

STATE OF THE JUDICIARY ADDRESS 2024



Chief Justice Annette Kingsland Ziegler

Wisconsin Supreme Court

P.O. Box 1688

Madison, WI 53701

(608) 266-1881

Annual Meeting of the Wisconsin Judicial Conference

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Elkhart Lake, WI

Thank you, Sheboygan County Sheriff's Department Honor Guard, for the flag presentation and to Sheriff Matt Spence for leading us in the Pledge of Allegiance.

Good afternoon, everyone, and welcome to beautiful Elkhart Lake. I'm pleased to once again welcome all of you to the 2024 Annual Meeting of the Wisconsin Judicial Conference. Joining me today are my fellow Wisconsin Supreme Court justices:

Justice Ann Walsh Bradley
Justice Rebecca Grassl Bradley
Justice Rebecca Frank Dallet
Justice Brian Hagedorn
Justice Jill Karofsky
Justice Janet Protasiewicz

Thank you all for being here.

And thanks to you, my fellow colleagues from across the state, for being here. We are going to have a great conference. We are joined by many special guests as well. Given that Monday was Veterans Day, I'd like to start off this conference by recognizing those who serve in the armed forces and our veterans. Please rise and be applauded. Thank you.

In addition to our state court judges, once again our colleagues include municipal judges, tribal judges, and circuit court commissioners. It's great to see so many familiar faces. It's also great to see some new faces. Whether you are a first-time attendee or a conference regular, I trust you all will take the time to introduce yourself to someone new. This will make the room a lot more inviting for some of our newcomers. This judicial conference provides wonderful opportunities to meet or get reacquainted with your colleagues from across our great state. While the content of this conference is thought provoking, I have found that interactions in the hallway or over dinner are often at least as important and informative. So, get to know each other and reach out to someone who you may not already know. You may just meet some new friends.

As you know, the theme of this year's conference is "Access to Justice." What a fitting and timely theme. Presentations include what "Accessing Justice" looks like in your communities, working with unrepresented individuals, and "Trying Emotions in Court." There will be sessions on civil and criminal law updates. We will receive updates on Judicial Security and Mental Health Initiatives, initiatives which I continue to champion as your chief justice. Additionally, we face a serious lawyer shortage, particularly in our more rural counties, and access to justice is seriously impacted when those who wish to be represented, are unrepresented. Because of this crisis in our state, I have convened a committee to begin to brainstorm potential solutions. Over the next few days, we will also learn in breakout sessions covering diverse and timely topics including Chapter 51 issues; Medical Incapacity; Confidentiality and Victims' Rights Issues; Sovereign Citizens; and a Technology Refresher. As you can see, this promises to be an educational conference. I'm looking forward to it!

Our Judicial Conferences are only possible through the hard work and efforts of our conference organizers. So please join me in thanking the Judicial Education Committee, chaired by my designee, Justice Rebecca Grassl Bradley; the Conference Planning Committee and Conference co-chairs, Judge Jennifer Dorow of Waukesha County, and Judge Ashley Morse of Rock County; and the office of Judicial Education and its Director, Morgan Young; for putting together this great conference. Thank you for your hard work, everyone.

First, I will follow our respectful tradition to recognize and honor those colleagues who have passed away.

Judge James R. Erickson
Judge Michael J. Skwierawski
Judge James D. Babbitt
Judge Michael J. Byron
Judge Duane Jorgenson
Judge Moria Krueger
Judge Jess Martinez, Jr.
Judge Earl Schmidt
Judge Gerald Wright
Judge Willis J. Zick

It is also tradition to welcome all our new judges.

Our new court of appeals judge: Judge Pedro Colón, Court of Appeals in District I.

