



SUPREME COURT OF KANSAS

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HOUSE APPROPRIATIONS COMMITTEE Honorable Representative Marc Rhoades, Chair

Weighted Caseload Study and Blue Ribbon Commission Report Briefing February 1, 2012

Thank you for the opportunity to visit with you this morning about Project Pegasus, which the Kansas Judicial Branch of government began in the summer of 2010. Work from this project resulted in comprehensive lists of recommendations for future operation of the Courts. The official Weighted Caseload Study report was presented in early November, 2011 to the Supreme Court and to the Blue Ribbon Commission. The Blue Ribbon Commission then took that data and recommendations and formulated their recommendations. These were presented to the Supreme Court on January 3 of this year. After an intensive review, the Supreme Court recommended legislative and administrative proposals for consideration during the present legislative session. These proposals were outlined in Chief Justice Lawton R. Nuss' State of the Judiciary address on January 18.

Both the process and the resulting recommendations provide guidance on how the Kansas Judicial Branch can become more efficient and more responsive to the public we serve. On those subjects, you will hear from the following people:

- Judge David King, Chief Judge of the First Judicial District (Atchison and Leavenworth Counties), and Chair of the Weighted Caseload Study Study's Judicial Needs Assessment Committee;
- Judge Patrick McAnany, Kansas Court of Appeals Judge, and Chair of the Blue Ribbon Commission;
- Kelly O'Brien, Judicial Branch Director of Information Systems;
- Kim Fowler, Judicial Branch Fiscal Officer; and
- Steve Grieb, General Counsel to Chief Justice Nuss, will be available for questions.

In today's briefing we provide executive summaries of the Weighted Caseload Study Report and the Blue Ribbon Commission Report. Both of these reports, as well as the State of the Judiciary address given by Chief Justice Nuss, which outlines the immediate proposals of the Supreme Court, may be found at the following websites:

- Weighted Caseload Study Report: <http://www.kscourts.org/Weighted-Caseload-Study>
- Blue Ribbon Commission Report: <http://www.kscourts.org/BRC-Report>
- State of the Judiciary Address:
<http://www.kscourts.org/Court-Administration/State-of-Judiciary/State-of-Judiciary.pdf>

EXECUTIVE SUMMARY

INTRODUCTION

All Kansans deserve and must have access to quality justice.

In December 2010, the Kansas Supreme Court, recognizing the need to continually assess the efficiency and effectiveness of Judicial Branch operations, initiated what has become known as the Pegasus Project. Understanding that any comprehensive review of the Judicial Branch would require an accurate assessment of the staffing needs of the courts, the Supreme Court contracted with the National Center for State Courts (NCSC) to conduct a “weighted caseload study” (WCLS). This type of study has been recommended since at least 1944 in previous studies of court operations in Kansas.

Case filing data is not an accurate measure of the workload of the courts. Case weights recognize that different types of cases take different amounts of time to process effectively. The WCLS utilized by the NCSC is the recognized model for calculation of judicial officer and court clerk workload. A WCLS provides accurate information from which staffing needs may be considered.

The Kansas Supreme Court appointed a Judicial Needs Assessment Committee (JNAC) and a Staff Needs Assessment Committee (SNAC) to assist the NCSC in conducting the WCLS. Membership on these committees represented a broad cross-section of judicial officers and staff who are regularly involved in the processing of cases.

RESULTS

1. Kansas now has a definitive measure of judicial officer and court clerk workload for the district courts of Kansas.
2. The Kansas Judicial Branch is not overstaffed.
3. The reallocation of some personnel may be appropriate.
4. There is a need for a substantial number of additional court clerk positions statewide.
5. An empirical view of workload data indicates no net need for additional judges but does indicate a reallocation should be considered. Current statutory limitations preclude the reallocation of judicial resources.
6. The objective measure of workload is only the beginning point for consideration of judicial and clerical staff needs. Qualitative factors such as efficiencies of high-volume courts, travel time, available physical facilities, composition of district and magistrate judges, and local legal culture, among others, must be considered.

