

The Third Branch



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Legislature Tackles Judicial Issues

by: **Sheryl Gervasi**
Legislative Liaison



Sheryl Gervasi
Legislative Liaison



Carol Buettner
State Senator

The 1997 Legislature will resume its floor session in mid-May and will work until the budget is enacted, then recess until September. While the budget bill will be its main focus, several other bills of interest have been introduced or are in the works.

Assembly Bill (AB) 92 and **Senate Bill (SB) 46** demonstrate that judicial substitution continues to hold the Legislature's attention. AB 92, sponsored by Rep. Margaret Krusick and Sen. Carol Buettner, replaces substitution in criminal cases with the affidavit of prejudice. SB 46, sponsored by Sen. Bob Welch and Rep. Scott Walker, replaces substitution in criminal, civil, juvenile and municipal court cases with the affidavit of prejudice. Neither bill permits the judge to rule on the merits of the allegations made in the affidavits. Both bills reside in their respective judiciary committees.



Scott Walker
State Representative



Calvin Potter
State Senator

AB 59, introduced by Rep. Carol Owens and Sen. Carol Buettner, creates the plea and verdict of *guilty but mentally ill* for individuals charged with a homicide offense. The judge or jury must determine that the person suffered from a mental illness at the time of the offense but that the illness did not result in the person lacking understanding of the wrongfulness of the conduct. This bill is in the Assembly Criminal Justice Committee.

AB 149, introduced by Rep. Scott Walker and Sen. Timothy Weeden, prohibits the appointment of any person as a reserve judge if the person was defeated in their most recent bid for election to a circuit court judgeship. This bill is in the Assembly Judiciary Committee.

SB 78, a trailer bill to 1995 Act 438 (passed in the last session), has been introduced by Sen. Calvin Potter. Act 438 allowed the court to issue a judgment for any unpaid fine, assessment, surcharge or restitution. It also

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The Biennial Budget: A Mixed Bag So Far

by: **David Suchman**
Budget Officer

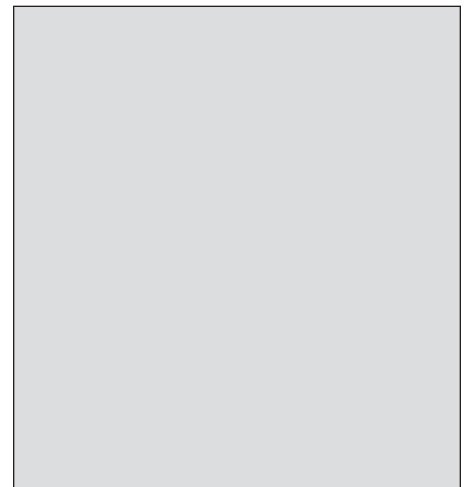
Governor Tommy Thompson's budget recommendations continue the trend of directing any available revenue into either school aids/property tax relief or the Department of Corrections. Consequently, little that was requested by the court system was included in this biennial budget bill.

One area of concern is the two percent across-the-board cut that is being applied to most budgets, with the exception of the

Department of Corrections and the University of Wisconsin System. For the courts, this means budget reductions of:

- \$880,900 annually for the circuit courts;
- \$123,400 annually for the Court of Appeals;
- \$68,900 for the Supreme Court;
- \$85,800 for the Director of State Courts Office; and
- \$18,300 for the Law Library.

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New Director of Judicial Education on Board

by: *Trina E. Haag*

David H. Hass, program manager and fiscal analyst for the Michigan Judicial Institute in Lansing, has brought his expertise and enthusiasm to Wisconsin as the new director of judicial education. He began work in Madison on March 24.

The Office of Judicial Education serves as the “peer educator” for professionals in the judicial branch. Each year, the office organizes statewide educational seminars and training activities. It also provides updated reference and resource materials.

Hass, filling the vacancy created by the departure of longtime Director V. K. Wetzel last October, said he looks forward to working with all the judges, as well as the Supreme Court and the deans of the Judicial College. He noted that Wisconsin’s Office of Judicial Education receives “outstanding support” from the state judiciary and said he is honored to work in one of the “nation’s leading judicial education communities.”

In a memorandum to the Director of State Courts Office, Hass outlined a list of challenges facing judicial education. He

cited increasing caseloads and complex public demands on the courts as two reasons to help judges achieve greater proficiency in all areas, with less emphasis on specialization.

Although helping the judges enhance their skills and learn new subject matter is important to Hass, he said providing education that fosters development, personal growth and motivation to carry out a shared goal of universal access to fair, independent and effective justice should be paramount.

Chief Justice Shirley S. Abrahamson commended Hass for his recognition that the mission of judicial education is to foster professional excellence in everyone engaged in judicial service.

Since 1988, Hass has handled all aspects of judicial education needs assessment, planning, curriculum development, implementation, evaluation and program facility management for Michigan’s Judicial Institute. He also has assisted the Institute’s executive director in monitoring and tracking expenditures for line-item budgets and has prepared budget forecasts for appropriation requests to the Supreme Court.



David Hass
Judicial Education Director

A 1971 graduate of Andrews University in Michigan with a bachelor’s degree in history, Hass received his master’s degree in administration from the University of Notre Dame in 1988.

He worked since 1971 for the Michigan court system,

beginning his career in Berrien County Probate Court as a probation officer, moving up to referee/casework supervisor and then to assistant director of probation services before transferring to judicial education.

When he is not traveling to judicial education seminars, Hass enjoys “tinkering with and restoring old automobiles.”

He and his wife, Diane, have two children, Shelly, 29, and Brian, 23, as well as one grandchild. The couple enjoys visiting family and friends and dining out. ❖

Barland is “Judge of the Year”

by: *Trina E. Haag*

Judge Thomas H. Barland, Eau Claire County Circuit Court, could not be more deserving of the State Bar of Wisconsin’s first Judge of the Year Award, according to those around the state who know him.

“I think it is particularly noteworthy that you have earned the deep respect of not only lawyers and judges, but also court staff,” District Court Administrator Gregg T. Moore wrote in a letter to Barland.

Eau Claire Lawyer Roy Wilcox described Barland as “even-tempered, hard-working and fair,” ideal qualities in a judge.

Barland received the award, for outstanding service as a trial court judge, in a special ceremony at the State Bar’s Mid-winter Convention.

“I’m extremely pleased and honored,” said Barland, who was appointed to the bench in 1967 by Gov. Warren Knowles.

“This is a wonderful culmination to my career.”

