

STATE OF THE JUDICIARY 2016 ADDRESS



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Annual Meeting of the Wisconsin Judicial Conference

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THE IMPORTANCE OF A HIGHLY SKILLED AND KNOWLEDGEABLE JUDICIARY

Welcome. It is thrilling to stand before you all—Wisconsin's judicial team—as we focus together on the importance of a highly skilled and knowledgeable judiciary.

Tradition

However, before we begin that discussion, we have a long tradition of recognizing those judges who have passed since the last Judicial Conference. Accordingly, we honor and remember:

Vivi Dilwig, Brown County Circuit Court, 1982-1999
William Dyke, Iowa County Circuit Court, 1997-2016
Steven Ebert, Dane County Circuit Court, 1997-2009
John Wiebusch, Oconto County Circuit Court, 1981-1993
Michael Wilk, Kenosha County Circuit Court, 1994-2016

Although those judges who are no longer with us leave an emptiness, we are gladdened by each new judge who has joined us and by those who have accepted new responsibilities. We recognize the following changes in Wisconsin's judiciary. Please stand as your name is called:

Justice Daniel Kelly, Supreme Court
Judge Timothy Dugan, Court of Appeals, District I
Judge Valerie Bailey-Rihn, Dane County Circuit Court
Judge Daniel Borowski, Sheboygan County Circuit Court
Judge Gwendolyn Connolly, Milwaukee County Circuit Court
Judge Cynthia Davis, Milwaukee County Circuit Court
Judge Martin De Vries, Dodge County Circuit Court
Judge Hannah Dugan, Milwaukee County Circuit Court
Judge Charles Feltes, Trempealeau County Circuit Court
Judge Michael Hanrahan, Milwaukee County Circuit Court
Judge Kent Hoffmann, Sheboygan County Circuit Court
Judge John Hyland, Dane County Circuit Court
Judge Daniel Johnson, Walworth County Circuit Court
Judge Clayton Kowski, Dane County Circuit Court
Judge Jean Kies, Milwaukee County Circuit Court
Judge Wendy Klicko, Sauk County Circuit Court
Judge Margaret Koehler, Iowa County Circuit Court
Judge John Manydeeds, Eau Claire County Circuit Court
Judge Keith Mehn, Kewaunee County Circuit Court
Judge Jodi Meier, Kenosha County Circuit Court
Judge Everett Mitchell, Dane County Circuit Court
Judge Mark Nielsen, Racine County Circuit Court
Judge Lynn Rider, Crawford County Circuit Court
Judge Gregory Strasser, Marathon County Circuit Court

Judge David Weber, Door County Circuit Court
Judge John Wood, Rock County Circuit Court

We look forward to working with these new members of our judicial team. Please give them a warm, Wisconsin welcome.

In reporting on the state of the judiciary, I also recognize my colleagues on the Wisconsin Supreme Court: Justice Shirley Abrahamson, Justice Ann Walsh Bradley, Justice Annette Ziegler, Justice Michael Gableman, Justice Rebecca Bradley and Justice Daniel Kelly.

As Chief Justice, I have called on, and will continue to call on, my fellow justices to accept leadership roles in the Supreme Court's administration of the judicial system. We will work together to develop new methods that will enable a highly skilled and knowledgeable judiciary to meet the challenges that our courts are expected to face in our service of the people of Wisconsin. This past year Justice Annette Ziegler became the court's liaison for judicial education. She now chairs the Judicial Education Committee and with the assistance of the Deans, oversees the Judicial College. Justice Michael Gableman is the court's liaison to the tribal courts. He has visited each Wisconsin tribe this year. He is also the court's liaison to the Access to Justice Commission that works toward providing legal assistance in civil matters to those who cannot afford a lawyer.

Although judging is central to what we do, Wisconsin courts have many tasks in addition to resolving the controversies presented to them. I would like to highlight a few of them and update you on our accomplishments.

Efiling

We have made tremendous progress during the last year in eFiling in circuit courts. Mandatory eFiling has been proceeding smoothly since its pilot in Dodge County on June 1. Twenty-one counties now have established mandatory eFiling for civil, family, paternity and small claims cases. These counties include: Adams, Ashland, Barron, Chippewa, Clark, Columbia, Dodge, Dunn, Florence, Green, Jefferson, Juneau, La Crosse, Oneida, Ozaukee, Pierce, Rusk, Vernon, Waukesha, Waupaca, and Wood. On December 1, we expect to welcome Marathon and Racine counties to mandatory eFiling.

In order to provide increased functionality, CCAP continues to make improvements to the eFiling system based on feedback from filers, judges and court staff. At the same time, programming is proceeding to enable additional case types for eFiling. Recently criminal and probate cases have been enabled in the eFiling system. While criminal eFiling will not be mandatory until March 1, 2017, most counties have begun to offer criminal eFiling at the same time mandatory eFiling has been implemented for other case types. A pilot has begun for probate eFiling in Ashland and Ozaukee counties.