And our new circuit court judges:

Judge Theresa Beck, Jefferson County
Judge Jane Bucher, Green County
Judge Marisabel Cabrera, Milwaukee County
Judge Scott Craig, Racine County
Judge Blake Duren, Sauk County
Judge Jorge Fragoso, Milwaukee County
Judge Mark T. Fuhr, Price County
Judge Adam Gerol, Ozaukee County
Judge Jenna Gill, Lafayette County
Judge Douglas Hoffer, Eau Claire County
Judge Heather Iverson, Kenosha County
Judge Payal Khandhar, Dane County
Judge Roger Klopp, Columbia County
Judge Samuel Lawton, Barron County
Judge Jessica Lynott, Racine County
Judge Peggy Miller, Marinette County
Judge Jennifer Moeller, Door County
Judge Jack Pitzo, Waukesha County
Judge John Remington, Milwaukee County

Judge Michael Rust, Winnebago County
Judge Bridget Schoenborn, Waukesha County
Judge Estee E. Scholtz, Walworth County
Judge Mary Sowinski, Oneida County
Judge Lukas Steiner, Crawford County
Judge Lena Taylor, Milwaukee County
Judge Samantha Wagner, Brown County

Welcome! As your Chief Justice, I know I speak for my colleagues when I say we are glad to have you here and welcome you to the bench. We look forward to working with you in the months and years ahead and getting to know the many wonderful and unique talents you will bring forward to improve Wisconsin's court system.

Part of my constitutional responsibility as your Chief Justice is to serve as the administrative head of our judicial system. That responsibility includes recommending and implementing various initiatives to aid in administering that system. Administering our court system is, and should be, a non-partisan issue and I have approached my leadership role by selecting important issues to take on, but also tackling problems that we all should be able to get behind. We each have a role to play in making sure that our judicial system works for everyone. Mental health, judicial security, and solving the lawyer shortage are issues that we can and should all get behind now and for many years to come. That way, access to justice will also embody safe justice, fair and impartial justice, and meaningful justice. Who better to work toward those goals than the people in this room!

My charge to you is that we continue selecting non-partisan initiatives which allow us to build consensus and community around our stated, shared mission of “protect[ing] individuals’ rights, privileges and liberties; maintain[ing] the rule of law; and provid[ing] a forum for the resolution of disputes that is fair, accessible, independent, and effective.”

We have a lot to cover, so let’s get started!

Judicial Security Initiative Update. One non-partisan initiative I have championed is that of judicial security. As I’ve said before, it is a basic tenet of judicial independence that judges should not be intimidated, influenced, threatened, or killed for doing their job. And these should not be used to control the outcome of a case, nor the consequence of how a judge ruled or might rule in a case. Additionally, our courthouses must, for staff, practitioners and members of the public alike, be safe places to conduct our judicial system business.

- In 2005, Illinois federal Judge Joan Lefkow’s husband and mother were shot and killed by an aggrieved litigant.
- In 2015, in Texas, Judge Julie Kocurek was shot and seriously injured while sitting in her car in front of her home; her son, sister and nephew witnessed the shooting.

- In 2020, the son of federal Judge Esther Salas, Daniel, was shot and killed by a disgruntled lawyer, when he answered the door at their family home in New Jersey. Judge Salas's husband was grievously injured as well.
- As we are all still painfully aware, the state of Wisconsin and its judiciary were deeply shaken by the senseless murder of Judge Roemer at his home in 2022, by a criminal defendant who had appeared in Judge Roemer's courtroom years before.
- Just a few weeks after Judge Roemer's murder, a would-be assassin drove to U.S. Supreme Court Justice Brett Kavanaugh's Maryland home, intending to shoot and kill Justice Kavanaugh.
- Maryland's judiciary suffered a tragic loss in late 2023, when Judge Andrew Wilkinson was shot to death as he stood in his front driveway by a litigant involved in a divorce proceeding.

These incidents are unfortunately becoming all too common. In the wake of these dangerous acts of violence and threats against judicial officers, states are considering and passing judicial security bills. Maryland passed the Judge Andrew F. Wilkinson Judicial Security Act, an act that allows current and former members of the Maryland judiciary to request certain of their personal information not be made available to the public. Following the murder of Judge Salas's son, Daniel, New Jersey passed Daniel's Law, and Congress passed for federal judges the Daniel A. L. Daniel Judicial Security and Privacy Act.

