

**REMARKS BY CHIEF JUSTICE SHIRLEY S. ABRAHAMSON BEFORE
THE JOINT COMMITTEE ON FINANCE**

MARCH 17, 2009

Good afternoon Co-Chair Miller, Co-Chair Pocan, and members of the Joint Committee on Finance. I appreciate the opportunity to appear before you today to speak about the Wisconsin court system and Assembly Bill 75.

I come before you at a time unlike any since I've been Chief Justice. We have weathered difficult times and budget shortfalls in the past, but the economic challenges facing our state and nation today are greater than many of us have ever seen. We must not let these challenges chip away at our core constitutional responsibility to provide fair and just settlement of disputes through our court system.

Court Budget Items in AB 75

The Governor's bill includes several of the court system's budget proposals. We continue to support them. The budget bill provides for increased funding for interpreter services; continuation of a position to support our efforts to standardize counties' reporting of expenditures for the court system; and a program-funded position in the Office of Lawyer Regulation to help facilitate lawyer discipline proceedings. These provisions are fiscally modest and will help the court system better serve the people of this state. I ask this committee to support these items.

In recognition of the state's fiscal needs, the court's budget request for this biennium puts forth few proposals. This does not mean there are fewer needs to be addressed. Courthouse safety, assistance for self-represented litigants, and effective justice strategies to enhance public safety and reduce costs and recidivism will be funded as our base resources allow. We also continue to believe our budget proposal for state financial aid to counties to support court services deserves consideration. Although not fiscally practical at this time, the idea is worth revisiting in a future budget.

The judiciary's budget is comprised predominantly of fixed, non-discretionary costs. This significantly limits our options for reducing expenditures. The budget provides funding for 272 elected officials — 249 circuit court judges, 16 Court of Appeals judges and seven Supreme Court justices.

The administrative structure of the Wisconsin court system is lean. We are able to operate efficiently and effectively by using a combination of central staff and chief judges and district court administrators in each of the 10 administrative districts. State law assigns more than 70 administrative responsibilities to the chief judges, who, except

in Milwaukee County, continue to carry judicial workloads. This basic, frugal administrative structure is supported by judges, clerks of courts, lawyers, court staff and others who volunteer to serve on committees that help guide and improve the court system.

We understand the need to save money. We have adopted numerous cost containment measures already. We have frozen positions, restricted in-state travel, eliminated GPR out-of-state travel, reduced the frequency and cost of committee meetings, and eliminated the purchase of valuable legal resource materials. Our Justice on Wheels program that brings the Supreme Court to cities throughout the state has been reduced to one visit per year. This nationally recognized program is an important outreach effort to help the public understand how the Court functions and how state government in Madison is serving its citizens. These measures have not been accomplished without stresses and strains. But I assure you we shall continue to find ways to become more fiscally prudent and cost effective.

AB 75 also requires the Secretary of the Department of Administration to lapse or transfer to the General Fund \$160 million during the 2009-11 biennium. The courts are included, but the amounts and procedures for assigning lapses to court appropriations are not specified. This provision creates a significant unknown for our budget and carries with it the potential to adversely affect court operations. As the administrative head of the judicial branch, I ask that you consult me when and if it is deemed necessary to consider further reductions from court system appropriations. We, in turn, pledge to continue our cost-containment efforts.

Court-Related Provisions in AB 75

The budget bill contains a variety of proposals dealing with the criminal justice system that are not part of the court budget. I will touch briefly on some of these items.

Assess, Inform and Measure (AIM) and Treatment Alternatives and Diversion (TAD) Grants to Milwaukee County

AB 75 provides \$495,000 annually in grants to Milwaukee County to conduct presentencing assessments. These assessments provide judges with information to help in sentencing. The bill also provides Milwaukee County with \$371,200 a year in grants for alternatives to prosecution and incarceration for criminal offenders who abuse alcohol and other drugs – excluding violent offenders. Under the bill, the Office of Justice Assistance would approve program plans developed by Milwaukee County, and award the grants. We appreciate the Governor's and Legislature's support of criminal justice programs in Milwaukee County.

