

SUPREME COURT



OF INDIANA

Chief Justice Loretta H. Rush
Indiana Supreme Court
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August 16, 2016

Mr. Brian E. Bailey
State Budget Director
Room 212 State House
Indianapolis, Indiana 46204-2796

Dear Mr. Bailey:

On behalf of the Indiana Judicial Branch, I am pleased to submit this letter to accompany our biennial budgets for the fiscal years ending in 2018 and 2019, which the Court submitted electronically to the State Budget Agency on August 15, 2016.

A. THE COURT'S CONSTITUTIONAL CHARGE AND SCOPE OF RESPONSIBILITY

As Indiana's highest tribunal, the Supreme Court's chief mission is to decide cases fairly and efficiently, establish legal precedent, interpret laws enacted by the legislature, and apply and give force to the United States and Indiana Constitutions. As the constitutional head of the Judicial Branch of Indiana State Government, the Court promulgates and enforces rules governing the operation of the courts and supervision of the legal profession, oversees the practice of law, supervises the courts' exercise of jurisdiction, and is responsible for the administration of justice by the courts of the state. The administration of justice in Indiana is carried out by three appellate level courts, 317 trial courts, and 74 courts of limited jurisdiction. About 1,106 judicial officers, including justices, judges, magistrates, commissioners, referees, city, town and small claims court judges, and senior judges, and approximately 5,800 probation officers and other judicial employees at the state, county, and local level carry out this important responsibility.

The Judicial Branch of state government is funded by a combination of state general funds, county general funds, municipal and township funds, and some dedicated funds. The Supreme Court and its legislatively created offices are funded by the General Assembly through appropriations. In carrying out its constitutional mandate to oversee admission to the bar of Indiana and regulation of those admitted, the Court has appointed four entities—Board of Law Examiners (BLE), Commission on Continuing Legal Education (CLE), Disciplinary Commission (DC), Judges and Lawyers Assistance Program (JLAP)—to help it carry out these functions. These entities are funded primarily through registration fees and bar exam fees paid by attorneys. Except for the salaries of judges, magistrates, and senior judge services, the operations of the state

trial courts, including probation salaries and related probation services, are funded through county and local funds. State sources provide some additional funding for criminal pauper defense services, Guardian ad Litem/Court Appointed Special Advocate (GAL/CASA) programs, problem solving courts, technology, and other specialty grant programs.

The Supreme Court and Chief Justice are also responsible for the operations of several state judicial entities and programs created by the General Assembly. Among them are the Office of Judicial Administration, with two divisions that assist the Court in carrying out its duties: the Clerk of the Supreme Court, who also serves as Clerk of the Court of Appeals and Tax Court; the Indiana Judicial Conference, whose members are all justices, judges, and magistrates of courts of record; and the Judicial Center, which assists the Judicial Conference in its work. Among other things, the Judicial Conference is responsible for judicial branch education, training and certification of probation officers, and certification and management of problem solving courts. The General Assembly has also provided that the Court, through its administrative office, will provide support to the Judicial Nominating Commission, which also serves as the Commission on Judicial Qualifications. Other statutes provide that the Court, through its administrative office, manages the Public Defense Fund, the Judicial Technology and Automation Fund, the Civil Legal Aid Fund, the Guardian ad Litem/Court Appointed Special Advocate (GAL/CASA) Fund, the Indiana Conference for Legal Education Opportunity (ICLEO), and a volunteer Adult Guardianship program. The Chief Justice of Indiana serves as the head of all these entities and programs, and together with the Court is responsible for their operations and securing adequate funding.

B. PRINCIPAL ACCOMPLISHMENTS

Casework. By far, the most fundamental accomplishment of Indiana's courts is the fair and efficient resolution of disputes. At the appellate level, during FY16, the Supreme Court disposed of 900 cases, heard 65 oral arguments, and issued 84 majority opinions addressing several important legal issues. In calendar year 2015, the Court of Appeals disposed of 2,920 cases and wrote 1,915 majority opinions. During calendar year 2015, the Tax Court disposed of 99 cases and wrote 44 opinions. Our trial courts received over 1,361,000 cases in calendar year 2015 and disposed of 1,396,362 cases. Assuring a system for the fair administration of justice is the Court's other fundamental duty. The Court achieved numerous accomplishments in fulfilling this obligation, some of which are listed below.

