



Supreme Court of Kentucky

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2022 State of the Judiciary Address: Reflections on 14 Years as Chief Justice of Kentucky

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Chairman Westerfield, Chairman Massey, Members of the Judiciary Committee and Guests:

Good morning and thank you for inviting me to join you for what will be my last appearance as chief justice before this esteemed committee.

Since I'm not seeking reelection for another term, my days as head of the Judicial Branch are quickly coming to an end. As you can imagine, this is a bittersweet time for me as I look back on my 30-year career as a justice and judge and look ahead to retirement and more time with my family, my garden, my book club and my bees.

Today I want to share some reflections on my 14-year journey leading the Judicial Branch, and then I'd like to give you a glimpse of what the future may hold for our state court system.

There are many unknowns when someone takes on a new job, and that was certainly true for me when I was sworn in as chief justice in June 2008. I could not have imagined what lay ahead in terms of unprecedented challenges, but neither could I have anticipated the scope of what we would be able to accomplish.

UNPRECEDENTED CHALLENGES

Great Recession

The early days of my administration were roiled by the Great Recession, considered one of the worst economic downturns in our country's history. Deep state budget cuts left all three branches reeling and, by 2012, the Judicial Branch was forced to furlough employees.

For the first time in the modern history of the court system, we had to close courthouse doors for several days to balance our budget.

At the same time, there was no funding for a pay equity plan to make Judicial Branch salaries competitive with the rest of state government or for a capital project to replace the court system's obsolete case management system, which was at risk for failure.

The Great Recession took a tremendous toll. After several years of lean budgets, we had laid off 282 employees statewide, eliminated court programs and trimmed operating costs at all four levels of the court system.

If any good came out of this grim experience, it was this: We learned how to quickly react when faced with a crisis, we learned how to streamline operations and still meet our constitutionally mandated responsibilities, and we collectively gained the grit that would come in handy when the next big thing hit in March 2020.

COVID-19 Pandemic

On March 6, 2020, Gov. Beshear declared a state of emergency after Kentucky confirmed its first case of COVID-19. As society shut down, the courts were forced to immediately move from in-person to virtual operations, turning on a dime to reinvent our entire way of doing business.

I can think of no other event in my lifetime that has created a more prolonged disruption to the function of the courts than the COVID-19 pandemic.

Despite this disruption, and despite restrictions on in-person traffic in court facilities, I'm very proud that the courts never closed. Court proceedings were certainly unconventional as judges turned to Zoom, but the hard work and extreme patience of our judges, circuit court clerks and court personnel enabled us to weather the storm.

Although the Supreme Court has lifted all restrictions on in-person proceedings and it's back to business as usual, I hope we'll retain some of the lessons we learned during the pandemic.

ACCOMPLISHMENTS

In spite of numerous challenges large and small, the state court system has made great strides in many areas over the last few years, and I want to note some of our key achievements.

KYeCourts: From Paper to Electronic Records

At the top of the list is the ambitious KYeCourts initiative – which has produced eFiling, eWarrants, eEPOs, new trial and appellate case management systems, and more – in an effort to move the courts from a paper-based to an electronic system.

We're using technology to improve access to justice and make the courts more user friendly, and a lot of credit for that goes to the General Assembly. We're grateful to the legislature for funding a statewide eFiling program several years ago and more recently for authorizing \$14.7 million in House Bill 556 to facilitate virtual hearings between county jails and courts.

This infusion of federal rescue funds is also fueling work to expand eFiling, create a self-represented litigant portal and payment kiosks, and develop redaction technology.

Pay Parity for Court Employees and Elected Officials

I have worked for years to bring Judicial Branch salaries up to the level of the other branches of state government so that our dedicated non-elected employees are compensated fairly, and we can compete for and retain high-caliber talent.

I've also worked to improve compensation for our underpaid elected officials. Our judges earn over 20% less than the national average, and our circuit court clerks make an average of 11%-13% less than their counterparts in county government.

We made another big push for our salary parity plan during this year's budget session. And while the final budget fell short of fully funding our proposed increases, I was very pleased that all non-elected employees off probation received a salary increase of \$2,000 and 8% and all justices, judges and circuit court clerks received an 8% increase.

I'm grateful for what we were able to achieve this session, and I appreciate the legislature's support in improving Judicial Branch compensation. Any salary increases we can provide to our elected officials and non-elected court personnel are well deserved and long overdue.

Yet in spite of these gains, I must sound a final alarm about the still lagging salaries of Kentucky judges. Their raises have been exceptionally small and infrequent over the last two decades, and their salaries remain among the lowest in the country. Inadequate pay is not only disheartening to our current judges but a hindrance to attracting the best and brightest attorneys to public service.

In November, nearly every judge in Kentucky will be on the ballot and, come January, we'll see a huge turnover as these newly elected judges take office. As our judiciary changes and evolves, I encourage the legislature to protect the quality and integrity of this extraordinary asset by making improved compensation for judges a top priority.

Judicial Redistricting

If there is a "third rail" in state politics, it is the issue of redistricting. Over several decades, Kentucky counties saw substantial shifts in population and caseload while judicial circuits and districts remained largely untouched.

Unlike legislative redistricting, revising judicial boundaries can't be accomplished by simply making changes based on population. Our process is much more difficult because it is caseload – not population – that determines the workload of circuit, family and district judges.

In 2014, the Judicial Branch took on this immense task at the request of the legislature to produce a judicial workload assessment. The study would measure the time it took to carry out judicial duties in trial courts statewide and use that information to develop case weights on which to base a data-driven, equitable redistricting plan.