RECOMMENDATIONS

1. Conduct an annual review to determine the effect of changes, such as new legislation and e-filing, on case weights and judicial officer and clerk staffing needs.
2. Conduct a WCLS every 5-7 years.
3. Develop procedures and strategies to help judicial districts cope with extreme and unusual circumstances not accounted for in the WCLS.
4. Establish a base level of court clerk staffing.
5. Study the impact of self-represented litigants and non-English-speaking participants on the workload of the courts.
6. Examine the potential impact on case weights and workloads if e-filing is fully implemented statewide.

CONCLUSION

All Kansans deserve and must have access to quality justice.

Time, expense and other factors did not permit a WCLS for all personnel necessary to conduct the operations of the Judicial Branch. Only judicial officer and court clerk staff needs were considered in this study; it did not include work performed by personnel such as court services officers, court administrators, administrative assistants, secretaries, transcriptionists, and court reporters, except to the extent they performed court clerk duties.

The judicial and court clerk personnel needs described in this report are based upon case weights that represent an average amount of time it takes to process a case to conclusion. In implementing any changes, the WCLS results must be used in conjunction with qualitative factors. These qualitative factors include: reasonable access to justice, local legal culture, economies of scale, the effective use of available technology, caseload trends, assistance to courts handling complex cases, the appropriate base level in each court for clerk staff, and increased case processing time for non-English-speaking court participants and self-represented litigants.

No change in the staffing of the Judicial Branch should unreasonably sacrifice access to quality justice in Kansas.

The above tables show judicial and court clerk staff personnel needs on a statewide basis. How existing personnel are allocated around the state is also an important factor in evaluating the workload of the Kansas district courts. The following tables show the judicial personnel needs by judicial district and court clerk staff personnel needs by county:

Judicial Personnel Needs by Judicial District

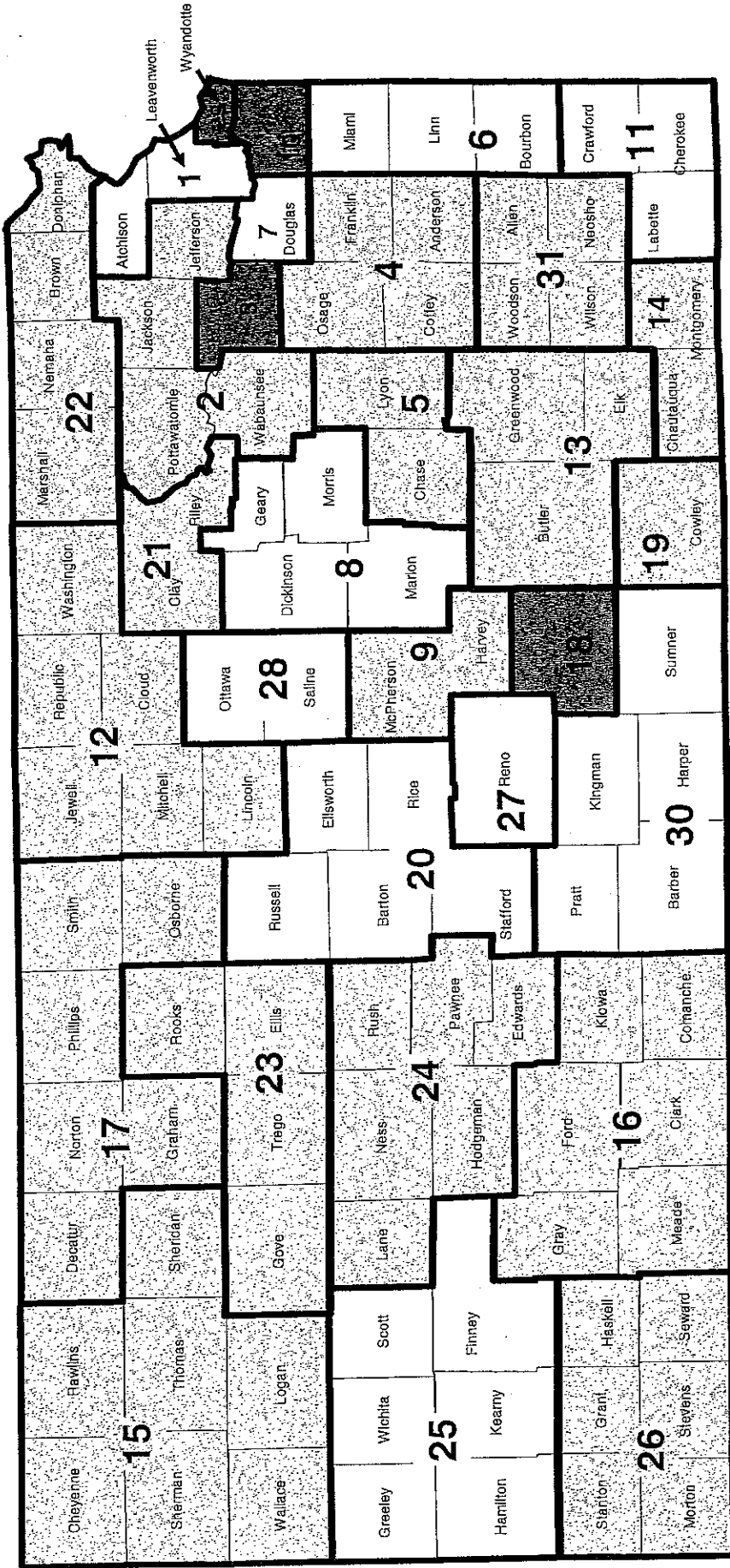
DISTRICT	JUDICIAL PERSONNEL NEED (After Rounding at District Level)	ALLOCATED JUDICIAL FTE POSITIONS	NET JUDICIAL PERSONNEL NEEDS (After Rounding at District Level)
1	7	6	1
2	6	6	0
3	17	15	2
4	5	5	0
5	4	4	0
6	6	5	1
7	7	6	1
8	8	8	0
9	4	4	0
10	29	23	6
11	7	7	0
12	4	7	-3
13	6	6	0
14	4	4	0
15	4	8	-4
16	6	8	-2
17	3	7	-4
18	36	28	8
19	4	3	1
20	6	7	-1
21	6	5	1
22	4	5	-1
23	4	5	-1
24	3	7	-4
25	7	11	-4
26	7	8	-1
27	7	5	2
28	8	5	3
29	15	16	-1
30	6	7	-1
31	5	5	0
STATE	245	246	-1