Chief Justice Shirley S. Abrahamson commended the State Bar’s Bench Bar Committee, which chose Barland for the award, for recognizing his early and ongoing efforts to enhance public access to court by allowing cameras in the courtroom.

Barland also helped create the Try Resolution Yourself Mediation Center (TRY). TRY is a court-affiliated process that saves time and money by resolving small claims actions and some family matters outside the courtroom.

In his 30 years on the bench, Barland has served on more than 20 task forces, councils and committees and has taught annually at Wisconsin Judicial Education seminars.

He is helping to establish the American Association of Retired Persons Guardianship Monitoring Program in Eau Claire



Judge Thomas H. Barland, Eau Claire County Circuit Court, accepts his “Judge of the Year” honor from Justice Jon P. Wilcox.
(Photo courtesy State Bar of Wisconsin)

County, which is one of four counties piloting this program. Sauk, Dane and Waukesha Counties are the others.

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Volunteers in the Courts Conference Attracts a Crowd

by: *Trina E. Haag*

Close to 200 people gathered in Madison to attend the first-ever conference on volunteers in the court system held April 24. The conference showcased successful court-related volunteer programs from around the state and unveiled a comprehensive catalog of the programs—the first of its kind in the nation. The catalog showed there are more than 4,500 volunteers working in 100-plus programs to help the courts in Wisconsin.

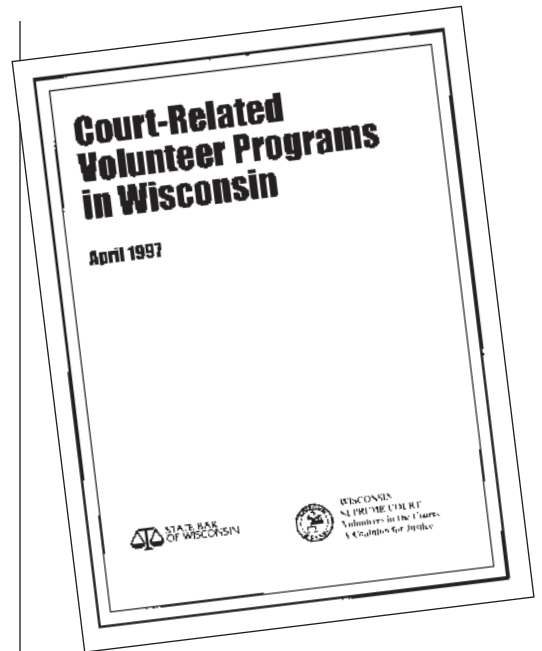
Chief Justice Shirley S. Abrahamson, who spearheaded the effort, called the one-day conference a “smashing success.”

American Bar Association Associate Director of Justice Initiatives Janet L. Jack-

son traveled to Madison to assess Wisconsin's efforts to include the community in court-related activities. Jackson said she would return to Chicago with the intention of replicating the efforts she saw at the conference on a national scale. “Wisconsin is at the forefront,” she said.

Jackson and the other attendees selected from workshops taught by 40 program coordinators. The audience included people who either work in the courts or have an interest in enhancing the services the courts provide (such as volunteers, judges, program directors, social workers and other human services workers).

The workshops focused on how to replicate court-related initiatives such as juvenile mentor projects, volunteer



Judges, volunteers, program directors, social services workers and others concerned about helping the courts better serve the public traveled to Madison for the one-day conference. They took home new information they can use to replicate programs that have been successful elsewhere.

guardian programs and programs which use volunteers to monitor court-ordered parent-child visits.

In one well-attended session, Judge Bruce Schmidt, Winnebago County Circuit Court, discussed recent strides in the Teen Court project. Teen Court, an alternative for youths ages 12 to 16 who are first-time misdemeanor offenders, has been a clear success since its start last fall, Schmidt said. Currently, more than 200 youths have volunteered to serve on peer juries, which act as regular juries with a unique twist. The juries are comprised of youths who have never had an encounter with the law as

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Recruitment Tip

Father Marty Carr, who runs Father Carr's Place in Oshkosh (where volunteers supervise visits between non-custodial parents and their children) goes out of his way to recruit retired teachers as volunteers. He watches the papers for retirement parties, shows up to offer his congratulations and, most times, leaves with a new volunteer on his list. ❖

Circuit, Appeals Judges Get Summer Help

As of mid-April, 90 volunteer interns (law students from around the country) had been hired to work for circuit and appellate judges this summer.

About 100 judges requested interns through the year-old program, begun at the request of Chief Justice Shirley S. Abrahamson.

Last summer, when the program began, just eight intern placements were made.

A new handbook is being produced to help the judges and students make the placements a success.

Both the students and the judges will evaluate the program at the end of the summer. For more information, contact the Office of Court Operations at (608) 266-3121. ❖

People in the News

A brief look at who's making headlines



Judge Patrick Sheedy

Chief Judge **Patrick Sheedy**, Milwaukee County Circuit Court, was the subject of a lengthy *Shepherd Express* feature. In the article, Sheedy made his case for more

judges and more jail space. He called himself "an equal-opportunity critic." Said Sheedy: "I criticize the county board, the state (and) the police."

Judge **P. Charles Jones**, Dane County Circuit Court, was featured in *The Capital Times* as he marked 25 years on the bench. Jones unseated former Probate Judge Carl Flom in a hotly contested race and now admits that "Even I didn't think I could win." Before taking the bench, Jones was head of Dane County Legal Services, which

provided legal help to the poor before the Public Defender's Office existed.

Judge **Thomas Cane**, District III Court of Appeals, was featured in a *Wausau Daily Herald* piece on the pilot Judicial Exchange Program. The program exchanges judges between the circuit and appellate courts in northcentral Wisconsin. Judge **Daniel La Rocque**, District III Court of Appeals, was featured in Medford's *The Star News* as he sat on the bench in Taylor County Circuit Court—normally the domain of Judge **Gary Carlson**.

Chief Justice **Shirley Abrahamson's** speech at the State Bar of Wisconsin's Board of Governors meeting made headlines in Milwaukee's *The Daily Reporter*. The Chief emphasized the need for outreach to the community, saying, "If they don't understand what we are doing, they can't possibly have confidence in what we do." She used the localized court visitors' guides and

Law Day activities as two examples of communications programs available to all courthouses.

