

MAINE STATE LEGISLATURE

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**STATE OF THE JUDICIARY ADDRESS
OF
CHIEF JUSTICE VALERIE STANFILL
FEBRUARY 21, 2024**

**MAINE JUDICIAL BRANCH
THE STATE OF THE JUDICIARY
A Report to the Joint Convention of the Second
Regular Session of the 131st Maine Legislature**

**Presented by Chief Justice
Valerie Stanfill
February 21, 2024**

Governor Mills, President Jackson, Speaker Talbot Ross, distinguished Members and guests of the 131st Maine Legislature, and people of the State of Maine:

I am pleased to update you on the State of the Judiciary, Maine's third branch of government. Before I came here today, I was thinking about this tradition. Just as I accompanied the Governor for her State of the State address, she accompanied me here today to the Chamber for the joint session of the Senate and House. This extraordinary symbolism – that of the three branches of government existing separately but coming together to talk to each other and to listen – is at the very heart of our democracy and must be treasured.

Before I begin, I would like to take this opportunity to introduce and thank members of the Judicial Branch who have accompanied me here today:

- In addition to the duties as judges, the Supreme Judicial Court operates like the Board of Directors of the Judicial Branch. We always go from most senior – which means longevity on the court, not age – to junior. So, I start by recognizing Senior Associate Justice Andy Mead, located in Bangor; Justice Andrew "Mark" Horton, located in Portland; Justice Cathy Connors, located in Portland; Justice Rick Lawrence, located in Portland; Justice Wayne Douglas, also located in Portland.

(Lest you think everyone but Justice Mead is in Portland, I am located in Augusta.)

- Where the SJC operates like a Board of Directors, the Chiefs of the Trial Courts are like the Executive Committee.
Chief Justice Bob Mullen of the Superior Court, based in Skowhegan;
Chief Judge Brent Davis of the District Court, based in Augusta; and
Deputy Chief Judge Lea-Anne Sutton, based in Biddeford.
- And finally, some of our administrative team. Amy Quinlan is the State Court Administrator; Maine law says she is the head of the Administrative Office of the Courts and is "responsible for administration and management of the court system." This has been a particularly challenging year as we experienced some turnovers at the highest level, but she has brought us through. With her is Tom Hild, our new Chief of Finance and Administration. Also here are two people many of you know: Barbara Cardone, our Director of Legal Affairs and Public Relations, and Julie Finn, our Legislative Analyst.

I also want to specifically recognize some other members of the Judicial Branch who are not in the room today:

- First, our amazing Family Division, headed by Caroline Jova. The Family Division is a small but extraordinary "behind the scenes" group supporting all the programs in family and child protective cases. This year I want to give them special recognition, as did the Maine Coalition to End Domestic Violence. The Coalition awarded the Family Division its "Champions of Change" award for its efforts implementing procedures and training that are trauma-informed and increase access to justice for survivors of domestic abuse and violence.
- Next, the mighty team leading the revitalized rollout of Maine eCourts. Chris Oberg, who is the Project Manager. Lisa LaMothe, the Odyssey Senior IT Business Analyst. Andy Frechette, Clerk of Courts in Lewiston/Auburn. Kyle Ferrill,

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Christen Haskell, Sarah Pelletier, and the entire Court Operations team. And Active Retired Judge Susan Oram. You, together with all the other numerous team members, have turned this project into a success, and we couldn't do it without you. And you transitioned to Maine eCourts in Lewiston/ Auburn the same week in October as the unimaginable tragedy of the mass shootings which so directly impacted all of you. You are vested in your communities and kept working through it all. Thank you.

- And finally, Julie Howard, Manager of Court Operations in York County, together with everyone at the new York Judicial Center: Facilities, Clerks Office, Marshals, and Judges. You seamlessly consolidated operations from four existing courthouses into a brand-new state of the art facility without missing a beat, an undertaking that was breathtaking in its scope.

I must also thank all the women and men who comprise the Judicial Branch for their hard work, dedication, and perseverance in serving the interests of justice and the people of the state of Maine. I am grateful every day for these extraordinary people.

In this address, I would like to talk about Maine Courts in the 21st century, and what is needed to serve all of Maine's citizens as we move forward. But first, I want to look back over the past year. I thank you for the resources that you gave the Judicial Branch in the last biennial budget and want to tell you about what we are doing with those resources.

