



Supreme Court of Kentucky

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Judicial Branch Budget Request: Priorities for Fiscal Budget 2016-2018

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Testimony before House Budget Review Subcommittee on Justice and Judiciary
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Chairman Sinnette and Members of the Subcommittee,

Section 27 of the state constitution divides the powers of government of the Commonwealth of Kentucky among the executive, legislative and judicial departments and grants all of the state's judicial power to the judicial department, known as the Kentucky Court of Justice.

Section 110 directs the chief justice to submit a budget to the Legislative Branch to inform it about the funds needed from the state's revenues in the coming biennium to enable the Court of Justice to fulfill its constitutional responsibility.

We have carefully analyzed the budgetary needs of the Court of Justice and I have performed my constitutional duty by submitting the Judicial Branch budget, which sets out the appropriation needed by the court system. That budget is before you as House Bill 306.

I come here today to make two important points. First, I urge you to pass HB 306 because passage will enable the Court of Justice to continue the positive momentum we've gained since the dark days of the Great Recession began for us in 2008.

Second, I must deliver this very clear and sober warning: Unless the legislature exempts the Court of Justice from the budget reductions the governor has proposed for his Executive Branch agencies, the Judicial Branch of state government will not be able to perform its constitutional and statutory functions.

To my first point: The two years since our last budget discussion have been a period of exceptional progress for the court system. In fact, I announced at the State of the Judiciary Address in November that 2015 was a seminal year for Kentucky courts. 2015 was remarkable not only for the number of major initiatives we were involved in, but also for our ability to respond decisively to a rapidly changing environment and exacting demands.

Before I talk about our current budget request in HB 306, I want to take a quick look at how the Judicial Branch has been a good steward of taxpayer dollars by improving the services we provide to the commonwealth.

Better Service Through New Technology

One of my ongoing priorities as chief justice has been the investment in court technology. Years of planning and hard work have resulted in a multiyear eCourts initiative that's transforming how our courts do business.

We're upgrading our hardware and software infrastructure, replacing our case management systems for the trial and appellate courts, and providing a document management system that will electronically store and index court documents.

The eCourts project is possible in part because of your help. We overcame a major hurdle when House Bill 238 was signed in March 2013 and the legislature authorized the Judicial Branch to issue \$28.1 million in bonds to fund a new case management system and bring eFiling to Kentucky. Your support was critical to this important project.

eFiling is the centerpiece of this initiative and I'm pleased that we met our goal of offering eFiling in all 120 counties before the end of 2015. The ability to file court documents electronically is an enormous achievement and one that's bringing a new level of efficiency to Kentucky's legal system.

New Legislation and the Courts

The courts have also played a key role in implementing recent legislation. In the last few years, the General Assembly has passed important laws benefiting the criminal justice system, juveniles and victims of domestic violence. This legislation has required extensive revisions to court rules, procedures and forms.

Senate Bill 200: Juvenile Justice Reform. One example is juvenile justice reform. The AOC has been working diligently to restructure the Court Designated Worker Program and the juvenile court process as mandated by Senate Bill 200. As part of this effort, the Supreme Court also adopted new Juvenile Court Rules. Although it's early in the transition, outcomes indicate that juvenile justice reform is having the intended effect of providing youth with enhanced services while reducing detention.

House Bill 8: Civil Protection. The AOC also contributed extensively to enacting House Bill 8, which extends civil protection to victims of dating violence, sexual assault and stalking. The AOC revised multiple legal forms, worked with Kentucky State Police to make sure the changes could be integrated with its LINK system and created a brochure that explains the protective order process to the public.

Senate Bill 133: Ignition Interlock System. The AOC also helped carry out the mandates of Senate Bill 133, which requires people who have their licenses suspended or revoked for DUI to have an ignition interlock device installed on their cars. The AOC consulted with the Department of Transportation to develop processes to issue ignition interlock orders and licenses. AOC staff, judges and circuit court clerks put forth an intensive effort to develop forms and information to support the implementation of this new law.

