

Journal of the House

THIRD DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, January 11, 2023, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Carpenter in the chair.

The roll was called with 111 members present.

Reps. Carlin, S. Miller, Neighbor and Xu were excused on verified illness.

Reps. Alcalá, Carmichael, Donohoe, Jacobs, Johnson, Moser, Neelly, Poetter Parshall, S. Ruiz and Underhill were excused on excused absence by the Speaker.

Present later: Carmichael, Johnson, S. Ruiz, Underhill.

Prayer by Rep. Thompson:

Presence and Blessing

Lord thank you for each one of these
public servants here today.

Psalm 32:8 states:

I will instruct you and teach
you in the way you should go;
I will Counsel you and watch
Over you.

We humbly ask for your wisdom, guidance and counsel
as we make decisions that affect the lives
of the people of our great state.

May we always have the well-being of the people
at the forefront of all of our decisions.

May we never take for granted the trust
that our citizens have given us.

Lord, it is in your most Holy Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Osman.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2012, AN ACT concerning crimes, punishment and criminal procedure; relating to sentencing; requiring certain offenders to complete a citizenship curriculum; amending K.S.A. 2022 Supp. 21-6607 and 22-3717 and repealing the existing sections, by Representatives Rhiley, Fairchild and Hill.

HB 2013, AN ACT concerning elections; requiring a runoff election between the top two vote-getting candidates for statewide office if no candidate receives a majority of the votes cast at a general election, by Committee on Elections.

HB 2014, AN ACT concerning roads and highways; designating a portion of United States highway 69 in Crawford county as the Robert Lessen memorial highway, by Representative Collins.

HB 2015, AN ACT concerning public health; relating to infectious disease; authorizing the designee of an employing agency or entity to petition the court for an order requiring infectious disease testing; amending K.S.A. 65-6008 and repealing the existing section, by Committee on Judiciary.

HB 2016, AN ACT concerning the probate code; relating to transfer-on-death; clarifying how property held under a transfer-on-death deed is distributed when one beneficiary predeceases the grantor; amending K.S.A. 2022 Supp. 59-3504 and repealing the existing section, by Committee on Judiciary.

HB 2017, AN ACT concerning family law; relating to arbitration agreements; enacting the uniform family law arbitration act, by Committee on Judiciary.

HB 2018, AN ACT concerning the probate code; relating to wills; permitting a will or a copy of a will filed within six months after the death of the testator to be admitted to probate at any time; amending K.S.A. 2022 Supp. 59-618a and repealing the existing section, by Committee on Judiciary.

HB 2019, AN ACT concerning transportation; relating to the Kansas transportation network company services act; establishing conditions for when a driver is an independent contractor for a transportation network company, by Committee on Transportation.

HB 2020, AN ACT concerning motor carriers; relating to the employment status of a driver of a motor carrier; prohibiting the altering of employment status for requiring safety improvements on the vehicle, by Committee on Transportation.

HB 2021, AN ACT concerning children and minors; relating to risk and needs assessment for certain children in need of care; allowing for overall case length limit extensions for certain juvenile offenders; requiring the department of corrections to create juvenile justice data systems; increasing use of evidence-based programs account money; authorizing detention sanctions for probation violations; increasing the cumulative detention cap; amending K.S.A. 38-2203, 38-2304, 38-2361, 38-2391, 38-2392, 75-52,162 and 75-52,164 and repealing the existing sections, by Committee on Corrections and Juvenile Justice.

HB 2022, AN ACT concerning the Kansas highway patrol; providing for appointment of the superintendent by the attorney general; establishing the highway patrol as a division under the jurisdiction of the attorney general; transferring functions concerning the highway patrol from the governor to the attorney general; amending K.S.A. 66-1302, 68-2025, 74-2113 and 74-2114 and repealing the existing sections, by Committee on Corrections and Juvenile Justice.

HB 2023, AN ACT concerning crimes, punishment and criminal procedure; relating to crimes against the public peace; creating the crime of interference with the conduct of a hospital; relating to battery; increasing the criminal penalty for battery of a healthcare provider; amending K.S.A. 2022 Supp. 21-5413 and repealing the existing section, by Representatives Concannon and Hawkins.

