

State of the Judiciary
Chief Justice Robin Jean Davis, West Virginia Supreme Court
Message to the State Bar Meeting
Spring 2002

As Chief Justice of the Supreme Court of Appeals, I'm pleased to have this opportunity to deliver the annual State of the Judiciary address at the West Virginia State Bar's Annual Meeting.

While our patriotism and commitment to American justice remains strong, sadly, we live in a different world today than we did less than a year ago. The events of September 11 have prompted stepped up security throughout our nation and state. Our country is at war. It seems that every day, we hear reports of a decline in the economy, a rise in unemployment, and business failures. In the words of a popular song from the early 1980s, "we sure could use a little good news today."

The West Virginia court system, like every court system in the United States, has been affected by the bad news of the past year. We have increased security in our Supreme Court and local courthouses. At Governor Bob Wise's request, in light of the state's current fiscal crisis, the Supreme Court justices unanimously voted to reduce our Fiscal Year 2003 budget request by 4.1%, about \$3.2 million. The need for self-sacrifice and belt-tightening is on all of our minds.

Despite the challenges of the past year, I am proud to report that the Supreme Court, as the administrator of the West Virginia court system, has a lot of good news to report to you. The West Virginia court system employs over 1,100 people who provide an outstanding level of services to citizens across West Virginia. Our statewide court family has improved services to the bar, litigants, and members of the public in several key areas.

The West Virginia court system marked the year 2002 with a new family court system. As a former family law attorney, I believe the new system is a significant improvement.

We now have 35 family court judges who have authority to make final rulings on family law and related matters. Under the old family law master system, most orders had to be approved by circuit court judges. Governor Wise appointed the current family court judges for a term running from January 1, 2002 to December 31, 2002. In 2002, family court judges will run in partisan elections for an initial six-year term. Subsequent terms will be for eight years, mirroring the terms of circuit judges.

The family court's jurisdiction is over matters of divorce, annulment, separate maintenance, paternity, grandparent visitation, domestic violence final hearings, and child custody and family support proceedings, except those incidental to child abuse and neglect proceedings. Family court judges also can perform marriages.

Unless both parties agree to appeal directly to the Supreme Court, circuit courts will hear appeals of family court decisions until June 30, 2005. At that time, the Legislature will reevaluate the family court appeal process, which may result in the creation of an intermediate appellate court.

Although the growth of our family court system has been and will continue to be a gradual process, our transition to the new system is going well.

Our family courts received over \$1.3 million in federal funds last year through the West Virginia Department of Health and Human Resources. We are using these funds to sponsor statewide training for parent educators and mediators and to cover the cost of mediation and custody evaluations for low income parents. We also are using these funds to support pilot divorce education programs for children; pilot waiting rooms for children appearing in family court proceedings; and to create an illustrated activity book for children involved in proceedings in the West Virginia court system. Our children's book should be available in local courthouses this summer. We are using another \$100,000 federal grant through the DHHR to create or expand visitation center services here non-custodial parents can have supervised visitation with their children or pick up their children for visitation in a safe, clean environment.

Along with improving services to families, we also are improving services to self-represented litigants, many of whom are involved in family court proceedings. The Supreme Court has used a \$70,000 grant from the State Justice Institute to create an informational video and brochure for self represented litigants. The recently released video and brochure are available at your local public library, circuit, family, or magistrate court, or from the Supreme Court. We also have trained court workers and public librarians statewide to assist self-represented litigants. Circuit clerks recently began using new computer-software that collects data on the number and nature of cases brought by self represented litigants.

We have improved court services for the mentally disabled. In both the 2001 and 2002 Legislative Sessions, the Legislature adopted many of the recommendations of our Supreme Court Commission on Mental Hygiene Reform. West Virginia's mental health law moves away from an adversarial system to a medical model, allowing medical and social service systems to provide more pro-active and preventive services.

I know that those of you who are trial attorneys can appreciate the Supreme Court's efforts to improve jury service. Effective November 8, 2001, the Supreme Court increased reimbursement to jurors for service in magistrate and circuit courts from \$20 a day to \$40 a day. Jurors also will continue to receive mileage reimbursement.

