multifaceted dilemma. In April, the Supreme Court launched a Reentry Task Force. I am eternally grateful to Judge Chryssa Hartnett of the Stark County Court of Common Pleas General Division, who's running a specialized reentry court, for leading this task force. She has one of nine reentry dockets across Ohio. And she is the leader Ohio needs at this time.

Of course, judges do not do this work alone. Her co-chair, Kris Nicaastro of the Ohio Mental Health and Addiction Services Agency was purposely chosen because he brings a breadth of knowledge of supportive services. Together, they lead a diverse task force.

They are analyzing the needs, practices, and services between courts, community support, and reentry populations while focusing on the whole person. Their task involves analyzing housing, employment, education, and health care.

The task force has already identified the wide distinction and division between prison reentry and jail reentry. So, they have two highly motivated, hardworking subcommittees, one focused on prison reentry, while the other is focused on jail release. Between these populations, the experiences and resources they need are different. And while community partners may overlap, they very often are also very different.

In addition to Judge Hartnett, thank you to Judge Joyce Campbell and Judge Phillip Naumoff for your work on the task force as well. We could not do it without all of you.

I truly look forward to an update on their work and the final task force report in June of 2024. Successful reentry is worth the investment, not just in the individual, but for all of our communities and in our case, for all of Ohio.

For all of you who are assisting those who have significant mental health issues, I have left these [handouts] in the back of the room. It is information by the Ohio Department of Mental Health. Through the governor's budget, there is an allocation of \$8,000 per individual, and all the services accessible to them are listed on this form. On the back, sets forth the eligibility criteria. They created [the [handout](#)] yesterday, just for today. So that as you leave here, you know who to call and where to go [when you encounter] those people suffering with severe, unchecked mental illness.

And while judges work to improve the condition of mankind. Judges are also adapting to changing times.

A priority since becoming chief justice has been to address overage cases and case backlogs in Ohio's trial courts. When citizens see a professional, seamless, timeless justice system, it will increase their confidence in us, the judiciary.

As Justice Pfeiffer said, “It is part of being a good judge to hear your cases in a timely manner.”

Similarly, in the first days of his administration, United States Supreme Court Chief Justice Warren Burger underscored the complaint of millions of Americans when he asked, “Why does justice in America take so long?”

He concluded that, “only by the sound of adoption of administrative practices will courts be able to meet the increased and increasing burdens placed on them. There must be an organization and system so as to leave the judge the job of judging.”

When I talk to judges about caseload management, I am inspired when I recognize in them a willingness to seek improvement. And I am happy to report that the Supreme Court of Ohio's case management team is getting an increasing number of calls and requests for consulting services. They are ready and willing and able to assist, and I am optimistic that with vigilance, reducing overage cases and case backlogs is within the grasp of every judge.

Common factors for faster resolution of cases: maintaining control over the schedule, reducing continuances, and adding a hearing date to finish the case.

The Supreme Court has helped courts update case management systems and other technology improvements to improve case processing. We have issued \$3 million worth of grants this year for that effort.

Another tool is Settlement Week. It offers a court managed mediation program for pending civil or domestic relations cases. You designate a week or even just a few days. Then select the cases based on recommendations from judges, attorneys, or the parties. And assign a trained mediator.

Courts wishing to begin a settlement program may want to talk with courts that have had success. Turn to judges like Randall Fuller at the Delaware County Court of Common Pleas Domestic Relations Division. After seeing Settlement Week work in other civil cases, Judge Fuller saw the potential for the domestic relations cases. Years ago, starting from scratch, he built a Settlement Week program. Success was measured by how many cases reached full agreement. Today, he reports, having had ten settlement weeks.

But it doesn't happen on its own. Judge Fuller and Court Administrator Larry McQuain are generous with their time, and they are willing to speak with anyone about how to set up a Settlement Week, helping you set up the expectations and responsibilities not only of the court, but of the mediators, and the attorneys as well.

And staff at the Supreme Court of Ohio have the tools necessary to help you get started. Just call. Settlement Week can be beneficial for everyone. The parties may settle their disputes, outside of court, quickly. A settlement saves parties time and money. And parties can move forward in their life or the next step in their business. The court reduces its caseload and then can focus its efforts on the cases that will not be resolved except by trial.

Each year, an average of 350 judges, court personnel, attorneys, and others attend dispute resolution trainings and roundtables offered at the Court. Our team will connect you with one of more than 2,000 trained professionals in mediation, neutral evaluation, parenting coordination, elder care coordination, and more.

Another important area changing with the times is the Assignment of Judges program. My heartfelt appreciation to all the sitting and retired judges who have been willing to take an assignment. This year, we are on track to surpass all requests of prior years. We will approach 4,000 requests this year. Many thanks to the retired judges who are sitting by assignment. But as some of these generous men and women concerned consider permanent retirement, we need more retired judges to step forward and take assignments, particularly in specialty areas of domestic relations and juvenile law. They are widely underserved.