Due to safety concerns over judges and justices in the Wisconsin Court System and my prioritization of judicial safety, I requested the Legislative Committee of the Judicial Conference develop a package of bills to ensure improved protection for Wisconsin judicial officers. This package was successfully enacted into law March 2024. The legislation that forms the Judicial Security Package was introduced by Representative Ron Tusler, who is here today, Representative Sheila Stubbs (Acts 235 and 236), and Representative Sylvia Ortiz-Velez (Act 234); it was cosponsored by Senator Van Wanggaard and former Senator now-Judge Lena Taylor.

The resulting Judicial Security Package is comprised of three Acts:

- In effect now is Act 234, which makes it a Class A misdemeanor to picket or parade at the residence of a judge with the intent to interfere with, obstruct, or impede the administration of justice;
- Also in effect now is Act 236, which works to withhold judicial security profiles from public access. The Judicial Security Profile form has now been revised considering this legislation and is available for your use. You can use this form with your county, local, or tribal law enforcement agency to develop an emergency response plan that is now prohibited from disclosure under the Public Records Law.
- Act 235, effective April 1, 2025, allows judicial officers to request that certain information be protected from public disclosure and removed from public display,

including information of the judicial officer's immediate family. The Director's Office is working on draft versions of forms.

Judicial security is a very real and growing concern which I know we all take very seriously. I am proud of the bipartisan progress we have made so far. I am grateful to the judges, court commissioners, municipal judges, and court system partners who took time from their busy schedules to testify at the public hearings or submit written testimony supporting the Judicial Security Package. We can, and should, take a moment today to pause and celebrate all that we have accomplished together. We have more work to do on this front, and I trust we will continue this important work. It is incumbent upon us to have a safe and secure judicial system, not only for our judicial officers, but also for the members of the public.

I encourage you to attend the "Judicial Security" session tomorrow morning in this very room, immediately following the Conference business meeting.

Mental Health Initiative Update. Mental health is and has been a growing concern we judicial officers should take seriously. I do not know anyone who has not been touched, in some way, by a mental health issue. But we can and should work to improve and address how our courts and the justice system approaches mental health. We have many opportunities to work collaboratively with one another in seeking solutions.

As we know, mental health issues continue to challenge our court system. PPAC once again identified mental health as one of its critical issues and planning priorities for 2024-2025. PPAC's Effective Justice Strategies Subcommittee, or EJS, reviewed the final report of the National Judicial Taskforce to Examine State Courts' Response to Mental Illness and recommended how to implement several of the action steps outlined in the report. Several EJS workgroups are currently examining a range of issues identified in the report, including treatment to competency guidelines and access to mental health treatment.

Judges play an important role as conveners. Our ability to bring state and local partners together on a given topic can have tremendous impact. For example, in April 2023, I convened a mental health summit where judges, legislators, law enforcement officers, treatment providers, and national experts met and outlined challenges and, more importantly, discussed potential solutions to improve how individuals with mental illness interact with the justice system.

My hope was that the Summit would provide a forum for criminal justice system partners, law enforcement officials, service providers, policy makers, and court system members to come together, in a collaborative environment, to address the mental health challenges specific to their line of work, as well as share resources and best practices with one another. The Summit was a huge success.

Attendees left this Summit energized, and several judges wondered what they could do in their counties to help move the needle on mental health. One area of continued interest and exploration includes the establishment of mental health courts. On Friday morning, you will have the opportunity to hear from circuit court judges who are involved with mental health court programs in Milwaukee, Outagamie, Manitowoc, and Marinette counties. I encourage

you to learn more about these specialty courts and other important tools that can be deployed at the county level.

Since the Summit, we have made inroads. On the state level, we are the recipient of a State Justice Institute technical assistance grant focused on the Sequential Intercept Model, or SIM. Through this grant, experts from the National Center for State Courts will train facilitators from several state agencies, including the Departments of Health Services, Justice, and Corrections, as well as several county-level treatment court coordinators. Judge Scott Horne has been intricately involved in this project. The initial training session took place in October, and will continue in January 2025, when La Crosse County will serve as the pilot site for the first SIM mapping session. After this pilot, these trained facilitators will work with a small number of pilot counties to conduct mapping sessions and develop targeted action plans to build upon existing resources and close service gaps. We are very excited to be partnering with the National Center for State Courts to expand use of this model in Wisconsin.