Judicial Workload Assessment Report

In 2015, the Judicial Branch undertook a groundbreaking study that measured the caseloads of circuit and district judges to address any workload imbalances among judicial circuits and districts. The comprehensive study was the first of its kind in the history of Kentucky's modern court system.

As required by the Judicial Branch's 2014 budget bill, the Judicial Workload Assessment Report was presented to the legislature in January 2016 and will inform our future decisions about realigning circuit and district boundaries.

I bring these achievements to your attention for a couple of reasons. First, they highlight the momentum under way in the Judicial Branch – momentum that has thrust Kentucky's court system into the national spotlight as a model for innovation. After eight years of budget cuts, staff reductions and streamlining operations, we've emerged a stronger, leaner court system that's equipped to meet modern society's demands for technology and adapt quickly to changing laws and trends.

We want to maintain this positive momentum.

And second, these achievements provide context for our current budget recommendation. As you know, budgets are not created in a vacuum. Financial needs are shaped by the current environment and our requests for the next biennium are based on anticipating and meeting the needs of those who depend upon the courts.

We want to continue meeting those needs.

HIGHLIGHTS OF JUDICIAL BRANCH BUDGET, HOUSE BILL 306

Now I'd like to give an overview of our budget requests for the upcoming biennium.

Kentucky Judicial Compensation Commission

A priority in HB 306 is funding a long overdue improvement to judicial salaries. When it comes to compensation, Kentucky judges rank last among the surrounding states and almost at the bottom in the nation.

As I reported to the Interim A & R Committee in November, I convened an independent Judicial Compensation Commission of community leaders from across the state to study the issue of judicial compensation.

The commission reviewed data relating to the salaries of Kentucky judges and seemed most compelled by the fact that judges have received only two salary increases of 1 percent each since Fiscal Year 2009. Those were preceded by two years – FY 2007 and 2008 – when judges received only \$400 annual increases. That means it has been a decade since Kentucky's justices and judges have received an appropriate increase in compensation.

Our low salaries are exacerbated by recent reductions in pension benefits for new judges. If left unchecked, this decline could have a long-term effect on Kentucky's ability to attract exceptional lawyers to judicial office. For example, we currently have a vacant circuit judgeship in a busy jurisdiction that has a judicial center on one side of the street and a federal courthouse on the other. To date, we've received only two applicants for that position.

The increase we're requesting is modest, but essential. While we cannot immediately close the pay gap for judges that developed over many years, we must begin making up for lost time. The health and viability of our court system depends on attracting and keeping a diverse, experienced, knowledgeable and independent judiciary.

Replacement of Coal Severance Funds

We are also asking for coal severance funds to be replaced. In our 2014 budget, we lost access to coal severance funds that we used to support Drug Court programs in 15 coal-producing counties, primarily in the Western Kentucky Coalfields.

While we had enough of a carry-forward in coal severance funds to support the programs in FY 15 and FY 16, the funds will be depleted at the end of June 2016. If these 15 Drug Court programs do not receive general fund dollars, the programs will have to close and more than 200 participants will be terminated from the program.

Not only is Drug Court far more cost effective than incarceration, closing drug treatment programs in the face of Kentucky's drug and heroin epidemic would send the wrong message about our willingness to address the human aspect of this escalating problem.

Family Court Judgeship

We are requesting a Family Court judgeship in Daviess County, the largest and busiest jurisdiction in Kentucky without a Family Court. We believe that an additional judge would vastly improve our ability to meet the needs of families and children in that jurisdiction.

Additional Personnel for Juvenile Justice Reform

We are also asking the General Assembly to fund positions for the AOC Department of Family and Juvenile Services. These positions are needed to effectively implement the juvenile justice reforms mandated by Senate Bill 200.