For retired and retiring judges, both the legislature and the court have recognized that OPERS may put a limit your access to one of health care benefits when you become an assigned judge.

But the General Assembly responded to that in House Bill 11. It enacted a provision that allows a retired judge who completes 100 hours of service in a tax calendar quarter to receive retirement incentive funds to make up the difference.

These benefits do not reduce any other retirement benefit. It simply makes funds available to you at the time OPERS does not allow you to access your health retirement account. And secondly, the General Assembly has ensured that your monthly health retirement account deposits will continue to accrue, as you hear those cases.

I have spoken to a number of judges who have told me that 100 hours in a tax quarter is too high. And because of that, with the history of knowledge that we have of the program, we are going to begin an analysis to see whether or not that number really can match the available hours for those assignments.

And while sitting judges are not required to work with one another in their county or in an adjoining county, the judicial assignment program does encourage reciprocal agreements between sitting judges. I've learned a lot.

I want to thank judges Kevin Taylor and Todd Kohlrieser of Van Wert County Probate Division and Allen County Probate Division, respectively. They have struck an agreement to help one another out when they need help.

Similarly, many thanks to judges John Trebets, Paul Malchesky, and Marisa Cornachio of the Mentor Municipal Court, Painesville Municipal Court, and Willoughby Municipal Court, respectively, for they have a similar reciprocal agreement.

And general division Judges Travis Flieman, Jeannine Pratt, Stacy Wall and James Stevenson of Darke, Miami, and Shelby Counties for their willingness to help one another out in need.

If you would like to learn more about the reciprocal assignment program for sitting judges, please contact the Supreme Court's new Judicial Assignment Specialist Dahria Beaver.

If you are thinking about serving, if you are retired and think you might enjoy receiving an assignment, please stop thinking. Now is the time to act. We need you.

In response to a call from judges around the state, we will soon have updates to the guidelines for the Assignment of Judges program and a corresponding enhancement to the IGOR system that will shortly follow.

My colleagues and I also wish to help you be responsive to the changing times that we face. So, there are new series of court materials and toolkits available to all of you.

Responsive to victims' rights: Marsy's Law. The Office of Court Services, the team of Anne Murray and Kyana Pierson have created a poster for you to hang in the waiting areas of your courthouse to inform victims of their rights. The Supreme Court has also produced forms for victims to inform prosecutors of the victims' rights they elect and their restitution request. And we have cards that clerks and other court personnel can provide victims to let them know about their rights. Please let us know what you need. We are happy to supply all of it for you.

But society's problems don't start in a courtroom. Often, they will end up there. An early indication that a young person is on the wrong path is truancy, and Ohio is marked with an extremely high truancy rate. One of our newly released judicial toolkits is "Developing an Effective School Attendance Program."

Many thanks to the Supreme Court Advisory Committee on Children and Families, a subcommittee on Juvenile Justice. Thank you to retired Judge Robert Fragale of Marion County, Judge Elizabeth Gill of Franklin County, and Judge Lori Reisinger of Champaign County for working with the Department of Education, school leaders, community partners to develop and guide to spot truancy as a forewarning on the horizon for a youth.

The Mahoning County Juvenile Court's Early Warning Program is one example of a promising practice. They know engagement and education are the two critical factors in a child's successful development. The court works with schools. And the schools work with the court. Together, they identify early warning signs in academic problems or attendance, before it becomes a true truancy issue. They provide services ranging from health assessments to home visits in Warren County.

The court, schools and Educational Service Center work together, teaching requirements for attendance and techniques for getting organized, setting up routine, and creating a stress-free morning for parents to help improve attendance. They also offer an online educational course with strategies to overcome barriers to attendance so that parents don't have to miss work but can learn how to establish house rules, set appropriate consequences and more.

And the third set of toolkits out this year are all about serving Ohio's children: The Judicial Guide to Guardian Ad Litem Programs, The Custody Evaluations Toolkit for Judicial Use, and

the Child Welfare Attorneys Toolkit for Quality Legal Representation. Working in concert, these toolkits are designed to help coordinate professionals: custody evaluators, guardians ad litem, and child welfare attorneys to promote the best interest of our children in all cases.

The custody evaluations toolkit goes hand in hand with the minimum training standards for professional custody evaluators, which will be fully implemented by the end of this year. And the toolkit for quality legal representation was requested by some of you. It can help new attorneys understand their role and recruit other attorneys to practice in this specialty area.

And while we face changing times, there are changes on our horizon.

Like many other states, Ohio struggles to provide sufficient legal representation, in some parts of the state, and in some practice areas. As a profession, we need to work together to take action to ease the impact on these communities.

Three quarters of Ohio's attorneys are in the state's seven largest counties. That leaves only 25% of attorneys to represent the legal needs of people in the other 81 counties. Approximately 6.5 million people live in those under-represented counties.