Judge **Donald Poppy**, Calumet County Circuit Court, was pictured in the *Appleton Post-Crescent* presiding in one of two new courtrooms in Calumet County's expanded and renovated courthouse. The \$7.27 million project expanded the courthouse complex from 98,400 square feet to 168,400 square feet. It added security measures such as 24 cameras in hallways, courtrooms and the jail; a secured corridor for prisoner transport; a secure waiting room for victims and witnesses; and bulletproof glass in the Clerk of Circuit Court Office.

Judge **Daniel Klossner**, Dodge County Circuit Court, was featured in *The Dodge County Independent-News*, which heralded his election as chairman of the Wisconsin Board of Bar Examiners (BBE). The BBE is

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Election '97: Two Incumbent Judges Defeated; Several New Faces Join the Bench

Wisconsin Supreme Court Jon Wilcox (inc.) v. Walt Kelly Winner: Wilcox



Supreme Court Justice
Jon Wilcox

In the most expensive Supreme Court race in Wisconsin history, incumbent Justice Jon Wilcox defeated challenger Walt Kelly by 62 percent to 38 percent, a margin of victory even Wilcox called "really unexpected."

Wilcox, 60, appointed by the governor in 1992, will now serve until 2007.

In his bid for election, Wilcox won endorsements from four former governors, Governor Tommy Thompson, sheriffs and

district attorneys across the state.

Kelly, 53, a Milwaukee civil rights and labor lawyer, campaigned on his support for workers, women and the environment. He told the *Wisconsin State Journal* he had expected the race to be close and could not explain his big loss. He said he did not know if he would run for the Court again.

Wisconsin Court of Appeals, District III Michael Hoover v. Gary Sherman Winner: Hoover



Judge Michael Hoover

Judge Michael Hoover, Marathon County Circuit Court, easily won election to replace retiring Judge Daniel LaRocque on the Court of Appeals, District III.

Hoover, 45, defeated opponent Gary Sherman by more than 20,000 votes. He credited his numerous endorsements from judges, district attorneys and sheriffs in northern Wisconsin for helping him win.

Hoover has been a judge in Marathon County since 1988 and was an assistant district attorney prior to that.

Sherman, past president of the State Bar of Wisconsin, has been in private practice since 1974, handling business, municipal, family, criminal and appellate law in Port Wing.

Hoover and Sherman agreed on many issues and won praise from the legal community for their clean campaigns.

In retirement, LaRocque plans to work in arbitration and as a reserve judge.

Brown County Circuit Court Winner: Donald Zuidmulder (unopposed)

Attorney Don Zuidmulder, a former Brown County district attorney, ran without opposition to replace retiring Judge Richard Greenwood, who is stepping down after serving 20 years on the bench.

Zuidmulder is also a former assistant attorney general. Since 1975, he has worked in private practice. Zuidmulder is married and has three grown children.

Dane County Circuit Court Richard Callaway (inc.) v. John "Jay" Mimier Winner: Callaway



Judge Richard Callaway

Judge Richard Callaway won re-election by more than 40,000 votes to the seat he has held since 1990.

He was challenged by John "Jay" Mimier, 48, an assistant district attorney in Dane County. In the campaign, Mimier accused Callaway of sloppy administration of the law, especially in taking criminal pleas.

Callaway, 70, responded to the allegations by calling them just plain wrong, and pointed out that, with 40 years of experience, he knows the law. In an editorial endorsement, the *Wisconsin State Journal* praised Callaway's legal knowledge and work ethic.

Callaway, a La Crosse native, worked in private practice for 30 years prior to his appointment to the bench by the governor. He is married with three sons and two stepsons.

Dunn County Circuit Court James Wendland (inc.) v. Rod Smeltzer Winner: Smeltzer



Attorney Rod Smeltzer

Assistant District Attorney Rod Smeltzer defeated incumbent Judge James Wendland, receiving 4,646 votes to Wendland's 2,689. Wendland, who received his undergraduate degree from UW-Eau Claire and his law degree from Marquette University Law School, has served on the bench in Dunn County for the last 12 years.

Smeltzer has been an assistant district attorney for seven-and-a-half years, and worked prior to that in a farm partnership. He has also worked at Chippewa Valley Technical College and served as business manager for an automobile dealership.

Smeltzer received his undergraduate degree from the University of Minnesota, his master's degree in history from the University of Wisconsin-River Falls and his law degree from William Mitchell College of Law in St. Paul. He is married with a grown son and daughter.

Green County Circuit Court James Beer (inc.) v. Robert Duxstad Winner: Beer

Judge James Beer won election to the seat he has held since his appointment by the Governor last October. The margin



Judge James Beer

was 4,028 votes for Beer to 3,316 for his challenger, Attorney Robert Duxstad.

Beer, a graduate of the University of Wisconsin and Marquette University Law School, practiced law in Monroe for 24 years prior to his appointment to the bench.

He is a former county board supervisor and longtime director of the Green County Conservation League. He is married with three children.

Milwaukee County Circuit Court Frank Crivello (inc.) v. Jeffrey Conen Winner: Conen



Judge Jeffrey Conen

Glendale Municipal Judge Jeffrey Conen defeated incumbent Judge Frank Crivello by a margin of 66 percent to 34 percent, winning the city of Milwaukee and every suburb in the county.

Crivello, 51, was on the bench in Milwaukee County for 13 years. He told the *Milwaukee Journal Sentinel* he was disappointed by the loss and would miss public life.

Conen has been municipal judge for the City of Glendale since 1994 and has also served as a Milwaukee court commissioner. His private law practice focused on personal bankruptcy and general litigation in civil, misdemeanor, felony, juvenile, family, probate and guardian ad litem work.

Conen is a graduate of the University of Wisconsin and the IIT-Chicago Kent College of Law.

Milwaukee County Circuit Court William Brash v. Jean DiMotto Winner: DiMotto



Attorney Jean DiMotto

Attorney Jean DiMotto comfortably outpulled Fox Point Municipal Judge Bill Brash in the race for retiring Judge John Foley's seat.

DiMotto's unusual television ad won media attention for shattering the mold of political advertising. It depicted kids on a playground not taking responsibility for their actions. They turned into adult voices shirking responsibility for the crimes they

commit, all done in artsy, sepia tones.

DiMotto, a Milwaukee attorney who also holds a nursing degree, has devoted her practice in recent years to refereeing attorney disciplinary proceedings, acting as hearing officer in special education disputes between children with disabilities and public school districts and mediating medical malpractice cases.

She has served as chairwoman of the State Bar's Mentor Council and is past president of the Association for Women Lawyers.

DiMotto is married to Milwaukee County Circuit Court Judge John DiMotto. Her victory makes them the first husband-wife judicial team in Wisconsin history.