2023 in Review

In my last address to you, I discussed the backlog and delays of cases that began even before the pandemic forced us to limit the number of jury trials and in-person hearings. Courts are facing more complicated cases, new technology demands, overburdened and decreasing numbers of counsel to handle the caseload, and an increasingly frustrated public. The temperature of public interactions has changed in the last few years and our front-line clerks and marshals bear the brunt of it and are in turn increasingly stressed and burned out. We continue to struggle to provide appropriate security, leading to courthouse closures when we don't have enough.

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Filings for the more serious types of criminal cases, felonies, are increasing. We also discussed the increase in filings for protective custody cases and cases where serious mental health issues need to be addressed.

In 2023 we asked the National Center for State Courts to perform a Weighted Caseload Study, where they look at what judges and clerks are doing and are able to do and what the system needs for judges and clerks. The National Center team has done these studies across the country, and we were happy to have them assess our operations. For several weeks clerks and judges tracked every minute of their time and what they were doing. As a result, we were able to present objective evidence to you of our personnel needs in these two areas. According to the May 2023 report, the Maine Judicial Branch needed at least 9 more trial court judges (64 to 73.1) and 40 more clerk positions (245 to 285) just to handle the existing caseload appropriately. Those numbers do NOT account for trying to catch up on the backlog; they are just to keep us going.

In our biennial budget request last year, we focused on beginning to shore up operations, the frontline people you all see and depend on when you come to a courthouse. We were clear that what we were asking for was not enough to "right size" the court system but would start us on the way. Frankly, I was being realistic considering the workforce and hiring challenges we all face, and expected that it would take time to recruit, hire and onboard necessary personnel.

You listened; we did not get everything we asked for (we did not receive any new clerk positions until July 1, 2024) but you did give us a meaningful increase in positions in the biennial budget year that began July 1, 2023. I am here today to say, "thank you."

The biennial budget gave us additional judge positions. It also added other resources: Additional marshals and court attendants. A few courtroom technology positions to take over recording, zoom functions and the like in the courtroom. Some efilings specialists, allowing centralized and consistent initial review of electronic filings. A few trainers and field operations specialists to support and train the court clerks all over the state. A couple of positions in the

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Service Center, our central phone answering and records search group. The tasks we ask of our court clerks have expanded tremendously, especially in the last decade. These new positions, which we are well on our way to filling, all take pressure off the overworked clerks' offices, allowing them to focus on the critical tasks only they can do. We do not have all the positions we need – remember the National Center said we needed 9 more judges and 40 more clerks to do our jobs! So, there will be additional requests in the future – but I am grateful for the positions you gave us. Creating the right-size Judicial Branch for the State of Maine is a multi-year process.

After the State of the Judiciary address last year, I was asked for a one-word description of where we were – and I said "frail". While we are not yet hale and hearty, I am pleased to report that we are not as frail as we were a year ago. Indeed, I am hopeful – hopeful that with new resources we can continue creating a justice system that meets the needs of Maine people in the 21st century. I want to share with you some of the accomplishments that we at the Judicial Branch are most proud of for 2023. I had hoped to play for you a short year-end presentation created by our Communications team for Judicial Branch employees. It turns out that - much like many of our courtrooms - the Chamber is not really equipped for me to be able to play a video. I did, however, distribute it if you have a chance to look at it; I hope you enjoy it.

Maine eCourts:

I will start with perhaps the biggest achievement of all: the restart of the Maine eCourts implementation.

As I explained last year, Maine eCourts is a fully integrated electronic system for filing, docketing, and case management. Users can file electronically, be notified of court orders, and access documents remotely. Just like our current docketing program, it will be integrated with law enforcement systems for bail, protection orders and the like.

Toward the end of 2020, we implemented the electronic case systems for all civil, child protective, and family matters cases (except for protection order and civil violation cases) in the Bangor District and Superior Courts and in the statewide Business and Consumer Docket. We had previously gone live in the

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Violations Bureau for all traffic cases statewide. Unfortunately, the Bangor and Business Court implementation had a rocky rollout, and I felt we needed to step back and analyze what happened before we moved forward. As a result, we paused and obtained an independent assessment. I know a lot of you were frustrated at my decision to pause; we are way behind where former Chief Justice Saufley said we would be. But the analysis and reorganization paid off when, this past October, we successfully rolled out Maine eCourts for the family, civil and child protective case types in the Lewiston and Auburn courts. It went beautifully! We think we are able to "lather, rinse, repeat" and expect to put the family and civil eCourts package in the Rumford, Farmington, and South Paris courts in a little over a month and then later this year in Augusta and Waterville.

