
**Remarks by
Chief Justice Shirley S. Abrahamson
before the Joint Committee on Finance**



March 14, 2007

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Good afternoon Co-Chair Decker, Co-Chair Rhoades, and members of the Joint Committee on Finance. I appreciate the opportunity to appear before you today to speak about the Wisconsin Court System and Senate Bill 40.

I come before this committee to request legislative support for the court funding contained in Senate Bill 40. We are pleased to see the Governor's bill addresses many of the proposals put forth in our budget request. While these proposals will not eliminate the challenges facing the court system today, they will move us in the right direction. Provisions relating to self-represented litigants, effective justice strategies, improved court handling of child abuse and neglect cases and courthouse safety will help us better serve the people who come through the courthouse doors.

Senate Bill (SB) 40 incorporates the recommendations of the Supreme Court's Planning and Policy Advisory Committee (PPAC), which each biennium identifies the challenges the courts face, along with recommendations for addressing the challenges. In 2006 PPAC identified the following critical issues the courts face: (1) assistance to self-represented litigants; (2) courthouse security; (3) treatment and prevention of alcohol and drug dependency; and (4) alternatives to incarceration. PPAC also identified four themes that pervade discussion and action on these priorities, namely: (1) budget constraints at the state and county levels; (2) the critical role technology plays in the fulfillment of the mission of the courts; (3) outreach to the communities the courts serve; and (4) collaboration with legislative and executive branches, county governments and others in the administration of justice. You will see these priorities and themes addressed throughout my presentation today.

Some of these challenges have developed with changes in our society. Twenty years ago, there was little need for court interpreters for limited English speakers or assistance for self-represented litigants appearing before our courts.

Other challenges are budget driven. Counties that fund a significant share of our circuit courts' operations are struggling to hold down property taxes in the midst of cost increases. State budget cutbacks combined with rising workloads have put significant strains on the judges and court staff to do more with less – fewer reserve judges, fewer freelance court reporters, unfilled staff vacancies, fewer legal resource materials, reduced training opportunities, fewer outreach efforts, and reduced expenditures for equipment and supplies.

We in the judicial branch appreciate the support we have received from the legislative and executive branches to help us meet these challenges and we look forward to continued collaboration.

I now want to address six court provisions included in SB 40 in terms of their impact on the court system.

Justice Initiatives

SB 40 provides a position to work with counties, the circuit courts, and other justice system partners to implement multiple initiatives in circuit courts and counties across Wisconsin to improve the court and justice systems, including assistance to self-represented litigants, effective alternatives to incarceration, and alcohol and drug abuse programming. Working with these many programs and assisting new ones require time, effort, ingenuity, and coordination. I urge you to support the Governor's proposal.

Electronic Filing

The Circuit Court Automation Program (CCAP) enjoys a strong state and national reputation for case management and information sharing. CCAP, which began as a voluntary program for counties, has proven so successful that currently all counties but one use CCAP. (This last county is scheduled to join CCAP in 2008.) CCAP is a statewide computer system about which we can all feel proud.

CCAP serves as the primary tool for the circuit courts to manage all of its caseload records and create its management reports. CCAP also provides financial and jury management. Our circuit courts cannot function without CCAP.

In recent years CCAP has also worked to develop, implement and support ongoing data interfaces with executive branch and local government agencies, including district attorney and public defender offices, local law enforcement agencies and the Departments of Transportation (State Patrol), Justice, Workforce Development and Revenue.

Furthermore, CCAP developed the Wisconsin Circuit Court Access (WCCA) as the public access adjunct of CCAP. WCCA was initiated in 1999 as a public service to provide Internet access to the public records of CCAP. WCCA should not be confused with the CCAP case management system. WCCA currently receives two to three million website hits daily. Unlike certain governmental databases in Wisconsin's executive branch agencies and in other states, there is no fee for public access to WCCA. And, we have no intention to implement such a fee. WCCA makes the court system transparent to the public.