Debt Service for Capital Projects, Building Repairs

While there are no new requests for judicial center projects in this budget, we need funds to cover the debt service that would be issued for major repairs to the judicial centers in Mason and Simpson counties. In its statewide capital plan, the Capital Planning Advisory Board recommended repairing significant issues in these buildings.

We must also remember that the General Assembly authorized new judicial center projects for Henry and Nicholas counties in 2014, with the funding deferred to the upcoming biennium.

Exemption From Budget Cuts

I recognize the difficult budgetary challenges you face, but access to justice is the role of government. I strongly believe it is in the best interests of the people of this commonwealth for the legislature to exempt the Judicial Branch – along with the Executive Branch public safety agencies already exempted by the governor – from the 4.5 percent cut by the end of FY 2016 and the 9 percent cuts for each of FY 2017 and FY 2018.

First, it's simply not possible for the Judicial Branch to cut 4.5 percent (\$9.4 million) from our general fund in the current fiscal year. To make that happen, we could not meet our payroll obligations and would likely have to shut down the entire court system for approximately three weeks before the fiscal year ends on June 30.

In addition, the Judicial Branch budget is structurally imbalanced. This means that expenditures have exceeded the appropriations for budgets enacted by the General Assembly since 2008. At the direction of the General Assembly, since 2008 the Judicial Branch has been forced to use all of its Restricted Fund carry-forward to meet our current obligations. But the restricted funds are gone. Our projected shortfall for FY 17 is \$26 million before the governor's proposed reductions. And with the governor's proposed net reductions, the Judicial Branch is facing a shortfall of \$38.1 million for FY 2017 and the same in FY 2018.

Since 2009, the Judicial Branch's Restricted Fund carry-forward has been spent down from \$40 million to a projected carry-forward of only \$500,000 for FY 2017. This demonstrates the extremely tight margin for court operations.

The governor's other initiatives would be jeopardized by a crippled court system. All of our justice partners – prosecutors, public defenders, law enforcement, the Department of Corrections – have to pass through the courts.

Our statewide programs that are required by statute – Pretrial Services, Drug Court and the Court Designated Worker Program – provide critical services to our justice partners and save the Executive Branch exponentially more dollars than they cost the state to operate. Yet these programs are most likely to be lost to additional budget cuts.

Adequate Funding for Current Services

And finally, I want to emphasize that the Judicial Branch must maintain adequate funding to provide its current level of services.

Since 2008, the Judicial Branch has had a 49 percent cumulative reduction in funding and has lost 10 percent of its non-elected workforce to layoffs and attrition. We're a lean branch of government with no more fat to cut and losing 9 percent of our budget for the next two years would potentially decimate our ability to meet our statutory obligations.

Personnel costs make up 87 percent of the Judicial Branch budget and cuts this deep would require us to reduce more staff statewide. The Kentucky Constitution restricts the Judicial Branch from changing the salaries of our 403 elected justices, judges and circuit court clerks during their terms. This means that our non-elected personnel would bear the brunt of any staff cuts.

Our non-elected workforce includes 600 employees who carry out statutory responsibilities through our statewide Pretrial Services, Drug Court and Court Designated Worker programs. It also includes more than 1,700 deputies in the Offices of Circuit Court Clerk as well as law clerks, judicial secretaries and staff at the AOC's central office in Frankfort.

An extreme measure, such as eliminating 425 jobs (12.6 percent of our eligible workforce), would save only a few million dollars. Yet a reduction of that magnitude would likely force us to eliminate some or all of our statutory programs.

Abolishing these statewide programs would be unprecedented in the history of the Kentucky court system. It would have an adverse effect on daily court operations and effectively prevent further progress on penal code reform and juvenile justice reform.

That's another compelling reason for the Judicial Branch to be exempt from the governor's proposed budget reductions.

I appreciate the opportunity to testify about the impact the governor's proposed budget reductions would have on the court system. My goal is to help you make informed decisions as you draft the Judicial Branch budget bill in the coming weeks.

Thank you and I'll be happy to answer any questions you may have.

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