Improving Internal Organization, Efficiency, and Transparency. During FY15/16, the Court undertook a review and reorganization of its internal operations. With assistance from the National Center for State Courts (NCSC) and federal grant funds, the Court became one of two national pilot projects implementing governance principles developed during a Harvard Kennedy School Executive Session for State Court Leaders. The NCSC and Center for Applied Research (CFAR) have worked with the justices and staff for more than twelve months to unify the several court offices into a cohesive organization—eliminating duplicative work and enhancing transparency and efficiency. The result is a single Office of Judicial Administration under the leadership of the Chief Justice with the assistance of a Chief Administrative Officer who has administrative responsibility for all operations. Under the umbrella of the Supreme Court and its single Office of Judicial Administration, the Court has organized its operations into eight

departments, which include a single fiscal office and a single office of personnel and operations. The new structure will enable us to be more efficient and transparent as we improve the administrative support we provide to our trial courts, the bar, public, and other government entities.

Technology. During FY15/16, the Court continued to bring transformative technological advances for the benefit of courts, clerks, attorneys, law enforcement, executive branch agencies, policy makers, and all Hoosiers. Our technology efforts are three-pronged, aimed at: (1) moving courts from paper to digital records through scanning and electronic filing (e-filing); (2) sharing court information with other governmental agencies through INcite applications; and (3) managing case information and collecting crucial data through a modern case management system (CMS) called Odyssey.

E-filing and digitizing court records. With support from the General Assembly and the Executive Branch we have made excellent progress toward e-filing and digitizing court records. In July of 2015, we launched the first pilot e-filing system in the Hamilton County courts, and in January of 2016, we did the same in all three appellate courts. Since then, 11 more counties have started e-filing, 15 more are scheduled to start in the remainder of 2016, and 20 more are scheduled to start in 2017. A prerequisite to e-filing has been the migration of paper court records to digital records and digital document management systems. This achievement is a major step in moving our courts into a modern technological environment able to serve all its users.

INcite. As of this writing, the Court has developed, deployed, and maintains with help desk and technical software and hardware support 30 different INcite applications. These are programs for the operation of particular proceedings and compilation and sharing of information. Among them are systems for electronic traffic ticket issuance, issuance and dissemination of protection orders, automated abstract of judgment record sharing with Department of Correction, jury management, and gathering data about disproportionate minority juvenile contact with the justice system. The Court supports 30,000 individual registered users who serve at each level of state, county, and local government. This is a massive undertaking, requiring skilled staff and sophisticated software and hardware. These applications provide the necessary bridge that enables the executive and judicial branches do their work more efficiently and share critical information. Together with the Odyssey CMS, these applications provide the hard data needed by the Legislature in making informed decisions and plans for improvements.

Modern, uniform case management system (CMS). Underpinning all these technological advancements is the single, modern, state-wide CMS, which not only enables our courts to function efficiently but also provides the structural framework for gathering specific data. The fact that this system requires the entry of specific event codes has enabled us to gather and provide critical data to the Legislature and other policy makers evaluating the outcome of the Legislature's criminal reform efforts. As of this writing, Odyssey has been deployed to 249 courts in 57 different counties and to the three appellate level courts.

Advisory Task Force on Remote Public Access. The availability of digital court records has brought new issues to the forefront. Indiana Administrative Rule 9 governs which court records are public and which are not. Whether or not public case records, such as those in divorce and other family cases, should be published on the Internet is a different question. In an effort to garner

input from all Hoosier stakeholders, the Court convened an advisory task force to help it create best business practices regarding which records should and which should not be made widely available over the Internet. The Advisory Task Force on Remote Public Access to Court Records, composed of legislators, academics, victim advocates, the media, prosecutors, public defenders, clerks, lawyers, judges, and others, started its work in February of 2016 and continues to advise the Court on these important issues.

Access to Justice. Access to our courts for all Hoosiers is a fundamental constitutional guarantee. Article 1, Section 12 of the Constitution of Indiana provides that “[a]ll courts shall be open.” and “[j]ustice shall be administered freely, and without purchase, completely and without denial, speedily, and without delay.” During FY15/16, the Court continued to take steps to assure access to justice for every Hoosier. In May of 2016, the Court convened a Coalition for Court Access to spearhead improvements and manage efforts and programs designed to provide civil legal aid to those with limited financial resources. The Coalition will help Indiana lead the way by implementing a coordinated plan to deliver quality legal help to more Hoosiers in need.

The Court continues to concentrate its efforts on improving access for Limited English Proficient (“LEP”) individuals by managing the Indiana court interpreter certification program that trains and certifies foreign language interpreters and by providing grants to the trial courts to help defray the cost of qualified interpreters. We continue to support the work of the legal services organizations which provide legal assistance to Hoosiers who are not financially able hire a lawyer. In 2015, these service providers reviewed over 27,800 new matters brought to them by Hoosiers. The majority of these cases involved family law matters, including divorce, separation, domestic violence, and custody issues. Consumer issues and housing matters made up another part of the work, and the Court continues to strengthen the network of pro bono service providers by linking their work with other similarly charged programs under the umbrella of the Coalition for Court Access.