CCAP is, however, lagging behind other state and federal courts in one area. Electronic filing, or e-filing, has become a standard way for parties across the nation to submit case filings and other court documents. In our budget request, we asked for additional revenues for the development and implementation of an e-filing system, which

would build on a modest e-filing pilot now being conducted in Washington and Kenosha Counties with two participating law firms and limited to electronic filing of small claims money judgment actions.

SB 40 does not include our request for increased revenues to support the development of an e-filing system, but does include our request for statutory language to allow the Director of State Courts to establish convenience fees for e-filing. Revenues from the convenience fees would be used to maintain the e-filing system. Several state agencies impose convenience fees for electronic transactions such as vehicle registration renewal in the Division of Motor Vehicles and hunting/fishing licenses and campground reservations in the Department of Natural Resources.

This language has unfortunately raised concerns about the continued free access to the WCCA website. We are happy to work with the executive and legislative branches to modify SB 40 language to make clear the statutory authority is limited to e-filing convenience fees.

As you know, we are concerned about court fees limiting access to justice. E-filing would be optional so these convenience fees would not affect access to the court system. Parties would still be able to mail or deliver case filings and other official court documents to courthouses.

Standardized Reporting of County Costs and Revenues

By statute and history, circuit court funding relies on a joint state/county partnership. While determining state expenditures for the circuit courts is relatively straightforward, determining county circuit court spending is problematic. Each county organizes its services differently, has different definitions of what constitutes court services, and budgets and accounts for court costs differently.

When legislators and others ask how much counties spend on the circuit courts, we can't answer. SB 40 provides the Director's Office the authority to establish uniform cost and revenue reporting requirements for counties and provides an auditor position to work with counties to establish these uniform standards and to audit county circuit court financial information. Without this provision no one can answer with any certainty how much counties are spending in support of their circuit courts, and no one will be able to make good decisions about the state/county partnership in funding the circuit courts. I urge your support of this proposal.

Children's Court Improvement Program (CCIP)

In 2006, Congress created two new grants for formula distribution to states:

(1) The first grant is for data collection and analysis to help ensure foster children's needs are met in a timely and complete manner.

(2) The second grant is for training judges, attorneys and other legal personnel on child welfare requirements and providing cross-training with child welfare agency staff.

Both these grants require a state match. We were able to reallocate base resources to allow the Supreme Court to apply for the first grant. We were unable, however, to apply for the new training grant because funding for the match was not available. The result is a loss to the state of nearly \$200,000.

SB 40 provides one position and funding to enable Wisconsin to join 45 other states in applying for this federal funding. The dollars invested in proper management of child welfare cases will not only improve the well-being of children but will also help avoid the potential loss of federal dollars to the state and counties if Wisconsin does not comply with federal requirements. I urge you to support the Governor's proposal.

Court Interpreters

The ever increasing need for court interpreters and the important role they play to help assure equal and fair access to justice has been well documented before this committee. Thanks to Senator Kohl's efforts for federal aid, the Legislature's and the Governor's support, and the excellent work of the Court's Interpreter Committee and staff, we have come a long way in assuring that competent court interpretation is available for those who need assistance. We now have 42 certified court interpreters who have passed stringent written and oral exams and a roster of over 300 interpreters who have taken steps toward certification through our training and testing programs.

One last step is needed to ensure equal access to the courts and to bring Wisconsin into compliance with federal equal protection standards. Under the bill courts would be required to appoint court interpreters, when needed, in all cases regardless of indigency. Additional funding is provided to reimburse counties for interpreters provided to non-indigent parties. I urge your support of this proposal.

Financial Assistance to Counties for Support of the Circuit Courts

The state, in addition to funding the personnel costs of judges and court reporters, provides circuit court funding to counties under two programs established in 1994 – the Circuit Court Support and Guardian ad Litem payment programs. Since that time, state funding for these payment programs has not increased in proportion to increasing county circuit court costs.