Court Clerk Staff Personnel Needs by County

DISTRICT	COUNTY	CLERK STAFF PERSONNEL NEED (After Rounding at County Level)	ALLOCATED CLERK STAFF FTE POSITIONS	NET CLERK STAFF PERSONNEL NEEDS (After Rounding at County Level)	DISTRICT	COUNTY	CLERK STAFF PERSONNEL NEED (After Rounding at County Level)	ALLOCATED CLERK STAFF FTE POSITIONS	NET CLERK STAFF PERSONNEL NEEDS (After Rounding at County Level)
1	AT	6.0	6.0	0.0	17	NT	2.0	3.0	-1.0
1	LV	13.0	14.0	4.0	17	OB	15	2.0	-0.5
2	JA	5.0	3.5	1.5	17	PL	2.0	2.0	0.0
2	JF	4.0	3.0	1.0	17	SM	10	2.0	-1.0
2	PT	5.5	3.0	2.5	18	SG	124.0	102.0	22.0
2	WB	2.5	3.0	-0.5	19	CL	3.0	9.0	4.0
3	SN	65.5	51.0	14.5	20	BT	9.0	10.0	-1.0
4	AN	3.0	3.0	0.0	20	EW	3.0	3.5	-0.5
4	CF	3.5	4.0	-0.5	20	RC	3.0	4.0	-1.0
4	FR	7.0	6.0	1.0	20	RS	3.0	4.5	-1.5
4	OS	5.0	4.0	1.0	20	SF	15	3.0	-1.5
5	CS	15	2.0	-0.5	21	CY	2.5	2.0	0.5
5	LY	12.0	12.0	0.0	21	RL	15.0	12.5	2.5
6	BB	6.0	4.0	2.0	22	BR	4.0	4.5	-0.5
6	LN	4.5	3.0	1.5	22	DP	2.0	3.0	-1.0
6	MI	7.5	7.0	0.5	22	MS	3.0	3.8	-0.8
7	DG	22.0	14.5	7.5	22	NM	3.0	3.0	0.0
8	DK	6.5	6.0	0.5	23	EL	8.0	6.5	1.5
8	GE	17.0	13.0	4.0	23	GO	15	15	0.0
8	MN	2.5	3.5	-1.0	23	RO	2.0	2.0	0.0
8	MR	2.0	2.5	-0.5	23	TR	2.0	2.0	0.0
9	HV	9.0	6.5	2.5	24	ED	15	2.0	-0.5
9	MP	6.5	5.0	1.5	24	HG	10	15	-0.5
10	JO	101.5	57.5	44.0	24	LE	10	1.5	-0.5
11	CK	6.0	3.5	2.5	24	NS	15	2.0	-0.5
11	CR	10.5	7.5	3.0	24	PN	3.5	3.0	0.5
11	LB	7.0	5.0	2.0	24	RH	15	2.0	-0.5
12	CD	4.0	4.0	0.0	25	FI	15.0	14.5	0.5
12	JW	10	15	-0.5	25	GL	10	15	-0.5
12	LC	15	15	0.0	25	HM	15	15	0.0
12	MC	2.0	2.0	0.0	25	KE	2.0	2.0	0.0
12	RP	2.0	2.0	0.0	25	SC	2.0	2.0	0.0
12	WS	15	2.0	-0.5	25	VH	10	15	-0.5
13	BU	14.0	11.0	3.0	26	GT	2.5	2.5	0.0
13	EK	15	2.0	-0.5	26	HS	2.0	2.0	0.0
13	GW	2.5	3.0	-0.5	26	MT	15	15	0.0
14	CQ	2.0	2.0	0.0	26	ST	10	15	-0.5
14	MG	11.0	9.0	2.0	26	SV	2.0	2.0	0.0
15	CN	10	15	-0.5	26	SW	10.0	8.0	2.0
15	LG	15	15	0.0	27	RN	20.5	14.5	6.0
15	RA	10	15	-0.5	28	OT	2.0	2.0	0.0
15	SD	10	2.5	-1.5	28	SA	21.5	16.0	5.5
15	SH	3.5	3.5	0.0	29	WY	52.5	55.5	-3.0
15	TH	3.5	3.0	0.5	30	BA	2.5	3.0	-0.5
15	WA	10	15	-0.5	30	HP	2.5	3.0	-0.5
16	CA	10	15	-0.5	30	KM	3.0	3.0	0.0
16	CM	10	15	-0.5	30	PR	4.5	4.5	0.0
16	FO	11.5	9.0	2.5	30	SU	8.0	7.0	1.0
16	GY	2.0	2.0	0.0	31	AL	5.0	4.0	1.0
16	KW	2.0	2.0	0.0	31	NO	4.5	4.5	0.0
16	ME	15	2.0	-0.5	31	WL	4.0	3.5	0.5
17	DC	15	2.0	-0.5	31	WO	15	15	0.0
17	GH	15	2.0	-0.5					
STATE TOTAL		814.0	690.3	123.7					

Judicial District Map

District Groupings



Urban Districts (3, 10, 18, 29)

Non-Urban District Group 1 (1, 6, 7, 8, 11, 20, 25, 27, 28, 30)

Non-Urban District Group 2 (2, 4, 5, 9, 12, 13, 14, 15, 16, 17, 19, 21, 22, 23, 24, 26, 31)

**REPORT OF THE KANSAS SUPREME COURT'S
BLUE RIBBON COMMISSION**

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RECOMMENDATIONS

I. STRUCTURAL CHANGES

1. The Supreme Court should recommend legislation to end the one-resident-judge-per-county restriction on the placement of judges. 31
 - Other statutes requiring the placement of judges in specific districts and counties should be eliminated. 31

2. Judicial districts should not be consolidated. 45
 - Consolidation or redistricting of judicial districts is not a viable alternative to eliminating the one-resident-judge-per-county restriction. 45

II. DISTRICT MAGISTRATE JUDGES

1. The ratio of district magistrate judges to district judges should be increased. 49

Consistent with the Weighted Caseload Study, this should be achieved by increasing the number of district magistrate judges while reducing (through attrition) the number of district judges. 49

