

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

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Penmor Lithographers
Lewiston, Maine
2005

**STATE OF THE JUDICIARY ADDRESS
OF
CHIEF JUSTICE LEIGH INGALLS SAUFLEY
FEBRUARY 1, 2005**

The Promise of Justice

Good morning Governor Baldacci, President Edmonds, Speaker Richardson, esteemed members of the 122nd Maine Legislature, members of the Court, friends, and family.

It is an honor to stand before you for the fourth time to provide to you and the citizens of this great state an annual report on Maine's Judicial Branch.

You have that report in hand, along with our annual statistical report. The State of the Judiciary report is comprehensive and detailed.

It provides an assessment of the many positive achievements of the court system and the promising initiatives that are making a difference for the people of the State of Maine.

Diversion programs, drug treatment and domestic violence courts, mental health courts and efforts at reorganization are all receiving significant attention. There is much to be proud of in the Judicial Branch's improvements.

It has been my practice in years past to read you that report in the form of an annual address.

This year, however, although I commend that report to you,

I break with tradition.

I will not be reading you that report.

Best news you've had in years? You don't get off that easily.

I am here today to use our time together to assure that you receive one vital message from me.

The lack of judicial resources available to Maine's people is

Real,

It is Serious,

And we have a plan to address that problem in full.

Now as I stand here looking out at all of you who have enormous responsibilities and challenges this term, I recognize that you have heard me make this

point before, and I do appreciate your efforts to work with us to address these problems.

Let me say how honored I am to work in a state where the three Branches of government do make concerted efforts to work together.

I am grateful to the more than 70 of you who have taken the time to come into Maine's courts, to attend our regional meetings, and to meet with me personally to help us find a way to improve the situation.

Similarly, Governor Baldacci has demonstrated his commitment and concern as we meet every month to discuss issues affecting the administration of the courts.

This cooperative approach to problem solving is a model for other states. We sometimes forget how well government functions here in Maine when the days get long.

I therefore come to you today to lay out a plan for collaboration to rebuild Maine's system of justice.

I begin by addressing the questions you have so often asked me.

- Are the Judicial Branch's budget problems real?
- Do they have a serious affect on Maine citizens?
- Is there a way to respond when the budget is so tight?

In brief, here are the answers:

1. The problems are real and they are substantial. They affect the ability of the courts to meet the responsibilities that have been imposed in the laws crafted by you and the legislators before you.

2. The problems are hurting Maine's people and businesses. Sometimes the effects are subtle, and we don't notice them. But many of the consequences are quite serious.

3. Fortunately, there are concrete actions you can take this session to make a difference with comparatively little money in spite of the tight budget you are challenged to balance.

So let's talk about the scope of the problem.

While we appreciate the financial support that is provided to support the Third Branch of Government, the cold hard fact is that by using objective criteria it is clear that the court system in Maine is very poorly funded.

Direct comparisons with other systems are difficult to make, but we know this:

- The Federal Bureau of Justice Statistics reviews employees per capita for delivery of justice in every state in the nation. Maine has fallen to 50th. Maine is last in the nation in people available to provide justice.
- The translation of that statistic is simple—we have far too few clerks, security staffing is woefully inadequate, and our administration is understaffed.
- A study by the National Center for State Courts estimated that Maine is 20% short of the necessary number of trial judges.
- And here's a way to put it into context. New Hampshire, our frugal neighbor to the west, is not way up there in judicial spending. We are 50th in the country, New Hampshire is 47th.
- And yet the spending gap between Maine and New Hampshire is, to me, astounding. New Hampshire spends \$18,000,000 a year more than Maine on its system of justice.
- New Hampshire has $\frac{1}{3}$ the geography of Maine, and nearly the same population—yet it has 6 more courthouses and at least 16 more judges.
- All told, Maine's Judicial Branch has only $\frac{3}{4}$ of the financial resources of New Hampshire which has fewer annual filings and is itself near the bottom of the list.

By any measure, the Maine Judicial Branch is last in line.

Now let's look at the money that Maine does spend on its Judicial Branch.

Last year, the total Judicial Branch budget was just over \$54,000,000.

The total revenues that the Judicial Branch returned to State Government and the General Fund exceeded \$38,000,000.

The net cost to the General Fund to run an entire system of justice was only \$16,000,000.

The insufficient level of Judicial Branch funding shows.

We have struggled over the past two years to provide justice while carrying approximately 25 vacancies in our clerks' offices and our security and screening staff. The results are not pretty:

- Smaller courthouses have had to be dark for days at a time when those vacancies left no one to staff the clerk's office.
- Last summer, in our largest District Court, in Portland, the enforced vacancies combined with illness resulted in an inability to process court work and serve the public who came to the courthouse. We were forced to close the doors to the public early every day for a month.
- We must essentially stop the running of the courts for two weeks every year to allow our clerks to attempt to catch up with the responsibilities that pile up as a result of vacancies and the restrictions on overtime. Even that two weeks is proving not to be enough.
- When our clerks are unable to keep up with recording judicial orders, bail conditions, bench warrants, and other important information that should be entered in court records, members of the public may be put at risk. These risks range from affecting citizens' right to drive all the way to unwarranted loss of liberty.
- We know that Drug Treatment Courts save lives and prevent future crimes. We know that Maine's program has a better graduation rate than other national programs. Unfortunately, we have been unable to expand our Adult Drug Treatment Courts beyond the five locations where they now exist.
- Families in turmoil must wait far too long to receive an initial order of child support and stability.
- Some of our older courthouses are disgraceful, and people facing the worst times of their lives must go into horrible cramped basement rooms to have their cases heard.
- We have been unable to create a fine enforcement program. Literally millions of dollars in fines go unpaid, because we do not have the staff to follow up.
- We are in danger of losing the incredible forward progress in Juvenile Justice that has occurred over the last five years, because we have had to rely on funding from the federal government that will not be available this time next year.
- We struggle to meet our responsibilities to help litigants with Limited English Proficiency.

