

Status of BRC Recommendations as of December 2013

I. Structural Changes

For fiscal years 2014 and 2015, the Supreme Court proposed that rather than eliminating statutory restrictions on judge locations (as requested but not passed in 2012), the Legislature instead could create and fund new judicial positions and accompanying staff needed to meet judicial needs in the underserved areas identified by the weighted caseload study.

Because the legislature chose to do neither, the Court continues to determine additional ways to provide needed services in underserved areas. Judge need tables have been developed using 2012 and 2013 case filings, the latest data available. Clerk staff need for 2013 and 2013 case filings at both the district and county levels have been developed.

II. District Magistrate Judges

The Supreme Court is currently taking no action on any of the commission recommendations concerning district magistrate judges (DMJs) (primarily because many of those actions would be affected by changes in the statutory restrictions on placement of district judges (DJs) and DMJs as discussed in Section I). The Court continues to consider the recommendations and may later form a committee, with DMJ representation, to explore options in detail. In early 2013 a Benefit/Effort analysis was conducted of the recommendations made by the BRC on this topic, and concluded that while the Benefit would be MEDIUM, the Effort would be HIGH, with legislation required. The BRC's recommendations were:

Increase DMJ/DJ ratio (raise number of DMJs/decrease # of DJs).

Require future DMJs be lawyers (grandfather current DMJs in their current positions).

Expand subject matter jurisdiction of DMJs (uncontested & less complicated matters/more complex matters only w/ consent of parties).

No automatic de novo appeal to DJ from final order/decision on record by lawyer-DMJ; such cases should instead follow the normal appeals route.

All final orders and decisions by any DMJ must be on the record.

Do not allow counties to hire their own DMJs.

Counties continue to be able to hire/pay lawyers to serve as pro tem judges.

Counties continue to be able to supplement pay of DMJs.

III. Electronic Filing and Enhanced Use of Computer Capabilities

Development and implementation of the first **statewide Electronic Filing System (EFS)** for cases are underway in several locations in the district courts and our appellate courts.

District court EFS testing and use are well underway in the three original pilot districts (Douglas, Sedgwick, and Leavenworth) and are recently or will be soon in selected other counties (Wyandotte recently and Butler, Saline, Reno, Geary and Finney in 2014). Batch (an important component for Shawnee County in particular, and eventually the rest of the state) and individual filing for Shawnee County are scheduled to be implemented in 2014. With the installations in those additional counties, together with the pilot counties and the Johnson County e-filing system, more than half of the statewide non-traffic case filings will be eligible for e-filing, based on recent years' case filing history.

Our proposed FY 2014 budget was substantially cut; legislation that would have allowed additional fees to be taken on all case filings, with those fees dedicated to technology (initially primarily for the EFS), did not pass. But OJA submitted and received in 2014 a JAG grant application to cover the implementation of e-filing (including batch filing) in the additional counties - funds for this were not provided in the Judicial Branch budget passed by the legislature.

For the appellate system, testing is underway at the COA and Clerk's Office for three districts (Sedgwick, Johnson, and Shawnee). Development of the Record on Appeal (ROA) format and delivery has been completed, and will be distributed to the other district courts as needed. Analysis of software to work with the ROA is well underway. Business processes related to electronic payments are being discussed, developed, and implemented.

The Supreme Court ultimately intends to develop and implement a complete centralized statewide e-courts environment - an assessment by the Gartner Group of our technology infrastructure and operations in support of an e-courts environment was completed in late 2012 with the results presented to OJA and other interested persons in January 2013. No further actions have yet been taken.

IV. Increased Use of Other Technology

The Kansas Court of Appeals (COA) videoconferencing committee is currently developing a pilot project to use video conferencing, instead of personal appearances, for certain activities in the appellate courts. The committee has thoroughly discussed underlying possibilities, viewed what some Kansas state agencies have been doing in the way of videoconferencing. OJA's IT Department has developed the basic infrastructure to initiate a program, but some technical adjustments are still needed for implementation.

