

State of the Judiciary
Chief Justice Kate M. Fox, Wyoming Supreme Court
Message to the Legislature
February 12, 2024

Mr. President, Mr. Speaker, Governor Gordon and Madame First Lady, members of the 68th 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.

Every year I tell you that the State of the Judiciary is strong. Today I want to talk to you about why that is. You already know that the Wyoming Judicial Branch is one of three branches of government, essential to maintaining the Rule of Law and the checks and balances that are the foundation of our democracy. But who are we? Our team is made up of 50 trial court judges, five Supreme Court Justices, 4 magistrates, and about 270 employees who support the work of the courts. The team also includes the elected county district court clerks – although they’re not employed by the Judicial Branch, we depend on them to perform functions that are critical to the district courts’ operations, and we work closely with them.

Our 24 Circuit Court judges operate what is often called the “Peoples’ Court.” They have the highest volume of cases and they see the lowest number of people represented by lawyers. They take care of traffic citations, protective orders, evictions, and low-level criminal cases. They must have legal knowledge, compassion, and patience.

Our 26 District Court judges have a different kind of caseload, lower volume but higher complexity. They deal with domestic disputes, juvenile matters, felony crimes, complex business litigation, and a variety of other matters. Many of the parties that appear in district court are represented by counsel, and many are not.

Our five Supreme Court justices handle only appeals, usually from district court cases. We address every kind of legal issue. The opinions we write not only resolve the particular case on appeal, but also contribute to the body of caselaw that people rely on to know what the law is going forward.

I am in my third year as Chief Justice of the Wyoming Supreme Court, and as head of the Wyoming Judicial Branch. I could not be more proud of the men and women who do the really important and hard work of resolving disputes for the people of Wyoming. Their commitment to justice ensures that our courts continue to deliver fairness, integrity, and accountability.

Our judges couldn’t accomplish all that they do without the support of their staffs and our administrative office. These are the people who file and scan the pleadings, or manage the efilings, the clerks who help the self-represented litigant, the database administrators, staff attorneys who help with legal research, the HR professionals, the educators and trainers – in short, the people who make this operation work.

Why does this matter to you? Many of you have had your own legal disputes resolved in Wyoming's courts. And your constituents, the citizens of Wyoming, have certainly availed themselves of court services. In Fiscal Year 2023, circuits courts had 73,589 criminal cases and 17,945 civil cases; in district courts there were 2,385 criminal cases filed, 8,047 civil cases, 1,163 juvenile cases, and 1,791 probate cases. That's a lot of justice, and it's an excellent return on your investment.

We run this branch with just 3.4% of the General Fund. I think we should make that 4%. And here's why.

First, we must continue to attract and retain the best people. Our nonjudge employees are paid significantly less than other State employees. We have done an extensive Hay study and classification and had it reviewed by the State's experts at A&I, and we now know that Judicial Branch employees are paid at about 84% of market, compared to 94% of market for other State employees. So we have asked, and the Joint Appropriations Committee has approved the request, for \$5.4 million dollars to bring our employee pay in parity with other State employees. That way we attract good people, reduce turnover, and oh yes – do what's fair.

You will also see a bill – SF 0071 – that puts a judicial pay raise into statute. You approved this cost of living increase last year in a budget footnote; this bill simply puts that decision in the statute where it belongs. It also contains a provision to give judges the same housing allowance as every other state employee who lives in a high-cost county. Like the employee pay raise, this just treats our judicial branch workers the same as other state employees.

We will also be asking you to fund the new district judge position that you approved two years ago, pending completion of the new courtroom in Gillette. That courtroom project is done, and we are ready to fill the position as soon as funding is approved.

Second, we must provide a safe place for our people to come to work, and for the public to come to obtain justice, and for jurors to come to help dispense justice. We have a small budget item to contract for scrubbing judges' private information from the internet; and you will see a bill come out of the Joint Judiciary Committee, SF 0030, that makes it clear that threats against judges are a felony. We appreciate the willingness of the Sheriffs to work collaboratively with our judges to make our courthouses around the State safe for all who use them. This is an issue we will keep coming back to you on, because threats to judges nationally, and here in Wyoming, are only increasing. Wyoming citizens must be able to come to their courthouses without fear, and judges must be able to open their front doors without risk of being shot.

Third, the Wyoming Judicial Branch is adapting to the rapidly changing needs of our society. The judiciary is not known for its innovation, nor should it be. Much of the value of the court system and the Rule of Law is in its stability and its predictability. I read recently that up until 1960, human knowledge doubled about every century. Today it's estimated that human knowledge doubles about every 12 hours. Add to that the societal changes that greatly impact the judiciary in the form of an epidemic of mental illness and substance abuse, the great increase in litigants who are not represented by lawyers, and technological advances that demand efilings and remote court appearances, and a new kind of agility is required.

That takes resources.

- Updated electronic chambers management systems are now installed in every one of our 50 trial courts. That's important because a uniform system allows us to access more accurate data, and it is the base for e-filing.
- E-filing is now in nine courts, 12 courts by the end of March, and will be rolled out to all district courts by the end of 2024. Then we'll start on the circuit courts. This is a big project, demanding more resources in people and funding – these are needed to give Wyoming's citizens up-to-date access to courts.
- We continue to provide accessibility to courts statewide with remote methods to attend court hearings, and with a simultaneous language interpreter program.
- The court navigator pilot program to assist self-represented litigants will launch in Natrona County the first quarter of 2024. This is another service that provides access to courts for people who can't afford lawyers, and also enhances courts' efficiency by reducing time spent with litigants who don't know how to work the court process.
- In conjunction with the court navigator program, new and improved forms will be available to self-represented litigants. That's being done by a volunteer committee of judges and attorneys.
- The judiciary will take over treatment courts in July, 2024. We are excited to be in a position to provide training, quality control, and hopefully added resources.
- The mental health diversion pilot program launched in Campbell County in December, 2023. That program will test diverting people with mental illness charged with low-level, non-violent crimes to a program that addresses their mental illness and avoids the expensive revolving door of the criminal justice system. This again has been done by a volunteer group.

