



Supreme Court of Kentucky

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Update on Judicial Redistricting for the Trial Courts of Kentucky

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Chairman Bowen, Chairman Yonts, Members of the Interim Joint Committee on State Government and Guests,

Thank you for inviting me to provide an update on judicial redistricting. I understand your interest in this important matter affecting the commonwealth and I always appreciate the opportunity to testify before this committee.

Challenges of Judicial Redistricting

When I first started serving as chief justice, my predecessor warned me that judicial redistricting was the “third rail” – meaning, of course, that the issue is so controversial and charged that anyone who touches it will invariably suffer. I have certainly come to appreciate the truth of that statement over the past two years and now understand why past attempts to address this issue have failed.

As many of you know, our judicial circuits and districts have remained largely untouched since the passage of the Judicial Article in 1976 and I would guess at least another 40 years before that.

There’s no question that the commonwealth has gone through a significant number of changes during that time in terms of caseload and population. And, frankly, we’re learning that the court system has not always kept up with those changes.

Path to Judicial Redistricting

We began this process in 2014 following a directive in the Judicial Branch budget bill to undertake a judicial workload assessment and eventually formulate a redistricting plan. I asked the legislature to include that language in our budget bill to encourage support for an evidence-based approach to the task of redrawing circuit and district boundary lines.

We knew this process must be data-driven so we engaged the services of the National Center for State Courts to help carry out a weighted caseload study.

Unlike redistricting for legislative boundaries, judicial redistricting cannot be accomplished by simply making changes based on population. Our process is much more difficult because it impacts commonwealth's attorneys as well as judges and it is the type of caseload – not population – that ultimately determines the workload of Kentucky's trial court judges. This is not a riddle that can be solved through technology like the mapping software used for legislative redistricting.

Measuring Judicial Caseloads

As a result, we decided that measuring judicial caseloads should be our first step. For four weeks in the spring of 2015, circuit, family and district judges used an online program to log how they spent their time handling cases and taking care of judicial duties outside of court. This was likely the first Judicial Time Study ever conducted in Kentucky. Despite the burdensome task of recording every minute of every workday for a month, 95 percent of our judges participated.

This exhaustive – some would say “exhausting” – experience gave us the number of minutes it takes to complete specific tasks at each level of the court system. All of these case weights were then put into a formula to get the implied judicial need for each jurisdiction. Using this data, the NCSC compiled a time study report that included case weights and measured workloads for each phase of a case and its jurisdiction.

We followed up the Judicial Time Study with site visits to circuit, family and district judges in several jurisdictions. This helped us identify challenges judges face in handling different types of cases and variations in trial court work across the state.

This initial part of the process took about 18 months and provided the first critical pieces of the puzzle – weighted caseloads and implied judicial needs.

Judicial Workload Assessment Committee

The data was then evaluated by the Kentucky Judicial Workload Assessment Committee, a group I created to work closely with the NCSC on this project. The JWAC, as we call it, is comprised of judges from each level of the court system as well as circuit court clerks, commonwealth's attorneys and legislators from throughout the state.

Smaller “Delphi” groups of circuit, family and district judges also reviewed the data for accuracy.

Caseload Discrepancies

To help you understand the importance of using caseloads as the measure to establish the need for judges, I'll give you one example, which is the Family Court in Lincoln, Pulaski and Rockcastle counties.

We have been aware for some time that Family Court Judge Marcus Vanover's caseloads are the highest in the state. But now that we have data from the time study, we know that the implied judicial need for that Family Court is 2.18, which means that the one Family Court judge in that circuit is currently doing the work of 2.18 Family Court judges. That situation is not sustainable and must be addressed.

In other areas across the state, there are two judges when there is an implied judicial need of fewer than one. That is also a situation that must be addressed. We're looking closely at the jurisdictions that are significantly under-judged and over-judged.

Interim Report Presented to Legislature

The NCSC compiled the weighted caseload information and implied judicial needs into a report that was thoroughly vetted by the JWAC members and the Supreme Court. I then presented the Interim Report of the Kentucky Judicial Workload Assessment to the legislature in February 2016.

Comprehensive Judicial Redistricting Plan

That brings us to the second phase of the project, which is to present a comprehensive judicial redistricting plan to the General Assembly in 2017. This is a much more complicated piece of the puzzle, which involves using the data we've collected to either redraw circuit and district boundary lines or reallocate judicial resources across the state, or a combination of the two.

JWAC members have met three times since May 2016 to discuss and review various redistricting plans. Following our last meeting on October 4, committee members were asked to vote for one of two plans to be submitted to the Supreme Court. The committee overwhelmingly voted for what has come to be known as "Plan A," which the Supreme Court will consider during a meeting in early November.

While I will not be presenting the proposed redistricting plan today, I want to give you a brief overview of what the plan recommended by the Judicial Workload Assessment Committee would and would not do.

First, let's look at what it would do:

- It would make no changes until 2022, when all circuit and district judges are on the ballot.
- It would bring Family Court to all but eight jurisdictions.
- It would realign a limited number of boundary lines and reallocate existing resources.
- It would combine circuits and districts that are currently different.
- It would reduce the number of circuits by two, from 57 to 55.
- It would calculate the appropriate number of judges by using a 1.4 implied judicial need as the cutoff to determine where more than one judge is needed.

And here is what the plan would not do:

- It would not impact every county or jurisdiction across the state.
- It would not accomplish the goal of statewide Family Court, although it gets close.
- It would not require additional judgeships to be approved and funded.

I want to be forthright and acknowledge that some judges and commonwealth's attorneys in your district may be affected by this plan in some way.

The singular goal of redistricting is to ensure that Kentucky's judicial resources are allocated appropriately. That means we must make adjustments to add resources in jurisdictions with heavy caseloads and reduce resources in jurisdictions with lighter caseloads.

Going forward, I encourage all of us to keep in mind the big picture, which is a state court system positioned to meet the needs of citizens in every county in the commonwealth. That's good government and the right thing to do. I look forward to working with the legislature to agree on the final plan for judicial redistricting in the coming months.

Decisions Based on Solid Data

And finally, I want to stress that we feel confident about our data, which is based on sound research principles. We've gone to great lengths to apply best practices when compiling and analyzing the information.

No matter how painful this process and no matter what the end result turns out to be, I can assure you that the redistricting plan we ultimately propose will be solidly rooted in objective research and reflect the input of key stakeholders from throughout the state.

That brings us to the end of my remarks. I want to thank you again for your time today and answer any questions you may have.

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