Criminal dockets and protection from abuse and harassment cases require integrations with the Department of Public Safety's systems. DPS reports they are on track to gear up for them this year. So, we hope to add protection orders to the types of cases handled in Maine eCourts in June, and thereafter start with criminal cases. Our goal is to have all case types in all trial courts in the Maine eCourts system by the end of 2026. When we do that, we can unplug our Apple computers and our obsolete electronic docketing system known as "MEJIS."

Backlog:

I also want to update you on the backlog of cases created during the pandemic. I am pleased to report we have made some progress. Overall, we had a modest (+3.0%) change in the statewide rate at which we closed cases in 2023 compared to 2022 across all case types. In criminal dockets, both the numbers of pending cases and the average age of pending cases are down. Last year I reported that we had about 60% more criminal cases pending than before the pandemic, and most were felonies. Now, we have about 40 - 45% more cases than before – still a huge backlog but improved. The downside of that news, however, is that much of that improvement in the criminal dockets can be attributed to a few two-week criminal "blitzes" in Androscoggin and Kennebec Counties as well as a decrease in the numbers of cases filed. The "blitzes" involved coordination with

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prosecutors, the rearranging of scheduling for other case types, use of additional judge resources such as Active Retired Judges, and overtime for clerks' offices. They are short-term, concerted efforts that are not sustainable.

And other dockets have not improved as much. Indeed, the average age of family cases is still increasing. I hope that with the addition of more District Court judges this will improve. The sobering fact is that no matter how hard we work – and we do – we are not providing timely and safe resolution even in priority cases, those involving liberty, families, and children, much less the plethora of other cases. The stresses are being felt by all justice partners, including appointed counsel through the Maine Commission on Indigent Legal Services as well as the Civil Legal Services Providers, who also need adequate funding.

Constitutionally Required Counsel:

One area that is not looking up: appointed counsel. We are in a constitutional crisis. The State is obligated to provide an attorney in most criminal cases. The State is also obligated to provide attorneys to parents in child protective cases, those cases where the DHHS has stepped in to protect children. We must also provide guardians ad litem in all those cases. We depend on the private bar for this, but there are fewer and fewer lawyers available and willing to take cases. We have people sitting in jail every day – frequently a dozen or more in Aroostook County alone – without an attorney because there is no one to take their cases. Raising the pay to \$150 per hour last year has not solved the problem. The Maine Commission on Indigent Legal Services says the onus is on the courts, but we are constrained by the very statutes that created the Commission: we can only appoint attorneys on the Commission's roster, and often there are none. Our trial courts spend hours every week just trying to cajole attorneys into taking cases. I hope that adding some public defenders will help, but it will be a while before we really see results. And in the meantime, I fear the system will indeed collapse. Although this is a problem the courts cannot control, we are all in this together.

Notable achievements in 2023:

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On to more uplifting points. We had many achievements in 2023:

- The new York Judicial Center in Biddeford. Some of you attended our open house and ribbon-cutting ceremony in June. As I mentioned, Facilities, the Clerks' Office, Marshals, and Judges seamlessly consolidated operations from four existing courthouses into one brand-new state of the art Judicial Center without missing a beat. The Clerk manager calculated that 2 ¼ miles of paper files were moved. A huge effort, but it is worth it. The facility is wonderful.
- With the additional training positions, we have been able to restart and expand critical training for clerks. With 245 clerks spread out in 32 different facilities, our small number of operations trainers have been kept very busy. A well-trained workforce is our primary tool in creating efficiencies, and we are seeing results.
- We created new video resources for self-represented litigants. (Remember, most non-criminal cases, especially in District Court, have one or more self-represented litigants.) Check out our videos on Divorce and Parental Rights; Protection from Abuse and Harassment cases; Small Claims cases; and How to Change or Enforce your Divorce or Parental Rights Decree.
- We also created some new short-form brochures, including "Evicting a Residential Tenant for Not Paying Rent" and "Overview of Small Claims Court."
- We expanded a pilot project appointing an attorney to juveniles when the State files a case rather than relying on a "Lawyer of the Day" for the initial appearance. This strengthens the juvenile's relationship with defense counsel and allows the attorney earlier contact with the juvenile and juvenile's family, to explain the court process and the juvenile's rights, and to advocate for the juvenile. We expect statewide implementation to occur in 2024.
- We increased our outreach to schools to broaden civics awareness. Some of you attended oral arguments of the Supreme Judicial Court at Skowhegan High School, Winthrop High School, or Greely High School in Cumberland. We also welcomed several different school groups into