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Governor Fills Vacancy Left by Schwalbach

A federal prosecutor has been chosen to serve out the remainder of Judge James B. Schwalbach's term in Washington County Circuit Court. Schwalbach died in January at age 56 from complications that arose from past treatment for leukemia.

Governor Tommy Thompson appointed Annette Kingsland Ziegler, 33, to the post. Ziegler has been an assistant U.S. attorney since 1995 and worked in private practice prior to that, specializing in civil litigation and corporate law. She also served in 1992 and again in 1996 as a pro bono special prosecutor with the Milwaukee County District Attorney's Office. In that capacity, she tried a dozen jury trials and several trials to the bench. She also worked with the FBI

and Milwaukee police on a special project targeting drug dealers.

She took the bench April 21, becoming the first woman judge in Washington County. A Washington County court commissioner and a Germantown attorney were the other finalists for the post.

Ziegler told the *Milwaukee Journal Sentinel* she plans to run for a full six-year term next April. "In my opinion, serving as a judge is the most honorable thing a lawyer can strive to do," she was quoted as saying. "When you're an advocate for a particular client, you base your arguments and decisions on what is good for your client. A judge is allowed to make his or her decisions on merit and the law. And that aspect of the

job is something that I find particularly appealing."

A Michigan native, Ziegler is a graduate of Marquette University Law School and a former editor of the *Marquette Law Review*. She received her bachelor's degree in business administration and psychology from Hope College in Holland, Mich.

Ziegler is married with two children, a 7-year-old and baby born just two weeks before she received the appointment. ❖



Judge Annette Ziegler

CHIPS Report Calls for Judge Training, Better Coordination

by: **John Voelker**
Senior Policy Analyst

Wisconsin's trial judges need to exercise more effective and consistent judicial oversight in cases involving children in need of protection or services (CHIPS), according to a recent comprehensive assessment of court performance in CHIPS matters. The assessment was completed in 1996 and the final report on the results came out in March.

The project was undertaken with federal grant money which Congress made available to address rising societal expectations that the state courts ensure safe homes for children. Over the next four years, Wisconsin will receive more than \$800,000 in federal money for projects to improve the CHIPS system.

The assessment included:

- a comprehensive review of state statutes and court rules relating to foster care, adoptions and family preservation to identify strengths and weaknesses in the legal framework;
- a survey of judges, district court administrators, county child-welfare agencies and guardians ad litem/advocates;
- a review of case records from each of four pilot counties (Eau Claire, Milwaukee,

Sauk and Sawyer) to judge caseload complexity and case processing efficiency and to identify significant problems;

- a series of interviews with key people in the four county systems to provide a detailed description of how well the CHIPS process is currently working and how it might be improved; and
- a series of interviews with parents and foster parents to evaluate the effectiveness of the current system.

The assessment identified the following four issues to be considering in reforming the CHIPS process:

1. The families in CHIPS cases are likely to have additional involvement with the courts on matters such as: divorce, child custody and juvenile delinquency. Thus, CHIPS cases must consider the overall family situation and how the other problems are being handled.
2. Solutions must coordinate the needs and expectations of the following: the parents/foster parents and their attorneys, judges, social workers, guardians ad litem, district attorneys and corporation counsels. This is to ensure that the wide variety of interests represented in CHIPS cases are appropriately managed.

3. Judges need to exercise more effective and consistent judicial oversight to lessen the variation among CHIPS cases. Currently, there is wide county-to-county and case-to-case variation in the degree to which judges are exercising independent judgment as opposed to deferring judgment to the other key people in the process.
4. Automated case scheduling, tracking and management information systems should be used to ensure that all the agencies are communicating and working together to move the cases efficiently so that the children involved are placed in permanent homes without needless delay.

The next step is to launch a number of projects which will help to improve how CHIPS cases are handled. These include:

- a conference and workshop on children, families and justice to be held in Racine;
- a CHIPS planning and training program in four pilot counties which have yet to be chosen;
- a statewide training program to enhance judicial oversight of CHIPS cases; and
- research of a model inter-agency automated case management and information system for Milwaukee County. ❖

Seminar for the News Media Attracts Statewide Interest

A seminar on the Wisconsin Supreme Court and Court of Appeals for the news media brought 46 reporters from around the state to Madison on March 20 to learn about how Wisconsin's appellate courts work.

The half-day seminar was the first of its kind in Wisconsin. Regional seminars on the Court of Appeals and circuit courts are now being planned and may start as early as the fall.

The seminar, held in the Supreme Court Hearing Room, included:

- a presentation by Chief Justice Shirley S. Abrahamson on how the Supreme Court operates;
- a similar presentation by Chief Judge William Eich on the operation of the Court of Appeals;
- a tour of the State Law Library by Librarians Betsy Wright and Julie Tessmer;
- a "behind the scenes" tour of the Supreme Court chambers by Justices Donald W. Steinmetz, Janine P. Geske and Ann Walsh Bradley;
- a question-and-answer session with Chief Justice Abrahamson, Justices Steinmetz, Geske and Bradley, Chief Judge Eich and Court of Appeals Judges Daniel P. Anderson, Harry G. Snyder, Daniel L. LaRocque, Gordon Myse, Charles P. Dykman, Mar-



Chief Justice Shirley S. Abrahamson addressed a group of 46 reporters, editors, news directors and publishers from around the state at the recent seminar for the media on the Supreme Court and Court of Appeals.

garet J. Vergeront, Patience D. Roggensack and David G. Deininger.

All participants were given packets of material designed to assist the media and the general public in understanding the Supreme Court and Court of Appeals.

Organized by Court Information Officer Amanda Todd, the seminar was presented in cooperation with the Wisconsin Broadcasters' Association, Wisconsin Newspaper Association and Society of Professional Journalists. ❖

Update: 5th Standard for Involuntary Mental Commitment

A fifth standard used in determining involuntary mental commitment has been in effect since December 1996.

When a person is committed under this standard, he or she may be treated initially on an in-patient basis for a maximum of 30 days from the date of entry into treatment. Transfer to conditional outpatient treatment must then occur.

The new standard, created by 1995 Wis. Act 292, requires that the individual:

- is not drug dependent or developmentally disabled;
- is incapable of understanding, because of mental illness, the advantages and disadvantages of treatment to make an informed choice;

- shows a substantial probability, based on treatment history and recent acts, of needing care or treatment to prevent further deterioration; and

- will lack health and safety services if left untreated and will suffer severe mental, emotional or physical harm. This will result in the loss of ability to function independently in society.