MESSAGE FROM THE GOVERNOR

January 10, 2023

Message to the Kansas House of Representatives:

Enclosed herewith is Executive Order No. 23-01 for your information.

EXECUTIVE ORDER NO. 23-01
Establishing the Early Childhood Transition Task Force

LAURA KELLY
Governor

The above Executive Order is on file and open for inspection in the office of the Chief Clerk.

COMMUNICATIONS FROM STATE OFFICERS

From: Laura Howard, Secretary, Kansas Department for Aging & Disability Services; Secretary's Annual Report on 988 Suicide & Crisis Lifeline.

From: Laura Howard, Secretary, Kansas Department for Aging & Disability Services; Annual Report on 2022 HB 2703 - Targeted Employment Act.

The complete reports are kept on file and open for inspection in the office of the Chief Clerk.

MESSAGES FROM THE SENATE

Announcing adoption of **HCR 5001**, concurrent resolution providing for a joint session of the Senate and House of Representatives for the purpose of hearing a message from the Governor and for the purpose of hearing a message from the Supreme Court.

The following escorts are appointed for the State of the Judiciary:

To escort the Supreme Court: Senators Warren and Corson.

COMMITTEE ASSIGNMENT CHANGES

Speaker pro tem Carpenter announced the appointment of Rep. Winn to replace Rep. Carlin on Committee on Appropriations for January 10 – January 20.

Also, the appointment of Rep. Martinez to replace Rep. Carlin on Committee on Agriculture and Natural Resources for January 10 – January 20. Rep. Featherston will serve as the ranking minority member.

Also, the appointment of Rep. Winn to replace Rep. Carlin on Committee on Agriculture and Natural Resources Budget for January 10 – January 20. Rep. Winn will serve as the ranking minority member.

On motion of Rep. Croft, the House recessed until 1:15 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker Hawkins in the chair.

STATE OF THE JUDICIARY**January 11, 2022****Chief Justice Marla Luckert**

Mr. Speaker, Mr. President, Attorney General Kobach, Commissioner Schmidt, other executive branch officials, Legislators, honored guests, my judicial branch colleagues, and my fellow Kansans—Good afternoon. I also send greetings to Governor Kelly and wish her a speedy recovery.

Monday signaled the beginning of a new legislative biennium and a new gubernatorial term. On behalf of the Supreme Court, the Court of Appeals, and the district courts across our state, congratulations. We look forward to serving with you.

I would like to introduce two of my special guests who are in the East gallery: my spouse Ken Morse and our oldest daughter Sarah. My other daughters, our sons-in-law, and our grandchildren joined me Monday as I took my oath of office. While they could not be here today, they join me, Ken, and Sarah in expressing our family's congratulations and appreciation for your service. I would not be here serving the people of Kansas without my family's love and support. I appreciate all they do to help me and the immense joy they bring to my life.

Thank you, Speaker Hawkins for generously offering me this chance to update this special joint session of the Legislature on the state of the Kansas judiciary. And thank you President Masterson for agreeing to the scheduling. I am honored to have this opportunity.

In past addresses, I emphasized the resiliency and perseverance shown by judicial branch employees and judges during a period of significant challenge. Conditions required courts to retool most court procedures and business processes. This retooling required hard work, creativity, and the bravery necessary to blaze new trails.

These characteristics are not rare in Kansans. One example was memorialized last summer with the unveiling of the Amelia Earhart statue inside the United States Capitol. Each state is allowed two statues. I am pleased to be represented by such a courageous, daring woman.

Personally, I was blessed with the example of my maternal grandmother, who was of Earhart's generation. Grandma found herself widowed at an incredibly early age, pregnant, and with two young children. Our country was in the depths of a devastating economic depression. And northwest Kansas, where my grandparents farmed, was suffering the dry and windy weather conditions of the dirty 1930s.

With a trailblazing spirit, bravery, and lots of hard work, Grandma, joined by several of her sisters, opened "Mom's Café" on Main Street of Goodland. While she may not have gained the fame of Amelia Earhart, she was famous among locals and travelers for her cinnamon rolls, her pies, and wholesome meals.