Increases to Court-Imposed Surcharges

AB 75 increases four separate court-imposed and collected surcharges: justice information systems, crime laboratories and drug enforcement, crime victim and witness assistance, and the wildlife violator compact. The justice information systems surcharge is increased by \$6; the others are each increased by \$5.

While each increase may seem small, the continued proliferation of surcharges jeopardizes access to the court system and significantly increases the amount of money a violator must pay. Under current law an infraction for speeding 1 to 10 miles per hour on the Interstate results in a forfeiture of \$50; current surcharges boost it to \$186, and the proposed surcharge increases would raise it to \$197.

Increasing surcharges in these tough times makes it more difficult to collect what is owed. Circuit court clerks invest time and effort to collect these revenues, most of which go to the state for non-court functions. The Consolidated Court Automation Programs (CCAP) and other court offices have worked hard to establish a tax intercept program with the Department of Revenue to assist with collections. Since 2003, the program has collected more than \$30 million. Unfortunately, a provision in AB 75 to lower the priority receipt of court-owed revenues under the tax intercept program will diminish this success and jeopardize county collection efforts on behalf of the entire state, which in turn will impact state programs funded with surcharge revenues.

Sentencing

The budget bill contains numerous proposals related to sentencing. It aims to reduce sentences for certain offenders, create an Earned Release Review Commission in the Department of Corrections to handle re-confinement hearings and to make certain early release decisions currently made by judges, eliminate probation supervision for certain misdemeanants, transfer certain administrative appeals to the circuit courts, expand court record expungement provisions, and decriminalize certain violations involving driving with a revoked license.

The court system's Legislative Committee will communicate any operational concerns the judicial branch may have with these proposals. Sentencing proposals are policy decisions for the Legislature.

Civil Legal Services for Indigent Persons

AB 75 continues to fund certain civil legal services to indigent persons. These funds are allocated to the Wisconsin Trust Account Foundation (WisTAF), which was created by the Supreme Court to provide vital legal services. Interest on lawyer trust accounts supports legal services for a small fraction of those who need them. We now face a double whammy: sinking interest rates and rising numbers of individuals needing legal assistance.

AB 75 provides a decrease in funding in 2009-10, and an increase in 2010-11. While we strongly support increased funding for civil legal services for the indigent, we are concerned that this program funding would no longer come from general purpose revenues, but from a \$2 increase to the justice information systems surcharge.

This funding source is troubling because it impedes access to the court system, increases penalties on violators and makes collection more difficult. It's also troubling because the surcharge for the justice information systems has no connection to legal services for the indigent. This surcharge was originally created to help fund CCAP, the circuit court's automated case management system, and was later increased to help support PROTECT, the district attorney automated case management system. Increasing the justice information systems surcharge to fund a program not related to justice information systems, however worthy the program, is a troubling precedent.

Other Criminal Justice Partners and AB 75

We recognize the court system is one part of the criminal justice system. The administration of justice and the system's overall performance depend on each stakeholder's ability to fulfill its role effectively.

Our courts become backlogged when other justice partners, particularly the district attorney and public defender, lack resources. As I have visited courthouses across the state, I have learned firsthand how critical properly staffed district attorney and public defender offices are for timely justice.

To that end, the court system supports proper staffing in these offices. And while indigent defense is a function of the state executive, rather than the judicial branch, the efficient delivery of this constitutional right impacts the fairness and efficiency of the entire court system. Therefore, we support an update to the State Public Defender indigency guidelines, which are more than 20 years old.

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Again, thank you for the opportunity to address you today. I appreciate the difficult decisions you will be required to make in the coming months.

Our challenges are many, and the stakes are high. Changing times will continue to test the judiciary and the administration of the courts. We shall meet the challenge, and I look forward to working with all of you in the months ahead to accomplish our mutual goals for the people of the State of Wisconsin.