various trial courts around the state. We hope to continue to expand this outreach. And, if any of you would like to host oral arguments in front of the Supreme Judicial Court at your local high school, just let Barbara or Julie know. We will finalize the next round in October shortly. (Lewiston, as the reigning champion of the High School Mock Trial Competition, I am looking at you!)

- We are expanding internal communication to keep employees engaged. The new Employee Engagement Committee is tackling employee satisfaction, training, communication, and recognition. We adopted remote technology to create a virtual suggestion box, regular short zoom "Lunch & Learns" at the lunchbreak, occasional "Ask the Chief" zooms, monthly zooms of all jurists, monthly email updates, and quarterly newsletters. And, the 4-minute year-end video which you have. The latest effort is a pop-up spirit store for JB branded goods. Our team is extraordinary but underappreciated and over-worked, so it is important to keep everyone involved in our mission.
- We shared our expertise. For example, there was a presentation by our team at the New England Regional Judicial Opioid Initiative. Judges Eric Walker and David Mitchell in particular are extraordinary champions and experience significant success in their treatment courts – I think some of you heard from Judge Walker earlier in the year.
- We received recognition: as mentioned, the Family Division team received the "Champions of Change" award from the Maine Coalition to End Domestic Violence. Magistrate Lindsay Cadwallader received the "Children's Advocate Award" from the Maine Coalition Against Sexual Assault. Judge Chuck Dow received a significant achievement award from the Waterville Bar Association.

Looking Forward to the Future

So, where are we going? We need to build on the momentum and continue to "right size" the Judicial Branch so that we can meet the needs of Maine people in a timely and efficient manner. No custody dispute

should have to wait years before the case is heard, no one should be in jail for months or a year or more before their trial, no business should have to wait years before a dispute is resolved. This means the addition of judges and, critically, the staff to support them. Court clerks, judicial marshals, law clerks, courtroom technology assistants and the administrative staff to make it all work. Judges can't do it without them.

But there is another big category of needs for a 21st century court system: technology. Traditionally, we have said that our budget, and the court system itself, is made of two parts: people and buildings. Courts and the way we do business have changed more rapidly in this century than in the last 200 years. Technology is no longer a luxury or an afterthought: it must be part of the infrastructure of the court system. It needs to be maintained and updated on a regular basis. And these are needs that have not been attended to for a long time. In the past, we installed new technology without planning for what happens next. In the 21st century, we must look at technology as infrastructure, just as the courthouses across the state are infrastructure. We must plan to maintain it and improve it, just as we maintain roofs and HVAC systems. And maintenance includes replacement at various interludes. And we must fund it in the same way as we fund infrastructure.

When Maine eCourts was conceived and contracted for, the Legislature authorized bond funding to purchase and install the system. But, there are annual fees, licenses and maintenance that are not covered by the bond funds. You asked us to raise the money ourselves by tacking on surcharges on filing fees, fines, and the like. And we did that. The biggest single source of revenue was the surcharges on traffic ticket fines – the volume of those fines dwarfs anything else. But ticket numbers are going down as more serious charges are going up, and the funds generated are not adequate to pay for the system maintenance – we will be almost a million dollars short this year. It is not a sound plan for the long run, because of course the higher fees are, the more they get waived because people can't afford them.

And it is not just ongoing maintenance and fees for Maine eCourts. We now demand technology in the courtroom that our forebears never dreamed of.