I am proud to be a part of the legacy of that strong woman who helped shape my life and showed me the value of resiliency, a strong work ethic, and perseverance. And I am equally proud to be part of the judicial branch team of judges and court employees who displayed these same characteristics as they dealt with difficult conditions. Their

innovation, perseverance, and hard work brought the Kansas judicial branch national recognition in 2022.

In July, a national news organization highlighted our Sedgwick County court as an example of a court that kept processing cases despite the pandemic and that started conducting jury trials much sooner than courts in most other states. The article quoted Chief Judge Jeff Goering's declaration that it took "thinking outside the box." Sedgwick County and other Kansas courts did just that, with Sedgwick County even using tents outside the courthouse to conduct court. Unusual, but it kept cases moving, even if at a reduced volume. While Chief Judge Goering could not be here today, Joni Wilson, the Court Administrator of Sedgwick County, is here. Please stand and be recognized. She, other district court administrators, chief court service officers, and some Office of Judicial Administration staff are here representing the court employees statewide who implemented our outside-the-box ideas. We express our gratitude to these employees. Would you all please stand and be recognized?

Recognition also came to a project designed to make citizens more comfortable with jury service during the pandemic. This effort, led by former Johnson County Chief Judge Kelly Ryan, garnered multiple awards, including two national ones—one from the American Judges Association and the other from the National Center for State Courts. Judge Ryan is also in the gallery today.

Finally, I am proud to report that the national board of the Legal Services Corporation recently recognized our efforts to improve access to justice in civil cases through several innovative programs, including our online portal for obtaining protection from abuse orders. This system guides someone seeking a protection order through the process of filling out and filing necessary forms without coming to the courthouse. Most applications are now filed through this process.

The Kansas judicial system did not rest on those achievements. Throughout 2022, our judges and employees worked with Kansas attorneys to move cases and process jury trials. We also worked to regain momentum on projects slowed by the pandemic, such as the rollout of our statewide case management system. The system now functions in 100 counties, and the rollout remains a priority of our Office of Judicial Administration. Kansans are already benefitting from the efficiencies gained through these efforts. Plus, we continued or started initiatives, several in collaboration with you. These initiatives address some of the most compelling issues facing our state.

One of the most urgent needs is to address the behavioral health issues that underlie many criminal, juvenile, and other cases.

In April, Governor Laura Kelly, President Ty Masterson, and then-Speaker Ron Ryckman Jr., accepted my invitation to join me in opening the first Kansas Mental Health Summit. Leaders of other state courts have commented about how remarkable it was to have the leaders of all three branches of government participate in such a summit. Certainly, it was a historic event for Kansas, and the presence of the Governor and our legislative leaders sent a strong message that this initiative was critical and one on which we would work together. I was honored to present with them and am deeply grateful for their commitment.

The summit brought local and national speakers together to educate more than 600 participants from all 31 Kansas judicial districts. Attendees included behavioral health professionals, law enforcement, prosecutors, first responders, and many others.

I want to recognize the judge who spearheaded organizing the summit and who has maintained the momentum post-summit. Judge Robert Wonnell, from Johnson County, joins us in the gallery today.

His exceptional work created a catalyst to determine how stakeholders can help the court system address behavioral health issues. Following the summit, he formed a statewide mental health community of practice. This group will continue to bring together legislative, executive, and judicial branch representatives to discuss ways to improve our response to justice-involved individuals with behavioral health issues.

Judge Wonnell also collaborated with local judges and others to establish local communities of practice. These groups have continued discussions started at the Summit about how to improve local responses.

These efforts have already changed lives, strengthened families, and made our communities safer. Thank you, Judge Wonnell. And thank you Representatives Brenda Landwehr and Susan Ruiz and Senators Pat Pettey and Carolyn McGinn for their involvement in these efforts.

Another focus in 2022 was strengthening and growing our network of specialty courts. These courts use problem-solving procedures like intensive supervision, treatment, and mentoring to address underlying factors that contribute to a person's involvement in the court system. Often that is a behavioral health or addiction issue.