All of these programs are necessary if the Wyoming Judicial Branch is going to be responsive to the needs of the people of Wyoming. To do them we need more people. We made a big ask for more positions in our budget this year. The Joint Appropriations Committee cut our requested Administrative positions from ten to two, and our circuit court clerk positions from nine to four. I respect the JAC's perspective of fiscal responsibility; at the same time I have no doubt that the positions we requested are necessary and justified. We will be back.

We are good at making things happen on a shoestring. The Campbell County Adult Diversion Court is a great example of that. With the Governor's leadership on the three-branch mental health initiative, our Gillette judges worked with members of his staff, executive branch agencies (especially the Department of Health), and legislators (a shout out to Representative Larsen and Senator Barlow). We could not have done this program without the strong support of the Campbell County Commissioners, Sheriff Matheny, the City of Gillette and its Police Chief Deaton, the County Prosecutor, the local mental health provider, Volunteers of America, and a whole network of community players. This program came together because people cared about making our justice system work better, so that resources are put to more effective use, so that our communities can be stronger, and so that we help people along the way. And here I must recognize the strong leadership of Judge Phillips and Judge Castano, without whom this would not have happened.

We've also been frugal in getting the Chancery Court off the ground. When the legislature decided in 2019 that the State needed a Chancery Court, we set up a committee and got to work.

That committee, made up of several judges and attorneys, drafted the rules, found the location, picked the courtroom design, and with all-volunteer work, supported by AOC staff, launched the Chancery Court in the legislature's timeframe. We did not hire a full-time judge because when budget cuts were requested, two district court judges – Judge Sharpe in Cheyenne and Judge Lavery in Green River -- stepped up to take on the Chancery Court work, in addition to their regular caseloads. Only now that case filings have reached a critical mass, will we be seeking to fill that judge position. Since the Chancery Court opened for business December 1, 2020, case filings have picked up steadily, with 31 cases filed in fiscal year 2023. Chancery Court had its first trial last month, and has five more scheduled in the next few months.

We support another bill to come out of the Joint Judiciary Committee, SF 33 which would establish a program to create incentives to bring attorneys to some of our rural communities where there is a real shortage of lawyers. Some of you may think that's a good thing, but we need attorneys in every county so that the people of Wyoming have access to justice regardless of the county they live in. I thank the Wyoming State Bar leaders and the University of Wyoming law school for their leadership in bringing this issue before you.

We don't have quite so many new faces to report to you in the judiciary since I last addressed you. They are:

- Judge Kate McKay, District Judge for the Ninth Judicial District, replacing Judge Marv Tyler.
- Judge John LaBuda was appointed to the Circuit Court for the Ninth Judicial District, replacing Judge Radda.
- Judge Kevin Taheri to the Circuit Court for the Seventh Judicial District, replacing Judge Patchen.
- Judge Sheryl Bunting to the Circuit Court, Fourth Judicial District, replacing Judge Cundiff.

I have two upcoming retirements to report:

- In March, Judge Tom Campbell will retire from the First Judicial District, to be replaced by Robin Cooley. And
- Justice Keith Kautz will retire from the Wyoming Supreme Court. Justice Kautz has devoted most of his professional life to service in the Wyoming Judiciary, first as a District Court Judge in Torrington for 23 years, then on the Supreme Court for nearly nine years. He has embodied what a Wyoming judge should be – he approaches each case with intelligence and compassion. He studies the law; he is an excellent teacher. He has been a valued friend and colleague.

But, there's good news! Rob Jarosh, will be joining the Supreme Court. He brings with him considerable legal experience, great writing skills, and fresh ideas.

We welcome these new judges and justices, and we thank the retiring judges for their excellent service.

All are selected and retained through the merit selection process that our citizens voted to include in the Wyoming Constitution in 1972.

The Judicial Nominating Commission consists of three lawyers and three non-lawyers. The Chief Justice serves as Chair, and only votes in the event of a tie.

The Commission members are looking for qualifications like:

- Intelligence
- Ethics
- Judicial temperament
- Courage and integrity
- Experience and education
- Ability to communicate
- Civic and professional responsibility
- Desire to continue learning

For every State judicial opening, the Commission reviews extensive application materials, then interviews the best candidates, and selects the top three to send to the Governor. The Governor has 30 days from receipt of the Commission's three names in which to select one of them.

Thank you, Governor Gordon, for your careful attention to each selection you have made, and for your continued respect and courtesy toward the judicial branch.

The final piece of the Merit Selection process allows the voters to have their say. Each judge or justice must stand for retention in the general election after one full year of his or her appointment, and thereafter on a regular schedule.

Judicial selection in Wyoming is hard work, but our merit selection process is the best way that I know of to select judges on the basis of their qualifications, men and women who are committed to the Rule of Law.

I will not go into the details of our budget today. I am available to answer any questions you have about it; as is our Court Administrator, Elisa Butler. We are right across the street. I also encourage you to reach out to your local judges; they are right down the street in each of your communities.

We believe in Wyoming. We believe in the Rule of Law. We believe there is something of God in each person who appears in our courts. That's nothing new. Wyoming judges have always stood for those things. What's new is that we have learned that we can and must innovate, to continue to deliver justice as efficiently and effectively as we can to the people of Wyoming. And that's what we're doing.

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.

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