GAL/CASA Services. With the help of thousands of trained volunteers, Indiana’s courts continue to enable abused and neglected children to have a voice during their legal proceedings. As Guardians ad Litem and Court Appointed Special Advocates (“GAL/CASA”), volunteer advocates from the community provide a stable anchor for thousands of vulnerable children. Indiana law requires the appointment of a GAL/CASA to every abused and neglected child involved in a judicial proceeding. In the first half of calendar year 2016, the programs recruited and trained 628 new volunteers; they served 33,519 children and spent a total of 178,816 volunteer hours.

Problem Solving Courts. Indiana’s judiciary continues to grow the number of specialized, certified dockets for turning around the lives of troubled Hoosiers. As of June 30, 2016, Indiana had 76 certified problem solving courts; in FY14/15, six new ones were certified; in FY15/16, eight new ones were certified. Currently, 13 courts are in various stages of planning for a problem solving docket, and we anticipate that they will receive certification within the next fiscal year.

Judicial Branch Education. Maintaining the highest qualifications and up-to-date training for the men and women who work in the courts continues to be a top priority. The Indiana Judicial Conference assures this goal is a reality. In the last fiscal year, we provided the following: to probation officers—297 hours of instruction to over 1,400 certified probation officers; to Judicial

Officers—143.4 hours of instruction to 655 officers; to court and clerk staff—25.6 hours of instruction to 615 staff.

Juvenile Detention Alternatives Initiative (JDAI). A coalition of judges, probation officers, Department of Correction, and other stakeholders have been implementing a new approach to evaluating if and for how long juveniles should be detained. Based on empirical data, this initiative assures better outcomes for children, improved community safety, and monetary savings in the form of reduced detention costs. In FY16, 13 counties joined the JDAI program. Currently, the program is being implemented in 32 additional counties, home to 69% of our youth ages 10–17.

C. OBJECTIVES AND CHALLENGES IN THE NEXT BIENNIUM

Technology. The Court’s objective for the next biennium is to continue building on the technology advancements we achieved in the current biennium. For the 2016/17 biennium, we asked for \$14,500,000 for each year, and the estimate of our needs proved to be accurate. The systems and programs court technology develops and maintains are used by 30,000 registered users at the state, county, and local levels of government. The Court wants to meet its commitment to the courts, clerks, bar, and all Hoosiers: to provide e-filing in all courts, to improve and increase the information sharing applications of INcite, and to transition all courts who request the state Odyssey CMS. To do so, we request an increase of approximately \$3.3 million for each year of the next biennium. A large part of this increase is due to the Court paying for the e-filing software license, higher hardware costs charged by the Indiana Office of Technology, and increase in the manpower needed to deploy and maintain the expanded systems.

It is important to keep in mind that a substantial part of the appropriation to court technology pays for programs used by the Executive Branch agencies or programs mandated by the General Assembly. The former include the electronic transmission of traffic offence information to the Bureau of Motor Vehicles and the issuance of electronic traffic tickets by the State Police (and 395 other law enforcement agencies who use the e-ticket application). The General Assembly requires the electronic transmission of conviction data to the Department of Correction, a protection order registry, data collection and reporting of mental health convictions, a registry on methamphetamine-related felonies, and most recently, a registry of convicted child abusers. While deliberating the passage of SEA 357, which calls for the latter registry, the Indiana State Police received a cost estimate of \$2 million dollars to develop the registry. Because the court technology office already has in place a robust framework and skilled programmers, the Court was able to offer to develop the registry for approximately \$50,000. We ask that the appropriation for court technology be made from the General Fund.

Access to Justice. Among the challenges facing our courts today is how to assure adequate access for litigants who are of limited English proficiency (LEP) and do not understand what is transpiring in the courtroom, litigants who are hard of hearing and similarly unable to understand the court proceedings, and litigants who are not represented by attorneys. Our courts have already faced two federal lawsuits about the requirements of Title VI of the Civil Rights Act of 1964 and Title II of the Americans with Disabilities Act (ADA) as they apply to Indiana’s courts. In other state jurisdictions, the United States Department of Justice has taken a strong stand and compelled

state court systems to provide language interpretation to all court participants, as required by these laws, or risk losing all federal grant funding. But most importantly, Indiana's own constitution guarantees this fundamental access to our courts. Increased funding is necessary to meet these constitutionally guaranteed rights. The failure to do so increases our risk of losing vital federal funding and makes us susceptible to litigation.