Each defendant must complete an individualized plan to graduate from the treatment court program. These plans are much harder than typical probation conditions. But the rewards for Kansas and the graduates are worth it.

Graduates speak of how the program transformed their lives.

For Kansas, specialty courts reduce incarceration costs for the state and counties and lighten the burden on the home-based services provided by executive branch agencies. In addition, most graduates from criminal specialty courts do not reoffend, leading to safer Kansas communities.

Currently, twelve districts operate drug or alcohol specialty courts. Two operate criminal behavioral health courts, and a third will soon do so. Juvenile drug courts, outpatient treatment courts, and truancy courts are also active in Kansas.

Our judges also see defendants whose military service has caused behavioral health wounds that need attention. Five counties have a veterans treatment court, including one that started last month and two that are starting this month. Plans are underway to start a veterans treatment court in Saline County later this year. Each of these new courts is in a district where you added judges that gave us the bandwidth to conduct these time-intensive dockets that help veterans and others in specialty courts.

My written report, which has been delivered to your legislative mailboxes, includes a map showing the location of our specialty courts. Several judges involved with specialty court dockets are here today. I would ask them to please stand and be recognized.

The biggest barrier for expansion and creation of specialty courts is funding. Current funding for specialty courts is piecemeal with reliance on federal grants, local nonprofits, county funding, and private donations. Through Senator Jerry Moran's help, Kansas received federal grants to create and operate the veteran treatment courts in Leavenworth, Saline, Sedgwick, and Shawnee Counties and to expand and better

resource the Wyandotte County court.

I am grateful for Senator Moran's support and for your support of specialty courts. Last year, you enacted House Bill 2361, which established the Specialty Court Funding Advisory Committee. The Committee will identify and evaluate funding sources and make allocation recommendations to Judicial Administrator Stephanie Smith. Functionally, the legislation created an account to which funds secured by the advisory committee can be deposited. I thank Minority Leader Vic Miller, Representative Stephen Owens, and Senator Kellie Warren for their willingness to serve on this committee.

We also asked for members of your body to join with us to address another major issue: The shortage of attorneys in Kansas' rural areas. This shortage undermines access to justice and jeopardizes many Kansans' ability to obtain legal representation.

Based on the 2020 census and a 2021 study of attorney demand in the United States, we estimate rural Kansas collectively has only 25 percent of the attorneys needed to meet demand. In some areas, the shortage is even more dire. Judges across the state report they cannot find attorneys to appoint when the law requires them to do so. And your neighbors struggle to find an attorney to help with legal issues.

In response to this shortage, Justice K.J. Wall, who grew up in Scott City, will lead a Rural Justice Initiative. A diverse committee representing legal, business, and governmental interests join him in this effort. We are grateful that Senator Elaine Bowers and Representative Tory Blew agreed to help. Each member champions the communities they represent and the value that comes from living in our rural areas. Growing up in Goodland, I can attest to that value.

The Supreme Court has asked the committee to identify unmet legal needs across Kansas, study programs designed to recruit professionals to rural areas, and examine strategies to provide attorney services in underserved areas. I look forward to the ideas this committee will propose.

I told you of another initiative in last year's address soon after we had formed an Ad Hoc Committee on Best Practices for Eviction Proceedings. That group, chaired by Court of Appeals Judge Sarah Warner, has now presented its initial report. Building on that foundation, we received a grant to develop a voluntary eviction resolution program in Wichita. The program connects property owners and tenants to resources that help resolve cases earlier, leading to less litigation and cost. Lessons learned will help other courts develop similar programs and best practices to improve housing stability—a benefit to landlords, tenants, and our communities.

The last initiative I would like to highlight started with Johnson County District Court Judge Keven O'Grady. Judge O'Grady created the first self-help center in Kansas to provide a place for individuals without an attorney to come to the courthouse and meet basic legal needs – like accessing legal forms, diversion applications, and plain language explanations of procedures. The Johnson County center estimates it has met more than 31,000 requests for help since its inception in 2014.