The successful rollout of eFiling speaks highly, not only of the judges and clerk of court in each county, but also of the skills of CCAP staff. Their dedication to the courts is apparent in all that they do.

WCCA

In September, due in part to the commencement of mandatory eFiling, Director of State Courts, Denis Moran, reconvened the Wisconsin Circuit Court Access Oversight Committee (WCCA). It is a broad-based committee designed to assure that access to court records is keeping pace with changes in the law and technology. The committee includes judges, lawyers, privacy advocates, and media.

With eFiled documents, differing modes of access will be considered, depending on who is seeking access and to what type of file access is sought. There are questions about whether the level of access in criminal cases should be uniform. For example, will media have the same access to eFiled information as counsel for the parties? Will the general public have access that is somewhat dependent on the type of case? These issues, and many more, are being considered.

Children's Court Improvement Program

Another area in which the Wisconsin judiciary is doing great work is in improving outcomes for children and families throughout the state. For example, Wisconsin was selected to participate in the Three Branch Institute on Improving Child Safety and Preventing Child Fatalities, in partnership with the National Conference of State Legislatures and the National Governors Association. The program aligns the three branches of state government to develop and integrate a comprehensive approach to improving safety for children involved in, or at risk of becoming involved in, the child welfare system. Part of this program will include examining the opioid and other drug abuse issues currently affecting child safety in Wisconsin.

As a follow-up to our 2015 Conference on Child Welfare and the Courts, our Children's Court Improvement Program and Wisconsin Department of Children and Families provided six half-day seminars across the state where representatives from counties and tribes learned about and developed plans for implementing trauma-informed practices in their court and child welfare systems.

The Wisconsin Judicial Committee on Child Welfare played an integral role in guiding development of legislation that became 2015 Wis. Act 373. The Act promotes placement stability and reduces the time to permanency for children in the child welfare system by providing procedural guidance where the statutes were silent or lacked clarity with regard to changes in child placement. Judge Marshall Murray, Judge Jason Rossell, together with others on the committee, and Bridget Bauman, Director of the Children Court Improvement Program, provided critical assistance to the legislature as we coordinated our efforts to help children and families.

Treatment Courts

Treatment courts continue throughout the State. We have been conducting trainings to address underlying issues connected to criminal behavior that fuel drug-connected crimes and to assess the effectiveness of Wisconsin's treatment courts. These trainings, Wisconsin Treatment Court Standards Training sessions, were made possible by a \$200,000 federal grant from the Bureau of Justice Assistance. The training process has been truly collaborative with the Director of State Courts Office working with the Department of Justice, the Department of Corrections, the

Department of Health Services and the Wisconsin Association of Treatment Court Professionals. All of the participants have been focused on enhancing the use of evidence-based practices in Wisconsin treatment courts. Completion of treatment programs can greatly reduce recidivism, improve public safety and save state dollars that likely would have been spent for prison confinement.

In February, Katy Burke joined the Director of State Courts Office as the statewide problem-solving court coordinator. She has been part of a statewide team working to develop a treatment court evaluation protocol that can be used by all treatment courts in Wisconsin to assess the efficacy of these courts.

This project is the result of collaboration among the Director of State Courts Office, the Department of Justice, the Department of Corrections and an advisory group of judges and county drug treatment program coordinators. One of our goals is to collect relevant data to evaluate performance in a variety of areas, including sobriety, recidivism, restitution, drug-testing, screening, supervision, employment and education.

Business Court Pilot Project

This month the Supreme Court granted Rules Petition 16-05, which requested the creation of a commercial court docket. We have done so as a three-year pilot project, commencing July 1, 2017. The commercial court docket will be piloted in Waukesha County and the Eighth Judicial District, which includes Brown, Door, Kewaunee, Marinette, Oconto, Outagamie and Waupaca counties. Additional input is welcome, and there will be a public hearing on February 16, 2017 to determine whether any fine-tuning is warranted. Business court dockets are employed in many states. It is our hope that such a docket will result in efficient resolutions of complex business-related controversies. Rules Petition 16-05 is available on the Supreme Court's website.

Judicial Salaries

As is apparent from the brief review of some of the tasks Wisconsin judges undertake, a highly skilled and knowledgeable judiciary is extremely important to the people of Wisconsin, both in the courtroom and in the many areas where judges work to make Wisconsin a better place for all to live.

In the courtroom, legal issues bear upon the most personal concerns of those before the court, often affecting fundamental constitutional questions. The parties also bring complicated business-related disputes and all matters involving criminal law to our courts. They expect, and are entitled to, judges who are highly skilled and knowledgeable.

Judges who have had significant legal experience can address the complicated tasks before them because their legal knowledge, accumulated over many years, aids them in focusing their analyses.

