



Supreme Court of Kentucky

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John D. Minton, Jr.
Chief Justice of Kentucky

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Opening Statement

Chief Justice John D. Minton Jr.
Testimony Before the Interim Joint Committee on the Judiciary
Tuesday, Nov. 18, 2008, 10 a.m.
Frankfort, Kentucky

Chairman Stivers, members of the Judiciary Committee and guests:

It is an honor to come here today to discuss the state of Kentucky's courts. I hope this will be the first of many opportunities for us to talk about the state of the Kentucky Court of Justice.

For this privilege, I thank you Mr. Chairman.

With me today are all of the current justices on the Supreme Court; Susan Clary, the clerk of the Supreme Court; my chief of staff, Katie Quitter; and Laurie Dudgeon, deputy director of the Administrative Office of the Courts; and other executive officers and managers from the AOC. AOC Director Jason Nemes sends his regards, but he has a very recent addition to his family and he is spending time at home with his wife, 2-year-old son and newborn.

Spirit of Cooperation

As I stated at the time of my investiture on June 27, the well-recognized duty of the court to separate itself from the political arena does not mean isolation from or antagonism with the legislature. Our court is committed to promoting and enhancing constructive relations between the Court of Justice and the General Assembly. I hope that our presence here today is evidence of our commitment to a new era of cooperation and dialogue with you.

Implementation of House Bill 408

The first time I ever appeared before a legislative committee happened slightly less than five months ago on June 26 of this year when I was asked to testify before the A & R Committee 24 hours before being sworn in as chief justice. I received a warm welcome, Mr. Chairman.

That is to say, I was on the hot seat. We had a frank but cordial exchange then. I want to update you on what we have accomplished since then.

We have fully implemented House Bill 408, the Judicial Branch Budget Bill.

Pay Equity Plan for Deputy Clerks

Effective Sept. 1, 2008, the Kentucky Court of Justice enacted a Pay Equity Plan for deputy clerks statewide that carries out the mandate in HB 408.

Enhancing pay for deputy clerks, whose salaries have lagged well behind county personnel and other comparable positions, is both fair and necessary. The details and timing of this plan came about from discussions I had over the summer with the leadership of the Kentucky Association of Circuit Court Clerks.

The Pay Equity Plan provided a one-time annual increment, raising deputy clerk salaries as follows: \$3,700 for full-time employees and proportional raises.

The current entry-level salary is \$21,820.

Civil Court Filing Fees

Under the provisions of HB 408, the Supreme Court raised civil filing fees. I am pleased to report that court costs are coming in on target. The budget bill allows the first \$5 million of new money generated by the fee increase to be deposited into a trust-and-agency account, with the excess to be deposited into the General Fund. This year, we anticipate the civil filing fees to bring in slightly over \$5 million.

Collections Request for Proposal

Also under the language in our Budget Bill, the AOC has issued a Request for Proposal to select a vendor for the purpose of collecting previously unidentified liquidated debt owed to the COJ (uncollected fines and court costs). We expect to award the contract in mid-December 2008.

Deferred Court Costs/Diversion

The office of the chief justice has sent two separate memos to all judges, clerks and commonwealth's and county attorneys addressing the proliferation of diversion programs and I have addressed this matter at the judicial colleges and in meetings with county attorneys. We have reminded these officials that Kentucky law does not authorize programs that generate funds to be paid outside the court system in lieu of the fees, costs and fines mandated by KRS to be paid through the circuit clerk and remitted by the clerk to the AOC for a trust-and-agency account.

I will tell you, Mr. Chairman, diversion programs developed and sometimes operated by the prosecutor's office are favored by those that have them because they provide dispositional alternatives beyond the more traditional sentencing options available in court and they generate revenues for prosecutors who are themselves looking for ways to fill funding gaps. We will continue to work with this issue.

McAnulty Bust

HB 408 commissioned a memorial bust of the late Justice Bill McAnulty. We have appointed the committee – of which Sen. Neal is a member – to engage the sculptor to move forward with this project.

Cost Saving Measures, Efficiencies and Budget Projections for Fiscal Year 2010 and 2011

In ancient China there was a saying: "May you live in interesting times." It was as much a curse as anything. But sometimes the most difficult times are the most interesting and the most rewarding too. They challenge us, they test us, and occasionally they can even bring out the best in us. And the budgetary times in which I have assumed leadership of the Kentucky Court of Justice are nothing if not interesting.

I make two pertinent observations relative to our times:

First, there were 1.23 million new cases filed in Kentucky's trial courts in the fiscal year ended June 30, 2008. This figure represents an increase of about 40,000 new cases in trial courts over 2007, which also saw an increase of about 43,000 new cases over 2006. New

case filings are at an all-time high and I would dare say that nothing in state government engages more Kentuckians in 120 counties more often than the court system.