The individual's status as a minor does not automatically establish the probability of suffering severe mental, emotional or physical harm.

Furthermore, if care or treatment is available in the community and there is a reasonable chance that the individual will

make use of the services, the probability of sufferance has not been met.

The attorney general must approve the petition prior to filing or within 12 hours after filing. If the attorney general does not approve filing, the individual must be released.

The detention process, outlined in the new law, is based on the probability that an individual might do harm. If the standard is applied, critics argue, it would receive appellate scrutiny because it is subjective in nature and presents questions of constitutionality.

As of March, no cases had been brought under the new standard. ❖

People in the News

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responsible for preparing, administering and grading the Wisconsin Bar Examination, admitting lawyers to practice in the state, and overseeing the continuing education of lawyers licensed to practice in Wisconsin.

Brown County Circuit Court Judges **Richard Dietz, Peter Naze, Vivi Dilweg, J.D. McKay, Sue Bischel, William Atkinson** and **William Griesbach** were featured in a *Green Bay Press-Gazette* photograph as they formed a pre-Super Bowl "shouting line" on the courthouse lawn in support of the Green Bay Packers. They were joined by more than 300 county employees.



Justice William Bablitch

Justice **William Bablitch** made the Wisconsin State Journal's "Snoop" column for his impromptu half-time show at the Wisconsin-Iowa basketball game.

Because the program he purchased contained a special sticker inside, Bablitch—along with another lucky fan—was escorted onto the court and given an opportunity to shoot five baskets. He made one, winning a pizza but losing out on a Las Vegas trip and a Dodge Neon.

While he wasn't personally featured, Assistant District Court Administrator **Michael Neimon**, First Judicial District, was one of thousands of "polar bears" who made national news on January 1 by diving into Lake Michigan. This was Neimon's 13th dive. He was joined by his brother and sister, but his wife, Kerry, who joined him in the surf one time (when they were newlyweds) chose to guard the pile of clothing on the shore.

Judges **George Curry** and **John Wagner**, both of Grant County Circuit Court, were interviewed at length in a "Conversation with the Courts" column in the *Wisconsin Journal of Family Law*.

Judges **Dee Dyer**, Outagamie County Circuit Court, and **Frederick Henderson**, Rusk County Circuit Court, won \$1,500 scholarships from the State Justice Institute to cover their tuition and transportation to

the Civil Mediation conference in April at the National Judicial College in Reno, NV.

Judges **Allan Deehr, Fred Hazlewood** and **Darryl Deets**, all of Manitowoc County Circuit Court, spoke against instituting the death penalty in Wisconsin in an interview with the *Manitowoc Herald Times Reporter*. Said Deehr: "Mistakes are made, even though ours is the best criminal justice system in the world. It would be a terrible travesty to take an innocent life." Hazlewood called the death penalty "a glib response to a complex problem."

Judges **James Mason** and **Edward Zappen**, both of Wood County Circuit Court, spoke in support of Gov. Tommy Thompson's Truth in Sentencing proposal (which would abolish probation for felonies and abolish mandatory release, among other things). Said Zappen: "I beg the Wisconsin Legislature not to tinker with it. It's very usable."



Judge John Damon

Judge **John Damon**, Trempealeau County Circuit Court, was featured in several of his local newspapers as he announced a grant award to develop

and implement voluntary victim-offender mediation services in Trempealeau County. The court received \$11,600 under the Juvenile Justice and Delinquency Prevention Act, administered by the Office of Justice Assistance. The money will be used to hire a program coordinator, who will oversee the recruitment and training of volunteer mediators.

Judge **Gerald Nichol**, Dane County Circuit Court, was featured in the *Wisconsin State Journal* and *The Capital Times* when a volunteer program he established in Dane County received a \$50,000 federal grant. The Court-Appointed Special Advocate Program (CASA) helps the courts supervise placement of abused and neglected children.

Judge **Thomas Donegan**, Milwaukee County Circuit Court, prompted the *Milwaukee Journal Sentinel* to begin work on a series of articles on the children who go through Milwaukee Children's Court. Donegan met with the news staff to discuss the new juvenile code and how it has

affected children and families. Editors and reporters who attended the meeting called it one of the best sessions they could recall, and immediately began to plan a series of stories on Children's Court.



Judge Michael Gibbs

Judge **Michael Gibbs**, Walworth County Circuit Court, was featured in a front-page article in the Sunday *Racine Journal Times* for his quiet effort to help a Chinese political dissident—who was in the United States illegally—achieve asylum. Gibbs and his wife, Ellen, learned of Yen Shin Cheng's plight after she tried to commit suicide in the Walworth County Jail. Due in large part to the efforts of the Gibbs family, Yen was granted political asylum. She moved in with them and is now learning English and teaching Gibbs' two children Chinese.

Judge **Allan Deehr**, Manitowoc County Circuit Court, was featured in the *Manitowoc Herald Times Reporter* as he prepares to retire from the bench August 1 after 24 years. Deehr was appointed to the bench at 31, becoming one of the youngest judges in the state. Deehr told the *Reporter* he plans to marry, then relax in California for a while before looking into volunteering in a Third World country.

Judge **John Des Jardins** has been the topic of numerous news stories and letters/calls to the editor following his decision that Wisconsin's flag desecration law is unconstitutional and his dismissal of a case against a 17-year-old boy who admitted to defecating on an American flag. Des Jardins told the *Appleton Post-Crescent* the questions raised about his patriotism have been hard to take, given that he has modeled his life on two heroes: his uncles, who, as World War II fighter pilots, died weeks apart in Europe.