In May 2024, Dane County Circuit Court Judge Crawford attended the Judges and Psychiatrists Leadership Initiative training session. The goal of the JPLI initiative is to prepare a judge-psychiatrist team to train our judiciary on mental health disorders and treatment best practices. Organized through the National Center for State Courts, these workshops have trained more than 20 judge-psychiatrist teams since 2022.

In Milwaukee Chief Judge Carl Ashley found mental health to be such an important issue that he has dedicated a whole judicial branch to this important initiative. Coordinator Courtney Brooks and judges Mark Sanders and Cynthia Davis all are providing vision and leadership in this multi-step project.

At the State level, we are exploring the creation of a state-level behavioral health coordinator. This position would help coordinate efforts across the court system and serve as a liaison with our state agency partners. This position may also provide training and guidance to judges regarding establishment and operation of mental health courts. Several of our neighboring states have created similar state-level behavioral health coordinator positions to help provide strategic leadership and planning on court-related mental health activities.

This is all good news, but we can do even better! We can all get behind the need to address mental health challenges and provide effective solutions. We have many opportunities in this area for innovation, partnership and collaboration. Please continue your efforts; the mental health of so many depend on you.

Attorney Retention and Recruitment Committee. My most recent initiative, created this June, is in response to a plea from the Chief Judges to address Wisconsin's attorney shortage. This attorney shortage is particularly acute in our rural counties, where we often do not even have any available certified attorneys to take cases. When we cannot provide members of the public, who are exercising their constitutional right to be represented by counsel, with an attorney, "access to justice" is seriously compromised. Because of shortages like these, we are faced with consequences of constitutional proportion. And we are not alone. Other states are also experiencing shortages.

Because most attorneys in Wisconsin are concentrated in urban metropolitan centers, there are legal deserts in many areas of the state, particularly in the northern counties. Some of these counties have very few, if any, certified attorneys who can serve as appointed counsel in State Public Defender cases. While videoconferencing technology can help bridge some of this gap, more work is needed to ensure that representation is available for those facing criminal charges in all areas of the state.

In June 2024, I established the Attorney Recruitment and Retention Committee, or ARRC. Working in partnership with the Committee of Chief Judges, the State Bar of Wisconsin, and the deans of Wisconsin's two law schools, the ARRC brings together attorneys from across several different practice areas, as well as other legal professionals, including a certified paralegal, to examine this issue and identify solutions. The purpose of this group is to brainstorm potential solutions. I understand that State Bar leadership and Dean Kearney from Marquette University Law School are here today, so I'd like to take this opportunity to recognize and thank them, so please stand as I call your name: Dean Joseph Kearney, State Bar Executive Director Larry Martin, President Attorney Ryan Billings, past-President Attorney Dean Dietrich, and recently elected President-elect Attorney Dan Gartzke. Thank you.

Over the course of several brainstorming sessions, the group has explored overall trends impacting rural attorney availability and has reviewed approaches employed in some other states to improve the supply of attorneys in rural and less populated areas.

In addition to discussing law school enrollment and post-law school employment trends, the group has learned about some promising initiatives, including a pilot project through the State Bar of Wisconsin to create more clerkships in rural areas of the state.

The Committee will continue to meet over the course of the next few months and plans to explore issues related to public attorney recruitment and retention. Because this issue is not unique to Wisconsin, we can look to examples from several other states, including incentive programs to encourage new attorneys to seek employment in rural and underserved areas.

I have high hopes that this collaborative effort will help provide solutions to the attorney retention and recruitment issues facing our state. Each of us have a role to play in ensuring that Wisconsin's court system remains fair, accessible, independent, and effective. I look forward to what we will be able to accomplish, together.

I would like to specifically recognize and thank Ann Olson, Senior Policy Analyst in our Office of Court Operations. Ann faithfully and diligently devotes her time and attention to all these issues. In so many respects, she is the glue that holds these projects together.

System Update: Backlogs. Another part of our task in ensuring the public's "access to justice" is in addressing our case backlog. Each of us have a role to play in this arena as well.