A project concerning the use of video conferencing in the district courts statewide is being developed by OJA. A Judicial Branch Videoconferencing Committee started meeting in early

2013, with two subcommittees formed (rules/procedural and technology). The rules/procedural subcommittee produced a report with substantive standards that have been reviewed and revised by the full committee. The technology subcommittee has met, viewed equipment demonstrations, and drafted technical standards, which are ready for full committee review. The full committee plans to meet very early in 2014 to review and revise the technical standards and begin work to finalize its full report.

With increased use of technology comes an increased need for guidelines concerning its use by legal participants and visitors in our state's courtrooms. With the help and input of journalists and others, the Supreme Court has developed and approved two rules for use of electronic devices by the media, and by non-media, in our courtrooms.

V. Docket Fees

Possibilities exist to increase Judicial Branch funding through fee revenues.

By proviso, effective for two years, the percentage split mechanism where docket fees had been credited to various (including some non-Judicial Branch) fee funds was altered by the Legislature—now 99% of all docket fees will come to the Judicial Branch. But the State General Fund (SGF) amounts provided to the Judicial Branch was simultaneously reduced by the Legislature by the amount of this anticipated revenue, thus making the Judicial Branch more dependent on a variable income source.

Other legislative proposals considered by the Court include the further increase of all current docket fees, and/or the assessment of higher docket fees in civil cases requiring large amounts of court time and resources.

VI. District Court Functions and Procedures

Many of the blue ribbon commission's recommendations regarding the district courts are to develop more uniformity—and thus increased efficiencies—among the district courts and their cases in our 105 counties. Associated activities include the following:

1. OJA is examining the collecting of court costs, fees, and fines, with the development of best practices and standardization of collection methods. OJA obtained funding—again, at no cost to the Kansas taxpayer—from the State Justice Institute allowing the National Center to provide technical assistance in reviewing the processes for collecting monies ordered by the courts. The National Center's report, with 33 recommendations for improvement, was reviewed by OJA and formally by the Kansas Collections Review Committee this spring. The committee prioritized which recommendations should be implemented. It also offered additional proposals and comments regarding implementation efforts. A draft committee report with recommendations for the Court is being prepared.

In the 2013 legislative session, a bill was passed which changed the manner in which the Department of Administration would be compensated for its debt set-off collection program. Under the new statute, the set off fee is to be added to the amount due rather than deducted from the amount collected. However, the Department of Administration reports it is unable, with its current software, to complete the transaction in that manner. OJA continues to work with the Department of Administration to craft a solution. Additional legislation or funding may be necessary.

2. Re-examining the case types entitled to district court priority and expedited disposition, with accompanying time standards, may be addressed at some point, but a Benefit/Effort analysis on this recommendation concluded that this would be a MEDIUM-HIGH Effort and MEDIUM-HIGH Benefit project.

3. Specialty courts, sometimes called problem-solving courts such as drug courts and truancy courts, are active in several locations around the state. In early 2013 the Supreme Court created a commission to examine the present use of specialty courts in Kansas, to determine whether statewide guidelines for such courts should be created, and to make appropriate recommendations to the Supreme Court. The Commission submitted its report to the Supreme Court in December 2013. The Commission recommended:

- a) that mandatory, statewide standards be adopted for specialty courts;
- b) that a new, more broadly based group be established to develop those standards;
- c) that once statewide guidelines are adopted, a certification process be initiated under which compliance with the standards would be periodically certified by the Office of Judicial Administration (in the meantime, the Commission noted that local trial court would remain free to establish specialty courts, under existing authority, to meet local needs);
- d) that a Kansas statute be amended to allow court cases to be transferred from one judicial district to another, with the approval of both courts, when there is an applicable specialty court in the offender's home county; and
- e) that educational programming based on evidence-based practices in treating offenders with drug-abuse and substance-abuse issues, as well as topics involving specialty courts, be periodically offered at the state judicial conference.

The Kansas Supreme Court is reviewing and considering the recommendations.

4. Statewide best practices with uniform court processes and procedures in all district courts will be considered during and after statewide implementation of the EFS because that system alone will likely modify some existing court practices and procedures. A Benefit/Effort analysis of this recommendation was conducted, and concluded that both the Effort and Benefit of such a project would be the HIGHEST of all recommendations examined.