Judge **Mark Frankel**, Dane County Circuit Court, was featured in the Sunday *Wisconsin State Journal* for his life-long dedication to serving the community. Most recently, Frankel was a mentor to three teenagers at the Vera Court Community Center where he taught them computer lessons. ❖

Budget

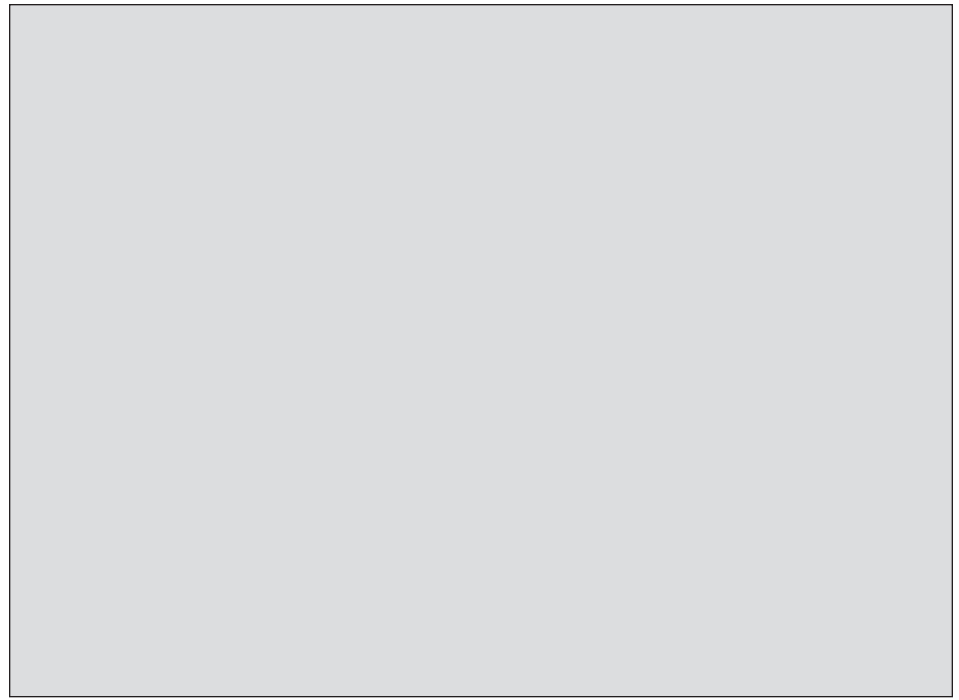
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Considering that most court system expenses are for compensation, the Director's Office is conveying the message to the Joint Finance Committee that cuts of this magnitude would be very difficult to absorb.

The one bright spot in the budget is the Circuit Court Automation Program (CCAP). The Governor made the remaining project positions permanent, signaling an understanding that CCAP is an ongoing program. In addition, the Justice Information Fee, all of which currently goes to the Department of Administration's (DOA) Bureau of Justice Information Systems (BJIS) will be increased from \$5 to \$7, with the additional revenues (approximately a million per year) supporting replacement of aging CCAP equipment in the counties. While this is about half the revenue that was requested, it is a welcome start.

With the exception of some technical statutory language changes, the remainder of the courts' budget request was denied.

On March 26, Supreme Court Chief Justice Shirley S. Abrahamson, Court of Appeals Chief Judge William Eich and Director of State Courts J. Denis Moran were invited to testify before the Joint Committee on Finance concerning the courts' budget request. Both oral and written testimony was provided to the committee (Abrahamson's remarks are posted on the



State Bar of Wisconsin's web site, <http://www.wisbar.org>).

The tenor of the remarks was one of understanding and cooperation among the various branches of government. Among the items Abrahamson raised were reserve judge salaries and administrative staffing needs for: the Clerk of the Supreme Court/Court of Appeals Office, the First Judicial Administrative District and the human resources function of Management Services. Abrahamson also spoke of the need to fund acquisitions at the State Law

Library and suggested several changes in statutory language which would give the courts increased management flexibility.

In the question period that followed, committee members asked about additional judgeships, the lack of minority judges (specifically, whether Milwaukee County should be districted), the Court's position on a new judicial building in Madison, courtroom security and the Chief Justice's assistant (this position is currently held by Reserve Judge Nancy Wheeler, but was not included in the Governor's budget). ❖

Law Day Celebrations Nearly Universal

Law Day, May 1, was celebrated in a big way across Wisconsin. Circuit courts in 79 percent of counties reported planning Law Day activities, while another seven percent said they were considering doing something. Just 14 percent said they were doing nothing.

This year, for the first time, the chief justice rallied support for the courts' participation in Law Day activities. She wrote a Law Day column which was distributed to newspapers in the 54 counties that planned celebrations, and produced a piece for *Counties* magazine. ❖

State Bar Launches Fund Raising for Legal Services to Poor

A three-year campaign to raise a projected minimum of \$5 million for delivery of legal services to the poor is underway, spurred by a recommendation of the State Bar's Commission on the Delivery of Legal Services. A foundation, the Equal Justice Coalition Inc., is being formed to carry out the task.

The foundation's focus is to educate legal professionals and the public about the

serious need for legal services for the poor. "The legal community alone won't be able to fill the void left by cuts in federal funding," said Deborah Kilbury Tobin of the State Bar of Wisconsin. "It is a community-wide problem."

The foundation, headed by State Bar Past President John Skilton, is made up of executive directors of all legal offices in the state that receive LSC funding, as well as the

executive directors of the Legal Aid Society of Milwaukee and the Wisconsin Trust Account Foundation. To diversify the board, Tobin said, additional seats will be appointed from the legal and business communities.

A media kick-off to spread the word on the fund raising initiative is anticipated for June 25. ❖

Health Problems Sideline Two Dane County Judges

Judges George Northrup and Michael Torphy, Jr., Dane County Circuit Court, are both on leaves of absence for unspecified durations due to health problems.

Northrup returned to the bench in January after undergoing surgery, radiation and chemotherapy to battle a rare and often fatal form of cancer which attacks the lining of the chest cavity. He recently was told the cancer has returned.

Torphy, the county's most senior judge, continues his struggle to recover from two broken shoulders he suffered when he had a

seizure during a Mexico vacation in February. He told *The Capital Times* he is slowly regaining motion in his arms but expects he will need to continue to recuperate through May and June to have sufficient movement in his arms to consider returning to work.

Torphy's current term expires in 1999; Northrup was just re-elected to a six-year term last month.

Both judges' calendars are being handled in part by reserve judges and in part by the other Dane County judges. ❖

Legislature

Continued from page 1

changed the payment time from 60 to 120 days. SB 78 returns the payment time to 60 days and is expected to add unpaid forfeitures and costs to the items that the judgment can include.

AB 289, a trailer bill to 1995 Act 375 has also been introduced. Act 375 requires the court to collect medical and genetic information from both parents in joint custody cases and from the parent not awarded custody in other cases. AB 289, by Rep. Spencer Black, will change Act 375 to require that the information be submitted only by non-custodial parents and that any information that would

identify a third party be eliminated. Finally, the trailer bill is expected to provide that this information be sent to the central registry in Madison rather than retained by the court.

Other legislation of interest includes comprehensive bills on prisoner litigation and victims' rights which will most likely be taken up in fall after they are introduced at the request of Attorney General James Doyle. ❖



*Spencer Black
State Representative*

Volunteers

Continued from page 3

well as previous teen court offenders. Peers serve as prosecutors and defense attorneys in these trials as well.