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- Much evidence is in electronic form, including body cams, social media, and recordings. Jurors, witnesses, attorneys, the judge – everyone needs to be able to see and hear it. That means courtrooms have to be equipped with display screens, appropriate sound systems, and computers.
- We must electronically record every case, which means a sophisticated system of recording and microphones so that every word is captured as people move around the room.
- We must accommodate remote appearances of parties, witnesses, and attorneys. And because most court proceedings are constitutionally required to be public, you can't just do it from a laptop. We cobbled together what we call Zoom carts during the pandemic, but that is just one screen. If the TV faces the judge, no one else can see it. If a witness is on a screen, that witness needs to be seen and heard by the judge, the jury, counsel, parties, and the public.
- We need public access kiosks in courthouses for accessing electronic files.
- We need robust Wi-Fi and cell service at all court houses. Right now, there is very limited cell service at the York Judicial Center, making it difficult for attorneys and all court users to access files and communications. We can enhance it, but at a six-figure cost.
- We need to increase the safety of everyone, which means not only marshals but again, technology. Security cameras, recordings, screening, control rooms.
- We need to protect against increasing frequency and sophistication of cyber threats. We are the keepers of immense amounts of sensitive and personal data which cannot go unprotected and which we must safeguard to the best of our collective ability.
- There are more and more demands for data in many forms and layers. Data helps us understand how we got to where we are, measures the cost and benefits of programs and strategies, and helps us plan for the future. We are building a data warehouse, but again, it is a continuing process.

Looking to the future, all that technology needs technical people to keep it working. Given the market, those positions need competitive pay. I have

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previously explained that low judicial salaries in Maine – we were 51st in the country – affect ALL salaries in the Judicial Branch, setting an unrealistic salary ceiling for very skilled and high-level administrative positions, particularly in the area of information technology. The last budget saw the biggest judicial salary raises we have had in many a year and it was appreciated - but the same thing happened across the country consistent with recent inflation rates, so I am afraid our salaries are still near the bottom nationally.

Supplemental Budget

Much of that is for another day. I just want to start the conversation. But turning to this year, in our supplemental budget request we are asking that you support a sustainable funding program for the Maine eCourts system by shifting the cost of system maintenance from a fund built from insufficient fees and assessments to the General Fund. We are building a new infrastructure, and that is not inexpensive – \$3.75 million for the two fiscal years. It involves hefty numbers for a supplemental budget, but it is the only way that we can pay for and support the technology that we need to keep our courts operating. Remember, we tried to do it by raising fees and surcharges, and it is not working. The gains to access for citizens across the state is critical – aligning the courts with modern day business platforms that have been used by other industries for decades. Maine people demand nothing less. There are other requests, but this is critical.

LD 2090 - Bonding

In addition to the requests in the supplemental budget, we also have a bond bill, L.D. 2090, to allow us to build three new courthouses over the next several years. Courthouses themselves have changed. We are continuing to try to modernize the court buildings to meet the needs of staff and of the public, to be efficient and safe places to work and to come to. We have plans to construct a new courthouse in Ellsworth, to add on to the District Court building in Skowhegan, and to rehab the building next to the current District Court in Lewiston. All of these construction projects will result in combined Superior/District Court facilities in these locations which create additional efficiencies.

I know some of you have had the opportunity to tour the outdated facilities currently in use. Some of the buildings are around 200 years old, and have insufficient space for courtrooms, few conference rooms for private conversations, a lack of wiring infrastructure to support current technology, and outdated equipment for heating and ventilation. Modern security needs are primarily achieved with controlled traffic flow, which is impossible in these spaces. This is not an atmosphere conducive to the administration of justice.

We recognize the cost will be hefty, slightly over \$200 million. Unfortunately, because construction costs seem to be rising faster than inflation, if we postpone this construction, it will just have a higher price tag at a future date. These are projects that take years to accomplish and that we need to address, so we hope you will support this bill.

Treatment Courts

Another project we would also like to pursue in 2024 is treatment courts, also known as specialty dockets. They can be tremendously successful in turning around lives derailed by the opioid epidemic and other substance use. In criminal dockets, we hope to rehabilitate rather than be punitive. In child protective cases, we support parents in recovery to facilitate reunification of the families torn apart by substance use disorder. As effective as they can be, however, these dockets are resource intensive. With the increase in judicial positions and supporting clerks and marshals starting July 1, we look forward to working toward expanding these dockets.

Conclusion

To wrap up, there are still many gaps in our judicial branch, and many needs that cannot be paid for with a tax on fines. They are needs without which courts cannot function in the 21st century. They are needs required to serve Maine people, and to meet our constitutional obligation of providing meaningful access to justice for all.

Thank you for the opportunity to talk about the successes in the Judicial Branch in the last year, and my vision for a 21st century court system for Maine, for next year and beyond.