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Judicial Branch Budget Recommendation for Fiscal Biennium 2022-2024

Chief Justice John D. Minton Jr.
Testimony Before House Standing Committee on Appropriations & Revenue
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Chairman Petrie, Vice Chairman Reed, Members of the House A&R Committee and Guests,

Good morning and thank you for asking me to join you today. You may not realize it, but this is a bittersweet moment for me. It was four years ago – in January 2018 – that I was invited to appear before the full House A&R Committee for the first time. And since I won't be seeking reelection this fall, today may well be my final appearance before this esteemed group.

While there are many things that I will do for the last time in the coming months, I am especially grateful for the opportunity to address you once again.

That's because my swan song is a familiar refrain, and it's more urgent than ever that I once again make the case for salary parity for Judicial Branch personnel.

For 14 years – since my early days as chief justice – my top priority has been to invest in the elected officials and non-elected employees who carry out the critical work of the courts. My goal has always been clear: Our salaries must be competitive with the other branches of state government so that our dedicated employees are fairly compensated, and we have a level playing field in attracting and retaining high-caliber talent.

The Judicial Branch makes up about 3% of the state budget and the majority of our funding covers salaries for our employees and elected officials. We estimate that Judicial Branch salaries are about \$6,500 to \$7,500 or 15% to 20% less than those in the Executive and Legislative branches.

I believe we can all agree that it's simply not rational for Judicial Branch compensation to lag so far behind the rest of state government. But starting today – with this discussion – we can move quickly toward a remedy that will significantly close this longtime gap.

Salary Parity Plan

The main focus of our Judicial Branch budget request is a Salary Parity Plan that, while simple, would be highly effective in creating a more equitable salary scale.

We want to provide a flat \$10,000 salary increase for full-time positions and \$5,000 for part-time positions. The parity plan would apply to all non-elected employees and all elected justices, judges and circuit court clerks.

You might be wondering why we're recommending a flat amount of \$10,000 instead of a percentage increase, such as the 6% proposed by the House and the 5% proposed by the governor.

While we would certainly welcome a 5% or 6% increase, that still won't get us to where we need to be. Without implementing our Salary Parity Plan, we will continue to fall behind and here's why:

Nearly 82% of our employees are in grades 7-11 with starting salaries of only \$23,604 to \$30,936. A 5% or 6% increase for these employees would amount to only about \$1,500 a year, which isn't enough to keep up with inflation, much less improve quality of life and provide an incentive to keep working for the courts.

In addition, our employees are paid around \$7,500 less per year than employees in the other branches and a 5% or 6% increase for all three branches will just push that bar even higher. Unless we significantly bump up our entire salary scale, we'll always be chasing the higher salaries being offered by the Executive and Legislative branches.

Even worse, 54% of our employees are in Tier 3, the cash/hybrid retirement plan, which provides a significantly reduced benefit compared with employees in Tiers 1 and 2 of the state pension plan. We can no longer count on employees to accept lesser pay in exchange for a richer pension.

Unprecedented Turnover

We're struggling to retain qualified candidates for non-elected positions because of low pay, and our turnover rate is alarming. We're seeing turnover at about 40% annually for urban areas and critical front line positions, such as pretrial services specialists.

We've lost over one-third of our workforce – about 1,000 employees – in the last four years. That means one-third of our employees have less than four years of experience with the court system.

The ability to hire is especially dire in our statewide programs – Pretrial Services, Specialty Courts and Family & Juvenile Services – which operate in all 120 counties and have 700 employees across the state.

I believe you'll be as shocked by these examples as I am:

For several of these positions, we've had no applicants and some who do apply don't show up for the interview or refuse the offer. Sometimes the applicant accepts the position but resigns shortly after starting employment.

Our Specialty Courts – Drug, Veterans Treatment and Mental Health courts – currently have no staff in Bullitt, Boyle, Carroll, Grant, Mercer and Owen counties. In Jefferson County, six of the nine positions are vacant. Staff from other areas of the state are providing coverage, which can lead to burnout for these over-extended employees.

We're losing Specialty Courts staff to other employers with better salaries, such as treatment providers who may pay \$10,000 or more than we do.

Our court designated workers process complaints filed against children under age 18 prior to any action taken in formal court. The CDW program has recurring vacancies in Bullitt, Daviess, Hardin, Jefferson and Kenton counties, and currently there are no CDWs in Bullitt County. Staff from other counties have to cover these vacancies, which further stresses existing employees.

Pretrial Services is having an especially difficult time. Positions in Jefferson, Fayette, Caldwell, Carroll, Daviess, Grant and Owen counties have been reposted multiple times due to an unqualified applicant pool or applicants not showing up for interviews. Even leadership positions are not attracting candidates as we've had to repost the Central Kentucky supervisor position three times. As a last resort, we're considering posting and hiring outside of the jurisdiction.