Judge O'Grady's passion for self-help centers and other measures that improve access to justice serves as a catalyst for courts across Kansas and the nation. He was also instrumental in creating our Kansas protection order portal. Last August, Judge O'Grady received one of the highest recognitions in our profession, the National Center for State Courts' Mary C. McQueen Award for "extraordinary contributions to

improving the administration of justice." I congratulate Judge O'Grady and thank him. He joins us today in the gallery.

The effect of his efforts continues to grow in Kansas. In 2022, Kansas Legal Services began offering legal aid days at self-help centers in eight counties—Wyandotte, Johnson, Harvey, Thomas, Miami, Sedgwick, Franklin, and Ellis. And Bourbon County has now opened our latest center.

I have shared just a few of many examples of judges and employees tirelessly serving Kansas and working to improve access to justice. My written report includes additional examples and more information about the operation of Kansas courts. I urge you to read about the extraordinary efforts covered there.

As these examples suggest, the Kansas judicial branch is only as strong as its judges and employees. I want to take this public opportunity to thank Kansas judges and court employees for their creativity, hard work, persistence, and dedication to service.

While expressing gratitude, I would be remiss if I failed to thank the Legislature and Governor Kelly for the efforts to strengthen the judiciary over the last two sessions.

First, you enacted a significant shift in how the court system is funded. For decades, the judicial branch budget depended on unstable court user fees. This led to hiring freezes, and it risked court closures. Through your efforts last session, core judicial branch operations no longer face the unpredictability of fee funding. Those fees are still assessed, but last year's legislation shifted the deposits of those fees from accounts directly funding the judicial branch to the state general fund. Now, the judicial branch receives an amount from the general fund equal to that projected deposit. We can now plan accordingly. This funding stability is critical to strengthening the Kansas judicial system.

Next, you brought judicial employee salaries to 2021 market rates and provided a cost-of-living increase. You also increased the salaries for judicial positions.

Finally, based on a weighted caseload study conducted by the National Center for State Courts, you funded 23 new judge positions to relieve strained district court capacity. These very needed positions are the first since 2008. Citizens in communities with new judge positions are already benefitting from improved access to timely justice.

Thank you for this support. As we begin 2023, I ask for your help again. Market forces and inflation are already eroding your effort to bring employee salaries to market rate. Because of this, our budget asks for a cost-of-living increase for employee positions so we can continue to offer market rate pay to attract and retain the employees we need.

While we have started to address uncompetitive judicial pay, I ask you to please continue that effort. Our budget proposal requests a raise in judicial pay to a rate that allows us to better compete with the salaries well-qualified attorneys can command in Kansas' public and private legal markets.

To highlight the pay gap, some brand-new attorneys in the Kansas City area begin their careers making more than the district judges they appear before. Under the criteria you have set, those new attorneys could not apply to be a judge for at least another five years. Over those five years or more, their pay increases and the gap between what they make and what we can offer judge candidates grows wider.

Kansans, acting through you as their representatives, have given judges profound responsibilities. Judges impose criminal sentences that deprive life and liberty, resolve child custody disputes that affect fundamental parental rights, decide contract disputes impacting our business community, and conduct other criminal and civil proceedings that result in life-altering judgments.

Amelia Earhart said, "The most difficult thing is the decision to act. The rest is merely tenacity." Kansas courts have acted to strengthen our court system and we pledge continued tenacity in that effort. This body has collectively recognized the value of bringing the judicial branch to market pay so we can attract and retain well-qualified individuals. As the leader of the judicial branch, I ask you to be tenacious in accomplishing that goal. Your tenacity will reap benefits for your constituents.

Thank you for your time and attention today. I hope I have given you a better understanding of the Kansas judicial branch's efforts toward what I am confident is our shared goal—a goal of ensuring Kansans have a fair and impartial judicial system that functions in a timely and efficient fashion and provides our neighbors with good service.

I look forward to collaborating with you throughout the session and in the years to come to ensure we meet that goal.

May all of you and our great state continue to be blessed.

On motion of Rep. Croft, the House adjourned pro forma until 11:00 a.m., Thursday, January 12, 2023.

JENNY HAUGH, JULIA WERNER, *Journal Clerks.*

SUSAN W. KANNARR, *Chief Clerk.*