- Small claims cases cannot be reached promptly, and businesses requests for record checks are delayed.
- We have been unable to move forward to institute Business Courts. We are failing our businesses.

The problems are real.

They are hurting Maine people and businesses.

Now I don't want you to think we have been sitting still waiting for new resources.

Our consistent efforts to streamline and become more efficient have been productive.

- We operate 41 courthouses, through a single centralized administration, and each year approximately 280,000 new cases are filed.
- To create greater efficiencies we implemented regionalized scheduling, which conserves resources and has substantially reduced the backlog in family cases.
- In our most serious criminal cases, each murder or manslaughter charge has been specially assigned to a Superior Court justice who will handle all aspects of the case. It bears noting that in contrast to the 9 murders that were tried last year, there are currently 37 murders or manslaughters awaiting trial and, tragically, many of them are alleged to have been related to domestic violence.
- We collaborated across state government to present a two-day Sentencing Institute to educate all of us on effective methods of diverting low-risk citizens from unnecessary incarceration.
- We have supported the training and organization of guardians ad litem who continue to make a substantial difference in the lives of children.
- We finally have a fledgling internal case information system that will help us spot backlogs and other problems when they first develop.

I want to publicly thank each one of the people who have worked so hard to create these improvements, including our incredible clerks who work day after day without fanfare. We owe them a debt of gratitude.

Now, I have promised you a plan that will rebuild the Judicial Branch and help us keep the Promise of Justice.

If we are to rebuild Justice in Maine, we must collaborate. Here is our plan.

- We must have the minimum staffing necessary to keep courthouses open.

By flat funding most of our budget, reducing costs wherever possible and focusing on our staffing problem, we were able to present a Part I budget that addresses those needs. The Governor and his budget staff have worked with us to understand the problems and have supported this fundamental need through the Governor's Part I budget. We desperately need your support as well.

- We must provide early stability for families during times of turmoil.

The Legislature established a way to do just that when the Family Division was created. But expecting eight Case Management Officers cover the entire State simply asks too much.

We have proposed the addition of two Case Management Officers and staff to address this problem. The availability of federal matching funds, coupled with a slight increase in filing fees, would result in no net cost to the General Fund. The benefit for families would be enormous. Please support that initiative.

- We have presented a Part II budget that addresses multiple needs.

Among the proposals are two specific requests that I draw your attention to. One \$500,000 item replaces lost federal funds for our crucial juvenile courts. Next week, Attorney General Steve Rowe, Paul Vestal, and I will host a gathering at the Judicial Center to meet with representatives of our Congressional Delegation. We hope to find ways to restore that federal funding.

The other Part II item I draw your attention to is a proposal for four judges and staff to address priority family matters, including sexual assault and domestic violence, and to create a real Business Court for the State of Maine. That entire proposal carries a price tag of just one million dollars. We are working toward creative funding for this proposal which could have such far-reaching benefits for Maine.

- We will be presenting a request for authorization to issue bonds that are within the limits of our current bonding cap.

One, a bond for three million dollars, will allow us to bring our courthouses into compliance with the Americans with Disabilities Act. Physical access to the courts is crucial.

The other, likely to be less than half of that, will allow us to begin the process of creating a dignified courthouse in Penobscot County.

- I also ask you to remember that access to justice doesn't come easily to low-income Mainers.

An independent group of judges and lawyers, referred to as the Justice Action Group, has made an extraordinary effort to increase the availability of legal services throughout Maine. They have a good start on this effort through the private donations of lawyers and judges and through the volunteer services of Maine lawyers. But more is needed, and the Justice Action Group has presented a proposal to you to help meet that need. Please support it.

Courthouse Safety

Finally, help us find a way to fund an adequate security force for Maine's courthouses.

I am encouraged by the progress we have already made in addressing safety in the courts. Four years ago, you heard my plea to help us secure our courtrooms against weapons.

Since then,

- We have placed metal detectors and safety equipment in every courthouse.
- We have begun random entry screening wherever possible.
- And with your help last year, we have a small fund for the personnel necessary to run the equipment.
- By the end of 2005, we will have run entry screening for a least a few days in every Maine courthouse.

We have more to do, but the progress is encouraging. All that is needed now is the staffing for each building. New Hampshire has done it, Vermont has done it, the federal courts have done it. We must find a way to protect Maine citizens as well.

In total, here is what you can do to help your constituents find meaning in the Promise of Justice:

1. Support our Part I budget.
2. Support our proposal for additional Case Management Officers. Remember that no net additional General Funds will be necessary.

3. Think very positive thoughts about the upcoming meeting with the Congressional representatives.

4. Work with us over the biennium to continue to improve courthouse safety and to create a Business Court for the State of Maine.

In sum,

Maine's Judicial Branch, like all of Maine government,

Is making the very best of its limited resources.

I again commend to you the full report on the progress we have made.

But the lack of judicial resources is real, and it is serious.

Maine people and businesses are paying the price.

We could do so much more; indeed, we must do more.

I have laid out a plan of action. It may not be easy, but the path is clear.

And now, together we must work to keep the Promise of Justice for Maine.

Thank you for your time today.