The audience of 50 questioned Schmidt about the finer points of the program—they asked how the peers interact and what types of punishments they impose on the offender. Many appeared eager to start such a program in their counties.

Assistant Attorney General Charles Hoornstra, who spoke to the lively group at lunch, congratulated the Chief Justice and her assistant, Reserve Judge Nancy Wheeler, for embarking on an ambitious and worthy project. Hoornstra advised the attendees about the legal ramifications associated with volunteer work. Program coordinators need to ensure that they provide proper training to their volunteers and clearly delineate job duties to avoid any unwanted encounters with liability law, he said.

Nora Cusack, volunteer program assistant with the Volunteers in the Courts project, noted that one high point of the conference came at the end of the day



Chief Justice Shirley S. Abrahamson addresses a full house at the April 24 Volunteers in the Courts conference. Reserve Judge Nancy E. Wheeler (seated) organized the conference in cooperation with the State Bar of Wisconsin.

when one participant expressed that the workshop had furthered her ability to perform her job as a community service

director. She left with renewed confidence, reassured that her volunteer efforts were right on track. ❖

Election '97

Continued from page 5

Milwaukee County Circuit Court

Winner: Michael Dwyer (unopposed)

Milwaukee Attorney Michael Dwyer ran unopposed for the seat of Judge William Gardner, who is retiring after 18 years on the bench.

Dwyer, who received his undergraduate degree from the University of Wisconsin and his law degree from Georgetown University, is currently engaged in civil practice concentrating on commercial, employment, real estate, probate and estate planning law.

He has also worked as a plaintiff's personal injury lawyer and is chairman of the Milwaukee Bar Association's Case Mediation Committee.

Outagamie County Circuit Court

Dennis Luebke (inc.) v. Robert Sager

Winner: Luebke



Judge Dennis Luebke

Judge Dennis Luebke, on the bench in Outagamie County since 1984, easily won re-election to his seat.

His challenger was Robert Sager, an assistant district attorney in Winnebago County.

Richland County Circuit Court

Winner: Edward Leineweber (unopposed)



Attorney Edward Leineweber

Richland Center City Attorney and Court Commissioner Edward Leineweber ran unopposed to replace retiring Judge Kent Houck, who has been on the bench since 1965.

Leineweber has practiced law in Richland County for 20 years, focusing on estate planning, probate, real estate, family law, small business and commercial matters and litigation. He served three terms as Richland County district attorney.

A Chicago native, Leineweber is a graduate of the University of Notre Dame and the University of Wisconsin Law School, where he was an editor of the *Wisconsin Law Review*. Leineweber is married with two daughters at home.

"Judge of the Year"

Continued from page 2

The program allows volunteers to serve as the eyes and ears of the court, helping the court to meet its statutory obligation to safeguard the well-being of people under

guardianship. Barland said volunteers in Eau Claire County already have been chosen and training will begin soon.

Described by Moore as an "outstanding public servant," Barland is just as active outside of court. He runs every day with his pair of Irish Setters, one of which is a champion show dog.

Washburn County Circuit Court

J. Michael Bitney v. Eugene Harrington

Winner: Harrington



Attorney Eugene Harrington

Attorney Eugene Harrington, who has done legal work in Spooner for 18 years, beat Washburn County District Attorney J. Michael Bitney by 313 votes and will fill the seat left by retiring Judge Warren Winton.

Harrington, currently a court commissioner for Washburn County and city attorney for Shell Lake, is a graduate of the University of Wisconsin-Superior and the law school at Hamline University.

In retirement, Winton, who has served 26 years on the bench in Washburn County, will work as a reserve judge.

Waukesha County Circuit Court

J. Mac Davis v. Paul Reilly

Winner: Davis



Attorney J. Mac Davis

By a landslide, voters returned former Judge J. Mac Davis to the bench in Waukesha County. He beat challenger Paul Reilly by a margin of 61 percent to 39 percent.

Davis' television ad, depicting the father of a rape victim writing a letter to Davis to thank him for his handling of the case, won praise as straightforward and effective.

Davis, 44, served as a circuit court judge in Waukesha County from 1990 to 1996, when he stepped down to run as a Republican for Congress. He lost in the primary to West Allis businessman Tom Reynolds, who went on to lose to U.S. Rep. Jerry Kleczka, a Democrat.

Upon his defeat, Davis opted to run for retiring Judge Clair Voss' seat. For that, Reilly, an attorney in private practice, attacked him, calling him a career politician who showed no dedication to the judiciary. Upon his victory, Davis told the *Milwaukee Journal Sentinel*: "My experience paid off. I also think (the voters) rejected (Reilly's) negative campaign."

Reilly, who has said it is his lifelong dream to be a judge, told the *Journal Sentinel* he will run again.

In retirement, Voss plans to work as a reserve judge and a mediator. ❖

He and Ann, his wife of 33 years, spend much of their free time attending concerts, ballets, operas and plays in Eau Claire and the Twin Cities.

As past president of the Eau Claire Arts Council, Barland remains very involved with related committees. ❖

Court Goes to School in Milwaukee

by: *Trina E. Haag*

Twice this spring, Milwaukee County Circuit Court Judge Dennis P. Moroney went to school—and brought the court with him. The Court at School Program, a first in Wisconsin, is designed to show students the consequences of unlawful actions, provide education on criminal justice and present career opportunities.

“This is no longer an auditorium; this is a court of law,” Moroney advised the students after striking the gavel at both St. Francis Children’s Center and Marquette High School. Chief Judge Patrick T. Sheedy, who watched the students during the proceedings, said they were “spellbound.”

The court scheduled two hours, including travel time, for the hearings at school. In court, the hearings would be disposed of in a half-hour; however, the time extended over what would normally be a lunch break, Moroney said.

Sixty-one percent of students at St. Francis, the first school to participate, said in an exit survey that they would “alter their behavior” based on the program. “I won’t hang around with the wrong people and I’ll pay more attention,” wrote one student.

Responses such as these are the best indicator of the program’s success, said Moroney. “The students said they wouldn’t commit crimes similar to what they heard or hopefully any criminal activity—this is encouraging,” he said.

Middle school students are receptive to being tutored and taught, he added. “They were very attentive. You could have heard a pin drop in the hour and 15 minutes of court activity.”



Judge Dennis P. Moroney explains court to children at St. Francis school.