5. OJA has been working on the nationwide issue of language access to the state courts. Its activities include working with the National Center and the Interpreters Subcommittee of the Access to Justice Committee and completing a plan on the order of topics to be addressed. In addition to examining state and federal interpreting authority and Kansas demographics, the

subcommittee compiled statistics on interpretation services provided by a vendor for Sedgwick County from 1995 through 2012, by language and case type. And near the end of 2012, the Court approved the Interpreters Subcommittee becoming a stand-alone committee and working to develop a language access program and plan for the entire state.

OJA's first-ever language access survey in 2013 provided useful data, including that state-wide spending by counties for interpreter services for the most recent year was over \$600,000. And OJA staff attended the first annual Conference of State Court Administrators (COSCA) language access meeting in late April, and learned about the NCSC national database of interpretation providers, and programs in other states. The Nebraska Court Administrator earlier this year presented Nebraska's language access program and systems to two Kansas judges and OJA staff.

VII. Functions and Procedures Applicable to both District and Appellate Courts

In 2011 OJA began emphasizing the resolution of civil and criminal cases that have been pending in the district courts for long periods of time. Lists of these cases are compiled and forwarded to the chief judges of the 31 judicial districts for explanation. This emphasis has resulted in the majority of those cases being resolved. It has also reinforced the need for timely decisions of all pending cases. This process continues to be conducted annually.

Current internal efforts are underway in the Supreme Court and the Court of Appeals to assure completion and more timely release of judicial decisions to the people of Kansas.

Both the Supreme Court and the Court of Appeals are improving their prioritization of cases and expediting the resolution of several types on appeal, *e.g.*, adoptions. Discussions have been held on possibly setting up a committee to further examine cases entitled to high priority appellate review and develop specific time standards for such review and disposition.

VIII. Appellate Court Functions and Procedures

The Court of Appeals appellate mediation committee, assisted by OJA, has developed a pilot project for the mediation of cases already on appeal. The committee has drafted a set of proposed procedures and forms. 60 volunteer lawyer/mediators have been recruited and 20 suitable cases have been identified as good subjects for mediation - parties have the option to accept mediation at no cost, and orientation is available to those who think they need it. Evaluations will be done by the participants after all mediations. Three referrals have been made so far from the 20 cases selected for mediation. One was successfully mediated and the appeal resolved in December 2013. Results for the other two should be known sometime in early 2014.

The committee has also discussed whether mediation should be voluntary or mandatory, and how to pay for any mediation. If the results of the pilot program warrant further action, the committee will discuss those issues, and make recommendations to the Supreme Court for its consideration and decisions.

IX. Office of Judicial Administration (OJA)

In addition to managing the numerous projects mentioned in this report, and conducting its day-to-day work, in 2012 OJA began conducting day-long strategic and project planning sessions to increase its efficiency and effectiveness. OJA continues to work to make best use of limited resources in many and varied ways, such as process improvements, realignment of job responsibilities and structure, employing strategic planning, prioritizing projects, use of zero-based budgeting, recording work processes and responsibilities for more efficient training, and improving communications and project coordination.

OJA hosted a visit by the president of the NCSC this past June – she met with the OJA management team and reviewed OJA’s operations, and also met with the Court.

X. Lawyers

The Supreme Court continues to consider ways to expand programs that permit lawyers to provide self-represented litigants and other users of the court system with limited advice and assistance.

A Supreme Court rule was adopted by the Court to allow retired attorneys to assist with pro-bono efforts. Since the modified rule went into effect, Kansas Legal Services (KLS) applied to become a sponsoring law firm and was approved by the Access to Justice Committee in October. KLS is now recruiting attorneys, with the assistance of the KBA and Kansas Association for Justice. KLS plans to set up volunteers in the courtrooms in Sedgwick and Johnson counties. KLS will also customize opportunities (e.g., working in a KLS office, helping with a special event, or advising participants in a court docket on a regular basis) for attorneys in other locations. The law school clinics may also sponsor attorneys under the rule.

XI. Legislation and Court Rules

Legislation has been requested, and rules made, to implement various blue ribbon commission recommendations. As work progresses on each item, further legislation and rules needed for effective implementation will be considered.