As our courts continue to work to clear their backlogs, I have both good news and challenges to share. The good news is that Wisconsin's misdemeanor case backlog has declined, and 26 of our 72 counties have resolved their backlogs entirely. Our misdemeanor backlog currently stands at about 2,163 cases. This means we were able to clear approximately 1,300

cases since we gathered at last year's conference. This is good news. This progress is a testament to the hard work of our court personnel.

However, Wisconsin courts face greater challenges with felony case backlogs. It may be that factors like the shortage of attorneys and interpreters impact the backlogs, but the public still deserves to have cases decided on a timely basis. The felony backlog has remained relatively steady over the past year. And, despite obstacles, several counties have shown remarkable progress.

While we've made some progress on clearing our felony backlog, we still have a lot of room for improvement. Some of our counties have increased their backlog. Our felony backlog currently stands at approximately 12,000 cases, which is a slight increase from where we were at this time last year. Eleven of our 72 counties have cleared their felony backlog and have returned to pre-pandemic pending case levels. That's good news. Twenty-four counties have made positive progress in clearing their felony backlog since our last judicial conference. Additionally, five counties have reduced their backlogs by 90% or more. That's good news, too! This remains proof that our judges work hard even under difficult circumstances.

While we celebrate these successes, much work remains to resolve backlogs across the state. We all need to roll up our sleeves and commit to addressing these barriers so we can continue making meaningful progress in every county. We know that backlogs impede access to justice, so let's innovate and improve those numbers. If anyone can, Wisconsin judges can. I have faith in you!

System Update: Reserve judges. One resource that has been used to assist in backlog clearance is our pool of talented reserve judges. I remember years ago, when I was a circuit court judge, the use of reserve judges was limited. Let me say, we have a body of very able reserve judges who stand ready to help you as is needed. If there is a perception that reserve judge usage is off limits, that is wrong. Appropriate use of resources is important for a well-functioning court system. And the use of reserve judges is a tool in our toolbox. In fact, unlike years past, that usage has increased during my time as Chief Justice. Our data on reserve judge usage doesn't go back decades; however, I can tell you that in 2015, we used 490 reserve judge days, and so far this year, we have already used 1386.5 days—a 183% increase.

I thank the reserve judges who regularly help keep our system of justice moving in the right direction, increasing access to justice.

The state of our judiciary is strong. But the state of our judiciary is also not without its challenges. We each have a role to play in meeting those challenges. We do best when we forward goals and initiatives that we can all get behind. Public confidence is promoted when we provide access to justice. Each of the initiatives that I have discussed today further that goal.

The basic fabric of what we do, as members of the judiciary, matters. You are charged with the responsibility to administer justice every day as you stand on the front lines. For many in the public you are the faces of justice. Thankfully, recent statistics indicate that confidence in

our state courts appears to be a bit higher than confidence in the federal courts. But, under any metric, we all have serious work to do, individually and collectively, to ensure the strength and health of our judicial system.

Our system works best when the public has confidence in our ability to fairly administer justice without respect of persons. How fitting then, that with a theme like “Access to Justice,” the data shows that while we do much right, we still have work to do in furthering access to justice. The public must know that our court system lives up to its mission: "The Wisconsin Court System protects individuals' rights, privileges and liberties; maintains the rule of law; and provides a forum for the resolution of disputes that is fair, accessible, independent and effective." I am hopeful that we will continue to carry out this charge in the years ahead.

I am happy to see all of you here. The Judicial Conference is a great opportunity to unite us regardless of our backgrounds, experiences, locations, and perspectives. Each of you play a critical role in making this court system the success that it is. Each of you are an integral part of making justice accessible to all.

So, thank you for all that you do. And congratulations on being part of the Wisconsin judiciary! The real work is done when we all take that next step: the step of heading back to our home counties, taking with us everything that we learn here, and putting it into practice. We need to be even more innovative, think even broader, work even harder, and serve even better. I am encouraged by how far we have come, and all we have accomplished. I am optimistic for where we are headed, and for what we still must accomplish.

So, let's do this, together! Have a great conference!