



Supreme Court of Kentucky

Chambers, State Capitol
Frankfort, Kentucky 40601
502-564-4162

John D. Minton, Jr.
Chief Justice of Kentucky

www.courts.ky.gov

Kentucky Judicial Branch: Providing Equal Access to Justice

Chief Justice John D. Minton Jr.
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on Justice, Public Safety & Judiciary
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Chairman Nemes, Budget Subcommittee Members and Guests,

Thank you for inviting me to join you today. I appreciate the opportunity to talk about Judicial Branch operations and address the members of this committee. To be candid, it's a relief to discuss budgetary matters in the off-year, when we're not in the throes of budget negotiations, so I'm going to relax and enjoy my time with you today.

I've had the pleasure of knowing your chairman, Rep. Jason Nemes, for many years now, as he was director of the Administrative Office of the Courts when I began serving as chief justice in 2008. If you've been around Rep. Nemes for any amount of time, you know that he's a quick study, he has a lot of energy and he cares deeply about Kentucky. He also has a strong understanding of the state court system and the challenges it faces. I look forward to working with Rep. Nemes and this committee to help the Judicial Branch carry out its responsibilities to the commonwealth.

ABOUT THE JUDICIAL BRANCH

I want to start today by giving you an overview of the Judicial Branch, which we also refer to as the Kentucky Court of Justice.

The first point I want to make is that the court system plays a significant role across the commonwealth.

Nearly 900,000 court cases flow through our courtrooms each year, with these cases affecting millions of citizens. Almost every person will interact with the courts at some point, whether to obtain a driver's license, pursue a small claims case, seek protection from domestic violence, settle an estate, finalize a divorce, file a civil case, seek justice in a criminal matter or require assistance on other matters.

Because the courts affect our quality of life in so many ways, citizens must be able to depend on us. We're working constantly to maintain the public's confidence in our ability to provide timely, equal access to justice.

Judicial Article Created Modern Court System

Kentucky's modern court system was created in 1975 with the passage of the Judicial Article to the Kentucky Constitution. The article established the Judicial Branch as an independent branch of government, separate from the Executive and Legislative branches and county and city governments. It also created the Supreme Court of Kentucky and made the chief justice the administrative head of the state court system.

Unified Court System

Kentucky is one of only a few states with a unified court system. That means that all 120 counties operate under one administrative system, which applies Kentucky statutes, Supreme Court rules and policies consistently statewide.

Levels of the Court System

There are four levels of the state court system. District Court and Circuit Court are the two trial courts, which first hear the facts and issue judgments on those facts. District Court handles limited jurisdiction cases including juvenile matters, misdemeanors, traffic offenses, small claims involving \$2,500 or less and civil cases involving \$5,000 or less. There are 116 district judges and they serve four-year terms.

Circuit Court hears general jurisdiction cases including civil matters involving more than \$5,000, capital offenses and felonies, and contested probate matters. Family Court judges are circuit judges who focus on family law cases that include divorce, child support and visitation, adoption and termination of parental rights. There are 95 circuit judges and 52 family judges. Circuit judges serve eight-year terms.

The Court of Appeals and Supreme Court are the appellate courts, which decide cases appealed from a lower court.

Seven justices serve on the Supreme Court, the court of last resort, and 14 judges serve on the Court of Appeals, the lower appellate court. Appellate judges serve eight-year terms.

Judges run for office on a non-partisan basis.

Clerks of Court

There is also one elected circuit court clerk in each Kentucky county. Circuit clerks are responsible for maintaining Circuit Court and District Court records, issuing driver's licenses and collecting court fines and fees. They're elected on a partisan basis and serve six-year terms.

The Supreme Court and Court of Appeals have appointed clerks of court who maintain appellate court records.

Administrative Office of the Courts

The Administrative Office of the Courts in Frankfort is the administrative arm of the Judicial Branch. The AOC provides support statewide to nearly 3,400 court employees and 404 elected justices, judges and circuit court clerks.