The most compelling reason that people do not appear or are not enthusiastic about jury service is simply low juror reimbursement, according to a national study by the American Judicature Society. Many people cannot afford to be jurors. This is especially true for the self-employed, employees whose employers won't pay wages during jury duty, and homemakers who would not otherwise have to pay for child care. The success of our jury system depends on the participation of all citizens called to serve. No citizen should have to face financial hardship from serving on a jury.

In addition to increasing juror reimbursement, the Supreme Court is updating and improving juror orientation materials and encouraging judicial circuits to explore ways to streamline use of the juror's time. The West Virginia court system also celebrated its first statewide Juror Appreciation Month in February.

The Supreme Court is making the improvement of services to the public and State Bar members a high priority. Technology has been an important vehicle in better serving you.

Many of you probably log on to our constantly expanding Supreme Court Web site at www.stale.wv.us/wvsca. Our Web site is very popular and contains a wide variety of court system information. Without leaving your computer, you can receive timely summaries of Supreme Court opinions by email and access the full text of opinions; check our Supreme Court calendar and docket; and watch and listen to Supreme Court arguments over our Web site. Since its debut on September 5, 2001, the Supreme Court argument webcast has logged nearly 10,000 user sessions. Over a third of our viewers each day tuned in for more than an hour. The Court has received many positive comments.

Those of you who practice in magistrate court probably have seen our ATM videoconferencing system that provides a simultaneous video, audio, and data link between parties in different locations. We currently are using the ATM system to allow prisoners in regional jails to appear in magistrate court for initial appearance hearings. Every magistrate court served by a regional jail is now connected to the ATM system.

We also are using the ATM system for other court uses, such as expert witness testimony and court education. We are drafting rules to govern private attorneys' use of the ATM network to conduct depositions.

We are a national leader in videoconferencing technology. Our vision for videoconferencing technology is an expansive use of the technology itself.

Technology is a wonderful way to bring the court to citizens, but nothing can replace human contact. One of the best things about being on the Supreme Court is having the opportunity to meet so many people from across West Virginia.

The Court continues to enjoy traveling to other areas of our beautiful state to hold Supreme Court proceedings. Since the fall of 2001, the Supreme Court has held proceedings in Pineville, Wheeling, and Morgantown at the West Virginia University College of Law, where we also judged the Moot Court Baker Cup Competition. In the fall of 2002, the Court will hear cases in Madison in Boone County, the county where I was born and raised. I am looking forward to that homecoming.

I also have enjoyed staying in touch with you through my monthly column in the West Virginia Lawyer magazine, which the Supreme Court also distributes to newspapers across West Virginia. Several newspapers carry a version of my monthly State Bar magazine article as a regular monthly column.

Since 1999, the Supreme Court has produced an annual report outlining the West Virginia court system's budget case statistics, challenges, and accomplishments. Our annual reports have been very well received. We will produce an annual report for 2001 after 2001 caseload statistics are available.

Although our 2001 Supreme Court Statistical Report is not yet finalized, case filings in 2001 remained relatively stable, with a decline in workers' compensation appeals offset by a slight rise in civil filings.

Due to a change in the Workers Compensation Commissioner's Office, the Supreme Court decided to continue the Court's successful Workers' Compensation Mediation Program at a reduced level in 2001. Since the program began in 1998, 1,351 workers' compensation cases have been selected for mediation. Of those cases, 632, or 47%, were settled and removed from the Court's docket.

The Supreme Court is lucky to have a good working relationship with our superb bar. Many of you have been active in joint bench-bar projects. One example is our annual student educational program called LAWS, which stands for Legal Advancement or West Virginia Students. As part of LAWS, high school students study the judicial system and real Supreme Court cases in advance of the Court hearing the cases in the students' home circuit. With help from the bar, the schools, and the community, the court system has educated over 1,400 students through LAWS since 1999.

The Supreme Court also appreciates your participation in Law Day activities on May 1, sponsored by the Supreme Court, local courts, and the State Bar. In recent years, West Virginia's court system and legal community have dramatically increased sponsorship of Law Day activities to educate the public.

Without our dedicated bar, the success of the Supreme Court's many court improvement and public outreach projects would not be a reality.

I appreciate this opportunity to address you on the State of the West Virginia Judiciary. Despite the challenges of the past year, we have been able to serve our citizens well, and have found ways to serve them better. We have improved our family courts: continued our national leadership in court technology; and addressed the special needs of our users, such as self-represented litigants or those with mental disabilities. I am proud to say that the State of the West Virginia Judiciary is strong.