2. All future district magistrate judges should be lawyers. 56

The selection of lawyers to become district magistrate judges will increase flexibility and public faith in the judicial system. 56

Existing district magistrate judges who are not lawyers should be able to continue in office and to run for reelection or retention. 56

Current non-lawyer district magistrate judges who leave the bench should not be eligible to hold future judicial positions unless they become lawyers..... 56

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8. Decisions on hardware acquisitions should be left to the counties. 75

But the Court's Office of Judicial Administration should develop a list of recommended hardware. 75

9. The Supreme Court should permit e-filing access for pro se and inmate litigants that assures access to justice without abuses or breaches of privacy rights..... 76

The Court should consult with the National Center for State Courts for information regarding pro se and inmate use of e-systems. 76

10. The Supreme Court should develop appropriate rules to allow late filings by litigants who are unable to timely e-file because of the unavailability of e-filing systems due to technical or other problems. 77

11. All court records and documents should be e-accessible statewide. 78

The Supreme Court should establish access standards for both represented parties and pro se litigants..... 78

Before making e-access available to the public and to litigants, the Court should adopt policies and procedures designed to protect privacy rights..... 78

- 12. The Supreme Court should adopt rules or propose legislation to recognize the courts' electronic version of documents as the official court record..... 79

IV. OTHER TECHNOLOGY

- 1. The Supreme Court should encourage district courts and counties to use video equipment and strongly encourage them to use audio equipment in order to preserve a record in the event a court reporter is not available in the courtroom..... 80

- Appellate courts should examine the use of video conferencing for some appellate arguments..... 80

- The Supreme Court should set mandatory standards for audio/visual equipment to be used by counties in their purchasing decisions. 80

- The Office of Judicial Administration should develop for the district courts a list of the types of hearings appropriate for audio/visual use. 80

- The Office of Judicial Administration should explore the possibility of statewide purchasing agreements which would give counties financing options that are not currently available. 80

- 2. As recording technology advances, the Supreme Court should review the number and use of court reporters in Kansas..... 83

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3. The Supreme Court should promote legislation or adopt Court Rules to assess higher docket fees in civil cases which by their nature impose more costs on the court system by consuming an extraordinary amount of court resources. 102
4. The Supreme Court should promote legislation or adopt Court Rules which require the payment of a docket fee upon filing a civil action (Chapters 59, 60, and 61 only), unless excused due to the filing of a poverty affidavit or an action for protection from abuse or protection from stalking. 102
5. The Supreme Court should use federal poverty guidelines as a model for poverty affidavits used to defer docket fees at the commencement of a case. 105

Any deferral of docket fees should be for an initial term of not more than 60 days after commencement of a case. 105

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Collection methods (including debt setoff and the like) should be developed and standardized..... 110

Court personnel should be educated on collection processes. 110

The Supreme Court's Office of Judicial Administration should seek grant funding and the assistance of the National Center for State Courts to assist with implementation. 110

2. The issue of court cash surety bonds was presented at a public hearing. While the Commission makes no recommendation at this time, the issue is not without merit and deserves further study and consideration. 116

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4. The Supreme Court should review and seek to modify the case types entitled to priority in the district court and the time standards for expedited disposition of such cases.	126
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2. The Supreme Court should examine the efficiencies of its Office of Judicial Administration's operations, including its Information Technology Department. 147

The Court should seek grant funding and the assistance of the National Center for State Courts to accomplish this. 147

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1. The Supreme Court's Office of Judicial Administration should examine expansion of current programs that permit lawyers to provide limited advice and assistance to pro se litigants..... 149

2. The Supreme Court should consider suggesting a number of hours that attorneys are encouraged to voluntarily devote to pro se litigants, the indigent, and general pro bono work. 151

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The Supreme Court should promote legislation or adopt Court Rules to implement the foregoing recommendations..... 154

REPORT OF THE BLUE RIBBON COMMISSION ON THE JUDICIARY

January 3, 2012

Introduction and Executive Summary

The various courts that formerly made up the Kansas Judicial Branch were unified in the 1970s. They are now under the administrative supervision of the Kansas Supreme Court. Unification brought many benefits to the Kansas Judicial System, but there remain impediments to the Supreme Court's efficient management.