We were successful with that research, and in 2016 I presented the first statewide judicial redistricting plan to the legislature. While the effort has been more painful than anyone could have predicted, we have made good progress toward equalizing workloads across the state by reallocating judicial resources to create judgeships where they're most needed.

Starting in 2023, when the redistricting plan goes into effect, this difficult but necessary task will result in more timely access to justice in several Kentucky counties, where we have realigned the number of judges to better match the caseload in those jurisdictions.

Transparency and Accountability

We've taken several important steps to demonstrate our commitment to operating in an ethical and transparent manner and being a good steward of taxpayer dollars.

The Supreme Court adopted the first open records policy for the administrative records of the court. We also created the Administrative Office of the Courts' first internal audit department and Audit Oversight Committee. We now require biennial audits of the court system's financial records and have a Fraud, Waste & Abuse tipline to facilitate complaints against court personnel.

We have made our salaries, contracts and spending available to the public on Kentucky's transparency.ky.gov website. And we created the first Circuit Court Clerk Conduct Commission to investigate and review complaints against circuit court clerks, who maintain records for Circuit and District courts.

Other Achievements

I'm also proud of a wide range of other accomplishments, including our 2014 collaboration with the Legislative and Executive branches to enact juvenile justice reform, which is improving outcomes for juvenile offenders by reducing detention and increasing access to treatment and services.

In 2010, I created the Kentucky Access to Justice Commission to increase access to civil legal aid for the poor. The KAJC is also a crucial partner in helping us provide innovative self-help resources to those handling legal matters without an attorney.

We have also changed processes and perspectives to reduce disparities in the courts through our Racial, Ethnic and Equity Disparities initiative. And we developed the first statewide Family Court and Juvenile Court rules of practice and procedure, a move that has helped create uniformity in these important cases.

FUTURE OF STATE COURTS

It has been a gratifying and, at times, tumultuous 14 years, and I appreciate you allowing me this time to reflect. Now I briefly want to look ahead by sharing my thoughts on how several current issues will have a growing impact on the future of the Judicial Branch.

Racial Justice and Equity. The 2020 global protests against systemic racism, sparked by a succession of high-profile police brutality cases involving Black Americans, have heightened awareness of differential treatment by race and ethnicity and renewed calls to address these inequities. While the court system has become much more intentional in its approach to these issues, we realize there is more to be done. We will need to prioritize resources and training to strengthen our inclusion and diversity efforts for years to come.

Digital Transformation of Public Services. Public institutions face a growing demand for services on digital platforms that are easy to use and easy to access. In addition to our KYeCourts initiative, we're using text notifications as reminders for court dates and jury service, our website to provide a wide array of resources and electronic transactions, and social media to drive the public to our website. Our technology must continue to evolve to meet the changing needs of modern society.

Behavioral Health Issues. Substance use and mental health disorders, already prevalent across society, have increased with the chronic stress associated with the COVID-19 pandemic, economic uncertainties, and racial and social inequities. We must do more, as a court system and as a state, to address these issues. In August, we launched the Kentucky Judicial Commission on Mental Health, an ambitious undertaking with 72 members statewide. They will explore, recommend and implement transformational changes to improve the judicial response to cases involving mental health, substance use and intellectual disabilities.

Changing Conceptions of Work. The fundamental meaning and nature of work is evolving rapidly as a result of digital and augmented intelligence, shifts from physical to virtual spaces, multigenerational expectations of the work environment and job satisfaction, and the need for new and different skill sets to accommodate the jobs of the future. The court system must keep pace with these changes to remain competitive in a challenging job market.

Climate Change. Climate change continues to affect areas such as human health, the quantity and quality of water, energy, transportation, agriculture, forests and ecosystems. Climate change is also behind more severe and more frequent natural disasters, like the tornadoes and flooding our commonwealth has faced in the past year. With time running out, we'll need to escalate our emergency management planning to reduce future loss of property and minimize disruptions to the courts.

PARTING THOUGHTS

In Appreciation

In closing, I want to acknowledge those whose vision, hard work and collaboration have made our progress possible.

I am deeply grateful to the Legislative Branch for the valuable partnership we have nurtured over the years. Together we have positioned the court system for a bright and viable future through honest, open communication and a relationship of mutual trust.

I also appreciate our many other partners – state agencies, county and local governments, treatment providers, schools, businesses and community organizations – that have worked alongside us to tackle tough issues and implement solutions to enhance the lives of those we serve.

I have been fortunate to count as colleagues and friends the exceptional justices of the Supreme Court, who share my love of the law.

It has been an honor to work with the judges, circuit court clerks and court staff who serve every county in the commonwealth with a deep sense of duty and dedication.

I'm privileged to have had a hand in encouraging our court community to find the middle ground as much as possible and to work with them for a preferred outcome. As Eleanor Roosevelt said, "For our own success to be real, it must contribute to the success of others."

I also want to acknowledge my wife and our children who have indulged my desire to find professional and personal fulfillment in the public arena of judicial service.

Charge to Legislature

And finally, as I prepare to exit stage right – or in this case, step away from the bench – I want to leave you with a charge as you carry on the important work of governing.

I can say with great certainty that the state of the Judicial Branch is strong and that nothing is more paramount than preserving its independence. The very health of our democracy depends on a system of three separate but equal branches of government.

I hope that your relationship with my successor is as productive and cordial as the one you have had with me and that the crucial separation of powers remains the basis for every good thing that state government can achieve.

Thank you once again for sharing this incredible journey with me. If you have any questions, I'll be happy to answer them now.

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