The Supreme Court Attorney Services Division tells me the number of attorney registrations is steady year to year. Applicants to take the bar is steady year to year. But in a state whose population will soon hit 12 million, “steady” won't keep pace.

The Ohio State Bar Association, the General Assembly, and the Department of Higher Education are attempting to solve part of the attorney gap problem. But we should be asking ourselves, what can we do to help?

I have committed to a partnership with the Ohio State Bar Association in the Rural Practice Initiative Incentive Program, to develop a pipeline of inspired young leaders who want to become lawyers but want to go home to serve the legal needs of the families in their communities that are underserved. Justice Pfeiffer has graciously agreed to help me in this initiative by identifying those judges in those underrepresented areas who may be willing to speak at civic forums to young people, young leaders, about the practice of law as a profession and the importance of returning home.

On the horizon is a reexamination of [case] time guidelines. I have heard from many judges that the innovations in technology have impacted time guidelines. Body camera footage is slow to be produced because of the need to screen out other individuals on the footage. Evidence testing is too slow. And the backlog continues to grow.

The Advisory Committee on Case Management reviewed case processing guidelines from 2011 to 2016 under the leadership of now retired Judge Jerome Metz. The group reviewed standards from other states, a national model of time standards for state trial courts, and the historical data from the Ohio courts. So, we have once again asked the Advisory Committee on Case Management to review previous recommendations and new data.

Thank you to Chair Judge Craig Baldwin of the Fifth District Court of Appeals and Vice Chair Judge Beth Cappelli of Fairborn Municipal Court for leading this effort. That's who you go speak to after today. I appreciate the entire team's efforts. And over the next year, I look forward to the recommendations that they will bring to the Court.

My fellow justices and I are also proud to support the Judicial College that has constantly improved judicial education for more than 50 years. Thanks to Sam Campbell for serving as the Supreme Court liaison to the education committee for the Judicial Conference.

The Judicial College has offered a total of 344 courses in 2022 and is on track to exceed that number this year. Quality is as important as quantity. So, I want to thank all of you, 70 magistrates and judges, who recently came together on planning committees. Your input has informed the basis of what the 2024 Judicial College education courses will be. Those courses are currently in development. And they will continue to be available in a range of formats to work best for you and your schedule: in person, live online and recorded.

But it doesn't end there. If you need something, do not hesitate to ask. There is probably another judge across Ohio looking for the same educational opportunity.

A final point on judicial education. Our team is committed to give you an improved online course registration system in the next year. The goal is one stop, easier to navigate so you find the courses that you need. Thank you to Director Christy Tull and the entire staff of the Judicial College in what you do every day, at every conference, to help judges become better educated.

But amidst change, there is one constant. Ohio's strong independent judiciary. As a part of a larger constitutional form of government, the republic, where the people hold the ultimate power and authority. We make up just one of the three branches and service to the people: the judicial branch.

As written by Alexander Hamilton, in Federalist Paper 78, “[t]he complete independence of the courts of justice is essential in a limited constitution.” “And it proves ... that liberty can have nothing to fear from the judiciary alone but would have everything to fear from its union with either of the other departments.”

Strong. Independent. We are mindful of our constitutional limits essential to Ohio. Jurists who will not bend from following the law because of political or media pressure.

Standing firm in the guiding principles.

And our best outlet to teach Ohioans about the importance of the judicial branch of government and explain the role of a judge is civic education.

As America prepares to celebrate its 250th birthday, you will have a unique opportunity to engage your community and its people. How will you highlight the judiciary in your community? The America 250 Ohio Commission has already started planning for statewide celebrations. If you have a historic courthouse along Route 250, you have already perhaps seen

the celebration barns being painted. As the Commission promotes tourism along Route 250, perhaps there is an opportunity for you to open your courthouse doors to the people.

And if you're a historic courthouse situated along any of Ohio's other scenic routes and historic byways: the National Road or the Ohio River Scenic Byway, capitalize on forming community partnerships to teach the people about what we do.

In the coming months, we will be asking for volunteers to help us showcase the judicial branch of government as America celebrates her 250th birthday.

Change. It is the only constant in our life. Throughout this year, change has come and change will continue to happen. I want to thank the staff of the Ohio Supreme Court for everything that they have done in this year of change at the Court.

Ohio's strong independent judiciary is a constant and are poised to face and rise to the challenges of every new day. Judges across the state are embracing opportunities to change lives, to pivot and change with changing times, to adapt to changes that they see on the horizon, while remaining committed to the Rule of Law.

Ohio judges are strong, steady, reasoned. And I am grateful to be one of you. And so I am pleased to report to all of you today, the state of the judiciary in Ohio is strong.

Thank you for your service and sacrifice to the people of Ohio and for what you do in your communities. Be well. Do good work. May God bless all of you. And Bon Appetit!