Indiana's system of volunteer lawyers and legal aid providers are forced to turn away thousands of Hoosiers every year for lack of sufficient resources. With the creation of the *Civil Legal Aid Fund*, the General Assembly recognized the importance of competent legal representation in our courts. We are seeking an increase in that fund so that more Hoosiers can receive adequate legal representation.

Veteran's Courts. Mirroring the positive outcomes from the first veteran's court, we have continued to support and expand these specialized dockets aimed at turning around the lives of troubled veterans. The Court is requesting funding to support Indiana's 16 certified veterans' courts and to add eight more programs, some of which will be district-wide and will serve several smaller counties that cannot support a full program.

The Court's Own Operating Needs. During the last biennium, the Court sought but did not receive a change package approval for its internal operations. Rent payments, travel, utilities, and general office operations, including charges from Executive Branch agencies, such as IOT, continue to increase. The Court cannot continue to operate at its current level without recognition of the increases. This includes personnel costs (.1) and operating expenses (.2-.9).

New laws, rules, and procedures cannot be properly implemented without adequate education for the judicial officers and court employees who make this happen. We are accordingly seeking a modest increase in the *Judicial Center Fund* to hire a judicial education program attorney to develop curriculum for in-person and distance education programs for over 650 judicial officers, probation officers, and court staff.

Commercial Courts. The Court is improving judicial efficiency by creating specialized trial court dockets to handle complex business litigation. These dockets, known as Commercial Courts, with specially trained judges and special procedures, are designed to promote efficient resolution of business disputes by reducing litigation costs and promoting earlier and more frequent settlement of cases. Having a judicial system that can process business litigation with consistency, predictability, speed, and finality is a key factor for the business community. However, this initiative is not just about keeping our business environment competitive. In addition to fostering a strong and vibrant business climate, the more efficient handling of complex, time-consuming commercial cases allows more judicial time for other types of cases. In a parallel but different effort, the General Assembly has asked us to start a Law Clerk Pilot Program to help courts address other types of complex motions. We have been able to absorb some of the initial cost of the commercial courts initiative. In order for these initiatives to be successful, we are seeking a modest increase in funding.

Other Objectives and Challenges – Settlement Conferences in Foreclosure Cases; Volunteer Adult Guardianship Programs; and GAL/CASAs. Since the height of the mortgage

foreclosure debacle, the Court has partnered with the Indiana Housing and Community Development Authority (IHCDA) to provide facilitators who manage statutorily required settlement conferences aimed at working out settlements that avoid foreclosure of Hoosiers' homes. This effort has been funded by part of a \$50 filing fee collected for IHCDA that is set to expire on 12/31/17. The Court supports the continuation of a fee; however, should that not happen, we are requesting an appropriation to continue this worthy program.

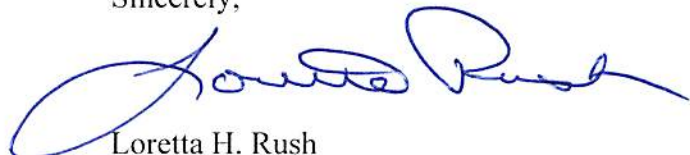
Another challenge is the growing number of seniors and incapacitated adults who are unable to handle their own affairs. We have already developed an excellent model of volunteer-based adult guardianship programs and a guardianship registry. For the next biennium, our goal is to increase the number of volunteer programs so that we are able to provide volunteer guardianship services in a third of our counties.

Indiana's GAL/CASA volunteer program has made great strides in increasing the number of volunteers who speak for abused and neglected children. Unfortunately, whether due to the drug epidemic or other societal challenges, the number of cases of abused and neglected children has skyrocketed, and the increase in volunteers and service hours still leaves 5,422 (at time of writing) children waiting for a GAL/CASA. As a condition of receiving Child Abuse Prevention and Treatment Act (CAPTA) federal funds, states must ensure that every child involved in an abuse or neglect judicial proceeding is appointed an advocate or GAL. Just recently, we learned that the Office of Inspector General of the U.S. Department of Health and Human Services (OIG/DHHS) will be auditing Indiana for compliance with this requirement. The current funding level enables us to provide services for approximately 75% of the children. We are requesting funding that would enable us to appoint an advocate or GAL for every child involved in an abuse or neglect proceeding.

D. CONCLUSION

The Court looks forward to the opportunities and challenges of the next biennium and appreciates the cooperation and partnership of the Executive and Legislative Branches. The Judicial Branch makes up less than 1% of the State's general funding, yet our impact on the daily lives and business of Hoosiers is immense. We hope that the proposed budgets will be met with the support of your agency, the Governor, and the Budget Committee. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Loretta H. Rush". The signature is fluid and cursive, with a large initial "L" and "R".

Loretta H. Rush