Management of Judicial Personnel

A recent comprehensive study of the workload in our district courts, the 2011 Weighted Caseload Study, shows that statewide the total number of judges is appropriate. But in some instances, our statutes require that judges be located in places where the volume of court business does not warrant a judge being permanently assigned, while other areas of the state have workloads that justify additional judges. The solution does not lie in consolidation or redistricting of the state's judicial districts. Rather, the requirement of one resident judge per county and related statutory impediments to the efficient placement of judges should be eliminated, and the management of the judicial system should be left to the Supreme Court as provided in Article 3, § 1, of the Kansas Constitution.

District Magistrate Judges

District magistrate judges are an important component of the Kansas Judicial System. They add to the efficiency of our courts. Accordingly, the number of district magistrate judges should increase in relation to the number of district court judges. Further, the authority of our district magistrate judges should be expanded. They should be appointed or elected from the ranks of our licensed Kansas lawyers, rather than coming to the bench without the training of a lawyer. They should be employees of the Kansas Judicial System, and not employees of a county where they hold court. With their expanded authority and lawyer background,

when a district magistrate judge decides a case on the record and the decision is appealed, the appeal should be heard by our appellate courts rather than by a district court judge.

Technology

Our courts should adopt new technologies that will make the courts not only more efficient but also more accessible to the public.

The Supreme Court has undertaken a project for electronic filing of documents in our district courts. This project should lead to mandatory statewide electronic filing in all our district courts within three years. In order to help meet the cost of establishing and maintaining the system, the Supreme Court should impose a reasonable fee for filing and examining documents. The Court should adopt rules that deal with confidentiality and related security issues that arise when court documents can be examined from any internet-connected computer.

Our district courts should expand the use of audio recordings to preserve the record of court proceedings. Both our trial and appellate courts should use video conferencing as an efficient method of conducting hearings in appropriate cases. In time, as technology advances, the Supreme Court should consider the use of new technology rather than court reporters to preserve a record of court proceedings.

There is a growing need for language translators for those non-English speakers who use our courts. Our Supreme Court should seek additional funds from the Legislature to fund translator services. The Court should consider regionalizing available translator services. Further, the Court should consider new technologies that enable our district courts to obtain the services of language translators when none is available locally.

In the dual-funding system of our courts, counties are responsible for deciding what computers, audio and video equipment, and other technologies they will provide for the use of the district courts. The Supreme Court's Office of Judicial Administration should help the counties identify equipment that will be

compatible with the rest of the courts around the state, and help identify proceedings where the use of new technology will be appropriate.

Funding

Our district courts are funded in part by the state and in part by the counties where they are located. The state has the primary responsibility to provide adequate funds for the operation of our courts. But it is appropriate to require those who use our state judicial system to contribute to the financing of our courts through user fees that go to the state judicial system. The Supreme Court should examine the fee structure of our courts and seek to increase them where appropriate. The Court should adopt uniform standards for waiving or deferring fees for those who need access to the courts but do not have the necessary financial resources. But when fines, fees, and restitution have been ordered by the district court, the court should undertake vigorous efforts to collect these outstanding receivables.

Procedural Changes

Our district courts have used mediation and settlement conferences to efficiently resolve disputes short of a trial. Our appellate courts should use these same tools early in the appeal process to bring the parties to an acceptable resolution, saving the litigants time and money and enabling the appellate courts to resolve more quickly the remaining appeals.

The Supreme Court should examine the lists of case types that require priority handling in the district courts and in the appellate courts to determine if the lists should be expanded or shortened.

The Supreme Court should seek to make local district court rules uniform where possible, and should promote forums where judges and clerks can exchange ideas on best practices for handling various cases. The Court should expand training programs and take advantage of new technologies for conducting meetings and training sessions.

The Supreme Court should examine the efficiency of its Office of Judicial Administration and its Information Technology Department.

Finally, the Supreme Court should promote programs that enable lawyers to engage in a limited representation of pro se litigants. Lawyers should be encouraged to voluntarily devote a suggested number of hours to pro bono service.