

2023 State of the Judiciary  
Chief Justice Kate M. Fox, Wyoming Supreme Court  
Address to 67<sup>th</sup> Legislature  
January 11, 2023

Mr. President, Mr. Speaker, Governor Gordon and Madame First Lady, members of the 67th Legislature, elected officials, members of the judiciary, guests, and citizens of the Great State of Wyoming. It is an honor for me to speak with you today on behalf of the Wyoming Judicial Branch. Thank you, President Driscoll and Speaker Sommers for the invitation to address you.

The big news is that we now have e-filing in five trial courts! Chancery court; Albany County, Laramie County, Fremont County, and Natrona County. More district courts will be rolled out in the next two years, and then we'll start on the circuit courts. This is a great step forward, and an important service to the citizens of Wyoming who use our courts.

The courts protect the rights of the people – whether liberty or property -- against the power of the government. Our courts handle disputes large and small, and in Wyoming, we do so efficiently and cost effectively. As United States Supreme Court Justice Brett Kavanaugh has said, “An independent judiciary is the crown jewel of our constitutional republic.” To keep an independent judiciary we need your support.

I am pleased to report other significant accomplishments in the Judicial Branch since I last addressed you. Our Judicial Branch Innovation Task Force has worked throughout 2022 to take a hard look at how the judicial branch operates, with an eye toward improving the job satisfaction of judges and staff so that we better serve the people of Wyoming who rely on our courts to promptly and fairly resolve their legal disputes.

The Wyoming Judicial Council received the Task Force's report in December and has already begun moving forward with some of the recommended actions. First, we changed the name from Board of Judicial Policy and Administration to the Wyoming Judicial Council, which is a name both easier to say and more accurately describing the role of the branch's governing body. Next, the Judicial Council adopted a strategic plan which will guide our efforts in the near future.

1. **Access to Justice** – providing resources for self-represented litigants to assist in accessing and navigating the court system. Toward that end, we will place a high priority on establishing a court navigator program.
2. **Effective operation of the judicial branch** – promote a quality workplace for judicial officers and employees. Priority action toward this goal is to provide more resources for judicial wellness, including ensuring adequate time off through the use of retired judges, magistrates, and commissioners.
3. **Public trust and accountability** – promote public confidence in the law, by providing quality service and enhancing the branch's public outreach – for example, in April we will conduct oral arguments at Casper College, along with a You be the Judge program. (Thanks to Representative

Washutt for helping us set that up.)

4. **Adequate, stable, and predictable funding for a fully functioning branch** We need your support to obtain adequate resources necessary to accomplish the priorities above, for the benefit of Wyoming's citizens.

I must mention an issue of increasing concern around the country, and here in Wyoming. That is the safety and security of judges and their families. As United States Supreme Court Chief Justice Roberts said in his annual report on the federal judiciary, judicial security needs must be attended to if we are to protect judges' ability to consistently apply the rule of law, even when it is not popular. Courthouse and judicial security will be a priority for our branch in the coming year, and we will be asking for your support to implement better security measures.

The work of the Judicial Branch Innovation Task Force is inspired by our recognition that courts today perform a very different function than they did even a generation ago. Judges must still be learned in the law, have compassion, handle their dockets efficiently, and maintain a professional demeanor. They must also manage increasing numbers of self-represented litigants, an epidemic of mental illness, and a deluge of administrative and regulatory requirements – from mastering electronic court automation programs to addressing Americans with Disability Act standards for jurors.

The truth is that, to quote Indiana Chief Justice Rush, “courts have become the emergency room for all of society's worst afflictions – substance abuse, mental health, domestic violence, homelessness.” Our traditional criminal and juvenile justice framework is probably the most expensive and least effective way to address those afflictions, and we need to find better solutions.

I very much appreciate the Governor's recognition of the behavioral health challenges facing our State, and I look forward to further collaboration with both the executive and the legislative branches to tackle those challenges. One priority for the judicial branch is to do more with treatment courts. There are currently a number of treatment court programs in many of your communities, and they get very good results – they save lives, they save the costs of incarceration, and they help people become contributing citizens for Wyoming. We support the bill that would transfer the management of treatment courts from the Department of Health to the Judicial Branch because we think it's a better fit for courts, and we intend to make more use of the treatment court model. Toward that end, we are asking for \$100,000 in ARPA funds to retain a consultant to advise us on best practices and most effective use of the treatment court program.

The Wyoming Judicial Branch is small but mighty. We account for less than four percent (4%) of the State's General Fund. There are 24 circuit court judges, 26 district court judges, 5 Supreme Court justices, and four full-time magistrates in the Wyoming Judicial Branch. We are grateful to the legislature for the addition of two new district court judges – one in Casper and one in Evanston – this past year. That has made a huge difference in the speed with which your constituents are able to obtain justice in those districts.

We've added quite a few new judges to our ranks in 2022.