Captivating the students were four defendants who agreed to have their cases adjudicated in the St. Francis auditorium. The defendants were neither promised leniency nor threatened with more severe sanctions to prove a point to the students. All four defendants received less than the maximum penalty, but some still expressed surprise at the severity of the sentences.

One such defendant, charged with Operating While Intoxicated (OWI) as a fifth offense, received a more severe sentence than he had anticipated. Defense Lawyer Gregory Rothstein represented the drunk driver, a middle-aged man stopped by police shortly after he left a tavern. Rothstein advised him to accept his punishment in front of the students.

“My client thought it was an opportunity to do some good,” Rothstein told the *Milwaukee Journal Sentinel*. “It lets the defendant express some remorse to the community for his actions.”

“I could have slam dunked him with the one-year maximum,” Moroney said, “but I considered both the educational element and extensive treatment efforts as mitigating factors. So, I knocked off a month and a half and he got a good deal.”

At Marquette High School, in front of an audience of 300, the court held hearings for two OWI offenders and one person charged with cocaine possession. All three were sentenced to jail time.

Prior to the hearings, each member of Moroney’s staff gave a statement about his or her job to introduce the students to career possibilities in the justice system that they might not have thought about.

Since the trip to Marquette, Moroney has received several requests to bring the program to other Milwaukee schools. The Supreme Court will review the results from the pilot schools to determine if the program will continue. ❖

MBE Award Presented to Director’s Office

In March, Purchasing Officer Dave Korenic, on behalf of the Director of State Courts Office, accepted the Governor’s Special Minority Business Award from Department of Administration Secretary Mark Bugher. The award recognizes state agencies that have spent at least five percent of their total purchasing dollars with Minority Business Enterprises (MBE). This year, like last, the Director’s Office met this goal, with 7.58 percent of its total spending going to MBE. ❖



Director of State Courts Purchasing Officer Dave Korenic, (right) accepts the Governor’s Special Minority Business Award from Department of Administration Secretary Mark Bugher (left).

Obituaries

Judge Richard J. Farrell

Judge Richard J. Farrell, 89, died January 15 after a long illness. Farrell was elected to the bench in Brown County in 1961 and served there until his retirement in 1977. He remained active as a reserve judge until 1981.

A graduate of Marquette University Law School, Farrell became an assistant Brown County district attorney early in his career.

His wife, Irene, died in 1981. He is survived by two daughters, a son and six grandchildren. ❖

Lorna E. Helgerson

Lorna E. Helgerson, an employee of the Board of Bar Examiners, died at home on March 14 after a long battle with cancer. She was 48.

Helgerson began work at the Board of Bar Examiners (BBE) in May 1991 and was an Iowa County deputy clerk of circuit court from 1985 to July 1990.

When Helgerson was unable to work because of her illness, her colleagues at the BBE stepped in to help. They assisted Hospice-Care by providing meals and visits and they shared leave time with Helgerson to bridge the gap before her income continuation coverage kicked in.

She is remembered at the BBE as a gentle person with a positive outlook on life, a sense of humor and a very strong work ethic.

Helgerson is survived by three sons, Jeff, Joe and Todd; three grandchildren, Tiffany, Jared and Ashley; and three sisters, Nancy, Ginny and Barbara. ❖

Judge Ernst John Watts

Judge Ernst John Watts, 73, died February 2 of pancreatic cancer. He had recently returned from a trip to Moscow, where he served on the faculty of a training program for Russian judges.

Watts was elected Walworth County judge in 1960 and became the county's first circuit judge when he outpolled fellow jurist Erwin Zastrow in a special election in 1964. He was re-elected to a second six-year term in April 1970.

In December 1973 he was appointed dean of the National Judicial College in Reno, NV. He resigned that post in 1985 and spent the next 12 years traveling the world to help train judges. In recent years, he made nine trips to Russia for this purpose.

Watts was a lifelong bachelor and had resided in Reno for the past 22 years. ❖

New Brochure on Supreme Court Art is Available



The Wisconsin Supreme Court Hearing Room is said to be one of the most beautiful courtrooms in the nation. Now, the Court has published a large-format brochure in both color and black and white with pictures of the artwork and the stories behind it. Retired Chief Justice Roland B. Day is the author.

The brochure is available at the following locations: all state tourism offices, all branches of the Madison Public Library; the Stevens Point Fine Arts Center; the Greater Madison Convention and Visitors' Bureau; the Madison Chamber of Commerce; the tour desk in the state

Capitol; and the Supreme Court. It also has been sent to 117 arts boards and commissions statewide.

It may be ordered in bulk (free of charge) for distribution in courthouses by calling (608) 266-1298. ❖

Court of Appeals Reaches Out to Schools



Chief Judge William Eich, Court of Appeals

The Court of Appeals, District IV, is planning to duplicate the Supreme Court and State Bar of Wisconsin's successful "Court with Class" program in the fall.

Under the program, high schools (statewide, for the Supreme Court; District IV counties for the new Court of Appeals program) are invited to bring a group to watch oral argument in the morning, and then meet with a justice/judge in the court-

room over part of the noon hour.

Teachers who sign up are sent materials in advance to prepare the students. These include information on the court system, a synopsis of the case the class will watch and copies of the State Bar of Wisconsin's publication, *On Being 18*.

The program is low-cost; the main expenditures are for school mailing labels (available from the Department of Public Instruction), copying and mailing. It does require that a plain-English synopsis be written for the cases for which classes sign up.

For more information on setting up Court with Class, call Court Information Officer Amanda Todd at (608) 264-6256. ❖

The Third Branch

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The Third Branch is a quarterly publication of the Director of State Courts Office, providing news of interest to the Wisconsin Judiciary. Send questions and comments to: Amanda Todd, Court Information Officer, P.O. Box 1688 Madison, WI 53701-1688. Phone (608) 264-6256.

The Third Branch

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DCA Fred Cooper Moves On

District One Court Administrator Fred Cooper left his position effective the first week in May. Cooper, who came to Milwaukee from Arizona to replace Ronald Witkowiak last July, said he is proud of what was accomplished during his ten-month tenure.

He is considering returning to work in the news media, where he began his career, and is looking at options both in the Milwaukee area and in Arizona, where his wife and children still reside.

Assistant District Court Administrator Mike Neimon will be acting DCA. ❖



*Michael Neimon
Acting District Court
Administrator*

Plan now for the Meeting of the Wisconsin Judicial Conference

September 24-26

The Country Inn
Pewaukee

Watch for details in June

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