The AOC's constitutional and statutory duties include administering the Judicial Branch budget, building and maintaining court facilities, maintaining court statistics through a statewide case management database, administering personnel policies and payroll for court employees, and providing continuing education programs for judges, circuit court clerks and support staff.

Statewide Programs

Three AOC programs provide services statewide, the Court Designated Worker Program, Pretrial Services and Specialty Courts. These are among the best state court programs in the country.

Court designated workers play a important role in helping juveniles avoid formal court appearances through diversion programs. When Senate Bill 200 passed in 2014, our CDWs found themselves on the front lines of juvenile justice reform, which focuses on treatment instead of detention for troubled youth. CDWs have been instrumental in successfully implementing the court system's mandates under SB 200.

Kentucky became a pioneer in pretrial reform in 1976, when it was the second state to outlaw commercial bail bonding. In 2011, we were among the first states to adopt evidence-based practices for pretrial release decisions. Today Kentucky Pretrial Services is a national model and multiple states are turning to us to learn how our approach has improved the pretrial release process.

Kentucky Specialty Courts oversees the Drug Court, DUI Court, Mental Health Court and Veterans Treatment Court programs. These programs provide oversight by a judge, case management, treatment and drug testing, and they have the same goal – to give participants the opportunity to make positive changes in their lives.

Courts a Partner in Implementing New Legislation

The Judicial Branch is an essential partner with the Legislative and Executive branches when it comes to implementing important legislation. Our judges, circuit clerks and court employees move quickly when new legislation changes our laws. We appreciate the many government, community and law enforcement agencies that collaborate with us by bringing expertise and resources to this process.

The courts have recently put in countless hours to implement House Bill 40 - felony expungement, Senate Bill 200 - juvenile justice reform, Senate Bill 133 - ignition interlock devices and House Bill 8 - dating violence protection.

Our preparations include updating legal forms and case management systems; working with other government agencies on process changes; educating judges, circuit clerks and employees; and making resources available to the public on our website.

Transforming the Courts Through New Technology

Providing better service through technology has been one of my primary goals and we're making progress on a sweeping, multiyear KYeCourts initiative. In the last few years, the AOC has made eFiling available in all 120 counties; rolled out CourtNet 2.0, which provides online access to civil and criminal case information; and started developing new case management systems for the trial and appellate courts.

It's important to note that the General Assembly cleared the way for KYeCourts in 2013, when we were given approval to issue bonds for a new case management system. I appreciate the legislative support that came at a critical moment and allowed Kentucky to join other states at the forefront of court technology.

ABOUT THE JUDICIAL BRANCH BUDGET

Now that you have some background about how the court system works, I want to take a look at our budget. You may be surprised to learn that the Judicial Branch represents only about 3.3 percent of the state budget and about 10 percent of the state's workforce.

Court Fines and Fees

One of our duties is to collect court fines and fees through the 120 Offices of Circuit Court Clerk. In Fiscal Year 2016, the court system collected approximately \$109.9 million to remit back to the state's general fund. Contrary to what many people think, the court costs and fees we collect are not retained by the court system. Of the funds we remit to the general fund, the court system only receives up to 5 percent back, not to exceed \$2.5 million, from criminal and traffic fines and up to \$5 million back from civil filing fees in restricted funds.

Appropriation Units

We have three General Fund appropriation units:

- **Court Operations and Administration** is \$234.9 million, with 87 percent of this unit funding personnel costs and the remainder covering office operating costs for 120 counties.
- The **Local Facilities Fund** is \$114.5 million. This unit pays the debt service on courthouses and judicial centers, use-allowance payments on courthouses with no debt, private-sector leases and operating expenses for buildings (insurance, utilities, janitorial and maintenance).
- **Judicial Retirement** is \$13.8 million and is strictly a pass-through to the retirement system.