- Judge Matt Castano was appointed to the 6th Judicial District Court in Gillette, replacing Judge Perry.
- Judge Darci Phillips to the 4th Judicial District Court in Sheridan, replacing Justice Fenn.
- Judge Lynda Bush to the 6th Judicial Circuit Court in Sundance, replacing Judge Castano.
- Judge Nichole Collier to the 7th Judicial Circuit Court in Casper, replacing Judge Brown.
- Judge Josh Eames to the 7th Judicial District Court in Casper, a new position.
- Judge Ben Kirven to the 4th Judicial District Court in Buffalo, replacing Judge Edelman.
- Judge Misha Westby to the 2nd Judicial District Court in Laramie, replacing Judge Kricken.
- Judge Ed Buchanan to the 8th Judicial District Court in Torrington, replacing Judge Korrel.
- Judge James Kaste to the 3rd Judicial District Court in Evanston, a new position.
- Judge Kate McKay to the 9th Judicial District Court in Pinedale, replacing Judge Tyler.
- In February, Judge Daniel Stebner will be sworn in to the 9th Judicial Circuit Court in Riverton, replacing Judge Roberts.

We welcome this enthusiastic and energetic new crop of judges, and we thank the retiring judges for their excellent service.

I am sad to report the passing of Justice Richard Macy on December 30. He served on the Wyoming Supreme Court from 1985 to 2000, including serving as Chief Justice from 1992 to 1994.

As you can see our Judicial Nominating Commission has been very busy. It's been an honor and a pleasure for me to chair that committee of thoughtful and conscientious people, and to be part of Wyoming's merit selection system. There is no better system for selecting qualified people to serve as judges with their eye on the ball – that is to apply the rule of law. I especially want to thank our two outgoing Commission members, Gudrid Espensheid from Big Piney and Anna Olson from Casper, for their service. I also thank the Governor for his part in the merit selection process – I know that he gives a great deal of time and thought to each selection, as well as appearing at all of our new judge robing ceremonies – and we very much appreciate your consideration for the judicial branch, Governor.

Wyoming courts handled 112,394 cases in 2022. In Fiscal Year 2021, they collected about 25.5 million dollars. Our judges are supported by about 270 non-judge employees that help keep the courts operating. They continued in 2022 to give us hard work and an attitude of finding creative solutions to whatever challenges come our way. Our clerks and judicial assistants and court reporters and law clerks and judges are there to help Wyoming's citizens in what is often the most difficult time of their lives – and they do that with compassion and efficiency, every day. I also want to mention our Judicial Branch administrative staff, who are the unsung heroes behind the scenes that keep things running smoothly.

Our Court Administrator, Elisa Butler, oversees a staff of 36, whose primary mission is to support the trial courts around the State. We have the team rolling out e-filing; maintaining our court technology; helping with budget; payroll, and HR; putting together judicial education programs and clerk trainings; auditing the circuit court books; and responding to requests for information

from the legislature, the executive branch, and the public. These people provide more and more administrative support so that the judges can focus on the job of judging.

Thanks to you, we were able to give those employees a pay raise in 2022, and we very much appreciate that. (That does not include judges. Judge pay has not increased and is lagging behind even other government legal jobs.) But we continue to lose good people to higher paying jobs. We must pay our people a fair wage if the courts are to continue to perform their constitutional functions – that is, to provide the just, speedy, and inexpensive resolution of our citizens’ disputes. For that reason we support the Governor’s proposal for an additional State employee pay increase in 2023.

We are also asking for three new positions, so that Wyoming’s courts can continue to perform their constitutional functions for the people of Wyoming.

We have ever-increasing demands for accurate data from the judicial branch – many of those come from this legislature. Sound data starts with reliable and consistent input, and so we are requesting funding for a data trainer, to ensure that our clerks throughout the state are inputting data the same way.

In the last three years, we have dramatically increased our audio/visual equipment throughout the 73 courtrooms across Wyoming, which has been a huge boon to the lawyers’ and citizens’ access to courts. Now we need to maintain that equipment to continue to provide these essential services, so we are asking for a position to do that – a person who will be available to supplement the services of our existing contractor, at a lower cost and with quicker response.

Finally, we need a person to provide the judicial branch with legal advice on the many federal and state regulations that every business and government entity has to deal with. This may seem like coals to Newcastle when you consider we have a lot of lawyers in the Judicial Branch, but those lawyers have a full-time job as judges, and they are not necessarily versed in the compliance requirements of the Americans with Disabilities Act, or in the federal standards for providing court interpreters. If we can hire a person to provide that support, our judges can devote their time to the job of judging.

We are committed to transparency in the judicial branch. There is a great deal of information on our website. There you will find updates on efilings, the chancery court, past workload reports, the operating plans of every district and circuit court, most of the Judicial Learning Center exhibits, and much more.

And of course, our excellent administrative staff and I are available to answer any questions you may have.

The State of the Judiciary continues to be strong. With your support, we have demonstrated our strength, our resilience, and our determination to accomplish our mission. That’s because of our excellent people. And it’s also thanks to the strong and steadfast support we’ve received from the legislature and the Governor. Thank you for your past support, and thank you in advance for your backing of the judicial branch’s critical needs in the coming session.

I look forward to our branch's continued collaboration with the legislative and executive branches. I know that we all share the same intentions – to act for the good of the people of Wyoming, while upholding the Constitutions of the United States and the State of Wyoming; and I believe we can achieve that.

Thank you again for the opportunity to speak with you. And thank you for your service.