Another example comes from Jefferson County, our largest urban court. The Jefferson County Office of Circuit Court Clerk currently has 61 vacancies out of a staff of 310 and there are few viable applicants to fill the jobs. This incredibly busy office is operating with a 20% vacancy, which is hardly sustainable.

Salaries Also Lag for Elected Officials

The bad news doesn't stop there. Our hard-working justices, judges and circuit court clerks earn substantially less than other elected officials across the state and the nation. They've worked for subpar wages for years and the stress of carrying on court operations remotely during the COVID-19 pandemic has taken an enormous toll.

They're simply not being compensated adequately for the volume and sophistication of the work they do.

Circuit Court Clerks. Circuit court clerks, who serve every county and maintain records and dockets for Circuit and District courts, earn on average about \$12,000 or 12% to 14% less per year than elected county officials with similar duties.

Our 120 circuit clerks essentially serve as the front door to the court system and it's time to give them the equitable pay that they deserve.

Justices and Judges. Our justices and judges rank at the bottom of judicial salaries nationwide – 51st among judges in 55 states and U.S. territories. On average, our judges earn nearly \$32,000 or 25% less than the average pay of a general jurisdiction judge nationwide.

Over the last 12 years, our judges have received only a 7% overall increase through small, sporadic raises: 1% in FY 2010, 1% in FY 2011, 2.5% in FY 2019 and 2.5% in FY 2020.

Keep in mind that these increases remained meager in spite of a decade of strong economic growth following the Great Recession, in spite of judges being asked to rapidly adopt sophisticated new court technology such as eFiling, and in spite of judges having to turn on a dime to administer justice by Zoom when COVID hit Kentucky in March 2020.

The call to the bench is also being weakened by a reduced pension plan. Judges who have come on board since January 2014 are receiving dramatically reduced benefits by being in the Tier 3 case/hybrid retirement plan instead of in the Tiers 1 and 2 pension plans.

So, as you can imagine, the lack of progress on this issue has left our judges feeling discouraged and undervalued. It also provides little incentive for the best and brightest attorneys to leave successful law practices and bring their legal knowledge and expertise to the bench. The longer we postpone action, the more difficult it will be to catch up on lost wages and avoid diminishing the quality of the Kentucky judiciary.

We simply can't continue to withhold adequate compensation from our judges. The future of a high-quality bench is at stake.

I hope this picture I've painted can adequately convey the untenable situation we find ourselves in when it comes to sustaining the Judicial Branch workforce.

Capital Projects

And now I'd like to take a brief look at another major budget request, which is for several capital projects.

The Graves County Courthouse in Mayfield was destroyed by a tornado in December and we're requesting funds to provide temporary office space and construct a new judicial center. The request includes:

- \$3,000,000 to renovate private sector lease space to serve as a temporary courthouse.
- \$969,000 to restore and digitize court records damaged in the storm.
- \$18,445,000 to construct a new judicial center.

We're also requesting capital projects for three other counties:

- Leslie County: \$15,640,000 to construct a new judicial center.
- Hardin County: \$3,000,000 for a capital repair project.
- Jefferson County: \$1,189,100 for a capital repair project.

New Trial Court Case Management System

And finally, our other significant request is for \$34.9 million in American Rescue Plan Act funds for a comprehensive, statewide trial court case management system. This funding would allow us to replace an outdated system at risk of failure with a sustainable technology platform to meet future demands.

For over a decade, I have reported on the court system's efforts to modernize our operations through the use of technology. Our 2012-2018 Capital Plan included a request for a \$63 million, three-phase replacement project. While the Capital Planning Advisory Board approved and recommended this project, the funding was not available.

In the 2013 regular session, House Bill 238 authorized the courts to issue agency bonds in the amount of \$28.1 million for the first phase of the project. We are grateful for that funding, which has been used to implement a new CourtNet system that provides enhanced online access to court records and offer electronic filing in all 120 counties.

However, our current case management system is still at risk from performance issues and obsolete programming language. By implementing a fully integrated case management solution from a single vendor, the court system will be positioned to sustain long-term application maintenance and avoid the cycle of technical or functional obsolescence.

This funding from the American Rescue Plan Act would allow us to complete the remaining phases of this project.

In closing, I want to say that it has been the honor of my life to serve as chief justice and to work alongside legislators and Executive Branch officials on behalf of this great commonwealth.

As public servants, we have a solemn duty to work together for the good of those we serve, and it is our responsibility to ensure that the Judicial Branch has the personnel it needs. I am not exaggerating when I say that the court programs and services that you support, that your constituents count on, that are mandated by state law, could be in jeopardy if we cannot pay enough to attract qualified employees and entice them to stay.

I fear that we are on the verge of a tipping point if we don't move quickly to rectify the pay inequities that have plagued the Judicial Branch for decades.

We've been discussing pay parity for years and, frankly, we're running out of time. As they say, it's time for a little less talk and a lot more action. I hope that I can count on you to act by using your considerable influence to support full funding for the Judicial Branch Salary Parity Plan.

Again, I am grateful for your time today and now I'll be happy to answer any questions you may have.

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