Under the Governor's proposal, an additional \$19 million over the biennium would be provided to the Circuit Court Support payment program. We applaud the Governor's commitment to increased state support of the circuit courts and urge support of this funding. We point out, however, that by using the current formula to distribute these additional funds, payments would not increase in the 33 counties with one circuit branch. If the executive and legislative branches wish to have these funds distributed differently, we would be happy to work with you.

Court-related Criminal Justice Provisions in SB 40

The budget bill contains a variety of proposals, not part of the court budget requests, dealing with the criminal justice system.

Assess, Inform and Measure (AIM) Project

SB 40 provides a grant to Milwaukee County totaling \$750,000 over the biennium for conducting presentencing assessments for the purpose of providing circuit courts information for sentencing decisions. Under the provision, the Office of Justice Assistance would approve a county-developed program plan and award the grant.

The program design included in SB 40 is taken directly from a court project called AIM (Assess, Inform and Measure). In response to the critical issues of treatment and prevention of alcohol and drug dependency and alternatives to incarceration, PPAC's Effective Justice Strategies Subcommittee has been exploring policies and programs designed to improve public safety and reduce incarceration when public safety is not threatened. The Subcommittee developed the AIM project, in conjunction with the Department of Corrections, to provide courts with information to determine whether offenders may be safely diverted from a jail or prison sentence. AIM is designed to provide judges with the tools they need to make the best possible sentencing decisions. Five counties are attempting to pilot the AIM concept using existing county resources: Eau Claire, Iowa, La Crosse, Marathon and Portage.

We are appreciative of the Governor's support of criminal justice programs in Milwaukee County and funding for the AIM concept. I urge you to support the AIM funding included in the bill and ask for court involvement in the operation of the AIM project.

Sentencing

The budget bill contains several proposals relating to sentencing, including: the elimination of the Sentencing Commission; the creation of a Truth-in-Sentencing Phase II Council and a Bureau of Criminal Justice Research in the Department of Administration's Office of Justice Assistance; and the creation of an Earned Release Review Commission in the Department of Corrections that would make certain early release decisions that are currently within the purview of judges.

The court system's Legislative Committee will be communicating with you if there are any operational concerns the judicial branch may have with these proposals.

Other Justice Partners and SB 40

We recognize the court system is one part of a larger, interrelated justice system involving the state Legislature, the counties and state executive branch agencies.

Our courts become backlogged when other justice partners, particularly the district attorney and public defender offices, lack resources. As I have traveled across the state in my 72 county visits, I have learned that timely justice requires properly staffed district attorney and public defender offices. The circuit courts depend on prosecutors and defense counsel being available for court hearings.

The efficient delivery of the constitutional right to representation for those who cannot afford to pay for an attorney affects the fairness and efficiency of the entire system. I therefore urge you to update the State Public Defender indigency standards so that it can once again fully perform its mandated function.

Finally, SB 40 provides funding for certain civil legal services to indigent persons. These funds would be allocated to the Wisconsin Trust Account Foundation (WisTAF), which was created by the Supreme Court to provide vital legal services using interest on lawyer trust accounts. These revenues support legal services for only a small fraction of those who need them. The Supreme Court has assessed lawyers \$50 annually to help support civil legal services to indigent persons, but this funding is not adequate to meet the need.

WisTAF would distribute the additional funds to programs to provide needed legal assistance in certain cases involving child welfare, child support, domestic abuse, supplemental security benefits, reintegration of mentally ill inmates and juvenile offenders. Fair and timely justice for the poor in these civil areas is as needed as is the provision of criminal legal services. We believe the proposal in SB 40 is a small but important step in the direction of justice for all. I urge you to retain this provision.

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Again, thank you for the opportunity to address you today. I look forward to working with you all in the months and years ahead so that the legislative, executive and judicial branches can work together to address the challenges in maintaining a court system that is open, understandable, affordable and fair for all the people of our great state.