The Great Recession, which began in December 2007 according to the National Bureau of Economic Research, took its toll on state government, including the court system. Since 2008, we've taken several drastic measures to balance our budget:

- Eliminated 329 positions through attrition and layoffs.
- Furloughed all non-elected employees and closed the court system statewide for three days in 2012.
- Maintained a modified hiring freeze since FY 2012 that holds non-elected vacancies to realize \$7 million in savings each fiscal year.
- Reduced operating costs by almost \$2 million.

Court Facilities

The Judicial Branch is responsible for maintaining and constructing judicial facilities statewide. The General Assembly reviews and approves all project requests and may authorize projects that are not requested. Local Project Development boards oversee the projects.

The General Assembly has authorized 42 judicial center projects since 2005. The current bond debt is \$76.3 million and all current debt will be paid off in FY 2033.

The AOC is currently overseeing construction projects in Henry and Nicholas counties and limited-scope repair projects in Mason and Simpson counties.

Because most facilities on our priority list are in smaller counties with limited population growth, we're looking at renovating and preserving court facilities instead of engaging in new construction where practical. This is a significant departure from our former capital construction program. With the General Assembly's support, our approach to Henry and Nicholas counties may be a preview of what our construction program will look like going forward.

Current Judicial Branch Budget Healthiest in Years

The good news is that the court system can maintain its operations at the current level of funding. I'm very grateful to the General Assembly for passing a viable Judicial Branch budget for Fiscal Biennium 2016-2018. After a tense budget session that went down to the wire, we ended up with the court system's healthiest budget in 10 years. I also appreciate the support of Gov. Bevin. His crucial veto of the language in our budget that would have required the transfer of millions of dollars back to the general fund provided much-needed relief to the court system.

The bad news is that we're still operating with a slight structural imbalance. Our total general fund appropriation for Fiscal Year 17 is \$363.2 million, which is \$8.3 million less than needed. Several factors have contributed to the growing imbalance. Cuts to the Court Operations appropriation have meant years of filling vacant positions that have not funded. In addition, retirement and health and life insurance increases have not been fully funded.

With that said, the Judicial Branch is in a much better position than in previous years. Our current budget was a win-win for the commonwealth as we avoided the mass layoffs and program cuts that would have occurred under earlier versions of our budget bill.

Improving Judicial Salaries

One of my top priorities is to improve salaries for Kentucky judges and this issue will continue to be a focus during the next budget session. It's been a decade since Kentucky judges have received any real boost in compensation. Since 2007, our judges have received two years of 1 percent raises and two years of \$400 raises. The problem is compounded for new judges, who are facing recent reductions in pension benefits in addition to low salaries.

In 2016, I requested a modest but critical salary increase as a first step in closing the pay gap for judges. The pay increase was based on recommendations from the independent Judicial Compensation Commission, which is comprised of community leaders statewide.

Unfortunately, the legislature did not authorize any salary adjustments for Kentucky's 284 justices and judges, who are among the lowest paid in the country and last among judges in the surrounding states. That leaves judicial salaries stagnant for another two years.

This lack of progress has left our judges feeling discouraged and undervalued. It also provides little incentive for the best and brightest attorneys to leave lucrative law practices to mount expensive campaigns for judicial office. The longer we postpone action, the more difficult it will be to catch up on lost wages and avoid diminishing the quality of the Kentucky judiciary.

I look forward to discussing appropriate compensation for our justices and judges in the coming months.

Closing Remarks

In closing, I want to note that during most budget sessions I am invited to address the full Senate Appropriations & Revenue Committee. When I testified before Senate A&R in 2016, it was beneficial for committee members to hear directly from me about the Judicial Branch's budget situation and the impact the proposed cuts would have had on court operations.

I remain hopeful that the House will give me the opportunity to testify before its full A&R Committee in 2018 so that we can keep the lines of communication open when passing our next biennial budget.

As predicted, I have enjoyed spending time with you today. I hope this will be the first of many conversations we have and now I'll be happy to answer your questions.

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