Second, the Legislative Research Commission's Kentucky Long-Term Policy Research Center has published a study entitled "Visioning Kentucky's Future," which identified 26 long-term goals considered key in moving Kentucky toward its preferred future. Goal No. 25 sets for Kentucky the goal of ensuring a fair, equitable and effective system of justice. That priority has risen to a rank of No. 9 in terms of importance to Kentuckians.

And yet these are the leanest of times for state budgets with smaller and smaller pieces of it allocated to the Judicial Branch. In order to continue to deliver services at the levels we have in prior years and avoid statewide layoffs, we are likely to deplete most, if not all, of our restricted funds in this biennium, which means we will move into the next budget cycle with a budget that is structurally unsound.

If we are given continuation funding, we anticipate a \$37.8 million deficit in 2011 of which approximately \$15 million is the result of the completion and occupancy of the new judicial centers that are scheduled to become operational during the biennium.

This looming deficit means that we must greatly reduce expenditures and/or increase appropriations or face significant reduction in services to the people of the commonwealth at a time when citizen demands on the justice system are greater than they have ever been in the history of the commonwealth.

We are already taking significant steps to reduce our personnel costs, which make up about 88 percent of our court operating funds. From May through September 2008, we eliminated 73 full-time positions, mostly through attrition. We have filled only the most essential vacant positions.

The vast majority of these eliminated positions occurred at the AOC's Millcreek campus and the rest were field positions out in the state. But we have made every effort to fill positions that are critical to our statewide programs, such as Drug Court; Pretrial Services, which operates the Monitored Conditional Release Program; and the Court Designated Worker Program.

As we see it, the continued vitality of statewide services like these will have significant impact on the reduction of inmate populations in county jails and state correctional facilities.

I hope that if you take one thing from this meeting today it is this: When the court system is efficient and cost-effective, it passes along significant cost savings and efficiencies to other state agencies and county governments across the commonwealth.

Real Signs of Progress

Our new automated Jury Management Program has been rolled out in 76 counties. The program greatly facilitates how circuit clerks request jury panels, provides a centralized jury summons process and automates how checks are disbursed to jurors.

Felony mediation also has been successful in moving cases rapidly through the system. This program offers circuit judges the opportunity to use felony mediation to address overcrowded dockets and overcrowded jails. Judges in several judicial circuits have held Felony Mediation Days, which allow several cases to be mediated over the course of a single day. Perhaps the best way to describe these mediations is as enhanced plea-bargaining. With an 88 percent settlement rate, the cases are mediated by neutral senior status judges who have mediation training and expertise. Kentucky is one of very few states that offer this program and it has received national attention for its effectiveness. It has proven very successful in saving time and money.

E-Pay greatly enhances our customer service. Today the e-Pay program allows individuals to pay court costs and fees by credit and debit cards at the counters in 27 counties. We expect the number of participating counties to be up to 40 by year's end. We have collected \$852,000 through e-Pay in the last three months. By next year, we will further expand the capabilities of this service by giving individuals the opportunity to pay court costs and fees over the Internet or by phone. That will mean greater convenience to the citizens and a huge reduction in the amount of foot traffic in our clerk offices.

E-Warrants were launched in Jefferson County and Campbell County earlier this year and became available in Woodford, Bourbon and Scott counties earlier this month. E-Warrants is a Web-based database that automates the creation of arrest warrants while making them instantly available across the state. County attorneys and law enforcement are able to

complete a criminal complaint online and then electronically submit to a judge wherever that judge may be located. (Last week, Judge Mary Jane Phelps was attending the Court Facilities Standards Committee Meeting here in Frankfort while issuing warrants via her i-Phone.) Judges have multiple options, including electronically signing the warrant, requesting additional information, recommending mediation or issuing a criminal summons. Judges may also rescind and recall existing warrants – all with the click of a mouse or the push of the enter key. Our goal is to have this program fully operational statewide by early 2009.

In early November I convened the first meeting of the newly revived Judicial Council, which will serve in an advisory capacity to the Court of Justice. The council is composed of circuit, district, and family court judges, and the chief judge of the Court of Appeals, circuit court clerks, legislators, LRC staffers and attorneys.

I envision that this group will become a policy sounding board and a think tank for strategic planning. I intend to challenge this group to recommend a number of significant policy changes designed to establish Kentucky's Court of Justice as a model of public accountability and a leader among the states in sound judicial management practices.

There is much about Kentucky's court system of which I am extremely proud. I believe that our long history and strong foundation will serve us well as we move into a new era for our state courts. I want to partner with you in the months and years to serve our common constituency, the people of this great commonwealth.

Throughout my tenure as chief justice, I will come to you frequently for suggestions and assistance.

I appreciate your time today and now I will be happy to answer your questions.

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