However, the Wisconsin court system is losing a significant number of judges each year. This year we lost 24 judges and last year, 19. There are numerous reasons why experienced judges leave the bench—some of which are beyond our control. However, we do know that some

judges retire because they have personal financial pressures that they cannot meet on the salary they are paid by the State of Wisconsin.

The people of Wisconsin will benefit if we are able to attract and to retain highly skilled and knowledgeable judges. A major obstacle to satisfying this objective is judicial pay. The State of Wisconsin pays its circuit court judges at a low level. Wisconsin circuit court judges' pay ranks 41st out of 50 states, according to the July 1, 2016 report of the National Center for State Courts, which repeatedly surveys salaries paid to state court judges. Wisconsin Court of Appeals judges' pay ranks 33rd out of the 40 states that have a court of appeals as part of their judicial systems.

As these numbers clearly show, our judges lack salary parity with judges from other states.

After becoming Chief Justice, I established a Judicial Compensation Committee with participation from all parts of the state. We have met repeatedly since the last Judicial Conference to develop the necessary factual foundation and talking points to support salary parity for Wisconsin judges.

At my request, Attorney Michael Grebe and Attorney Michael Brennan, who have worked with Governor Walker on many other matters, met with him to explain the need for his support for judicial salary increases and how supporting such an increase will benefit the people of Wisconsin. We have provided the Governor with significant factual data that show how far behind other states Wisconsin is in judicial salaries.

I also have met with Governor Walker to explain how increasing judicial salaries will benefit the people of Wisconsin. I have asked for his personal support. My meeting with the Governor showed that he has studied the factual foundation from which to support judicial salary parity for Wisconsin judges.

In 2000, we were 21st among 50 states in trial judge salaries. I asked the Governor to recapture that position—21st among 50 states, thereby granting Wisconsin judges the salary parity that we held in 2000.

We must persuade Governor Walker that the people of Wisconsin will benefit from salary parity for Wisconsin judges. If he does not support us, it will be almost impossible to achieve the increase we need. Therefore, our efforts begin with the Governor. As we speak, he and his staff are working on the budget that he will submit to the Legislature shortly after the first of the year.

Members of your business community may be helpful in persuading the Governor to support judicial salary parity. Please contact them. I brought talking points and factual data about judicial salaries with me today. You can pick them up in the back of the room.

I look for your support in contacting your legislators as well. Again, members of the business community may be helpful with persuading legislators. They have different relationships with legislators than we, judges, have. They can express why a highly skilled and knowledgeable judiciary is so important to doing business in Wisconsin. As business people, they will understand why judicial salary parity affects Wisconsin's ability to recruit and maintain a highly skilled and knowledgeable judiciary.

I am well aware that the Governor and the Legislature are concerned with saving money, and even though the entire judicial branch of state government, including the expenditure necessary for judicial salary parity, is less than 1% of the state's budget, I have been actively working to save the State money where the judiciary can participate in doing so. For example, we are renegotiating a major Supreme Court lease, thereby saving hundreds of thousands of dollars over the term of the lease; we have renegotiated the lease for District IV Court of Appeals for a lower per square foot rate and a reduction in the square footage the court rents.

We have instituted mandatory eFiling, which will save record storage and delivery costs for the Attorney General's office, the State Public Defender's Office and the Department of Corrections. Although the savings from eFiling will not show up in the Supreme Court's budget, eFiling will save thousands of dollars for the State.

Our hard working circuit court judges have instituted 74 treatment courts throughout the state, where recidivism and its costs are reduced. Treatment courts can turn lives that would have been lost into productive, contributing citizens. Judges do not receive any additional pay for all of this extra judicial work.

We will continue to partner with the Executive and Legislative branches to be good and careful stewards of the State's financial resources. We also will continue to partner with the Executive and Legislative branches to improve the lives of Wisconsinites, as we did with the Institute for Improving Child Safety and for those who complete programs established by Wisconsin's treatment courts.

However, Wisconsin's courts need the support of the Governor and the Legislature in recruiting and retaining highly skilled and knowledgeable judges. We cannot do that without their support for judicial salary parity. They can support us if we all persuade them that salary parity for Wisconsin judges is in the best interests of the people of Wisconsin.

Director of State Courts

As many of you may already know, Judge Randy Koschnick has accepted the Supreme Court's offer to serve as the Director of State Courts. He will begin August 1, 2017, when his term on the Jefferson County Circuit Court concludes. I am pleased to welcome Judge Koschnick in his new role.

As I do so, I would be remiss if I did not publicly thank Denis Moran, who joined us to right the ship in the Director's Office that had foundered for a year without a Director's leadership. The Supreme Court asked Denis to please help out the court system for just six months. He agreed, and has continued to serve as the Director of State Courts because we needed him and because of his personal dedication to Wisconsin Courts. Thank you, Denis, for a job well done.

And so I conclude as I began, with a warm welcome to you all. And a request that we all work together to serve the people of Wisconsin with a highly skilled and knowledgeable judiciary supported by salary parity for Wisconsin judges. Let's have a super conference.