

Interbranch Advisory Committee (IAC) Meeting December 8th, 2023 from 10am-1pm

Welcome from Chief González and Senator Pedersen.

Judicial Branch Update

Issues going into the 2024 legislative session and beyond:

- Artificial Intelligence will be a developing issue. Senator Padden may be introducing a bill on this topic.
- There are security concerns in all levels of the courts in Washington state, exacerbated by social media posts critical of judges and commissioners.
- Lack of public defenders and prosecutors across the state, with different counties facing different challenges. Office of Public Defense Director Larry Jefferson sent a letter to the Supreme Court asking for a freeze in cases assigned to public defenders. Issue referred to the Washington Bar Association to give recommendations. Analysis expected in March. Sen. Torres introduced legislation 5773. Would provide partial state reimbursement for public defenders-provided the counties follow caseload standards.
- Clark County has authorized funding for their 12th Superior Court Judge.
- Supreme Court defects and omissions letter.
- Work continues on unauthorized practice of law legislation.

2024 Judicial Branch Policy Priorities

BJA has approved 6 legislative proposals this year. The goal of this year's policy proposals is to focus on the most time sensitive requests for resources to the courts, as well as technical proposals that have little to no fiscal impact.

The first 2 proposals are centered around the water rights adjudication issue that the Department of Ecology (DOE) is filing in Whatcom County as early as October. The Courts are anticipating about 30,000 claimants. Whatcom County typically handles about 6,000 filings a year so the Whatcom County Superior Court is looking at potentially 5 times the number of filings once DOE begins adjudications. The first two proposals are about providing resources for the Whatcom County Superior Court.

Proposal 1: Water Rights Adjudication Judicial Position

This proposal is requesting an additional superior court judicial position to address the additional anticipated filings from the adjudication filed by the Department of Ecology in Whatcom County. The request includes that funding be provided directly from the State per RCW 90.03.243 which states that the state is liable for extraordinary costs due to water rights adjudication.

There are ongoing conversations about how long the state would handle funding for the extra judicial position after the adjudication is concluded. The prime sponsor is Senator Sharon Shewmake.

Proposal 2: Water Rights Adjudication Commissioner Position

This proposal is a request to create a statutory commissioner position to assist in addressing the water rights adjudication issue in Whatcom County. There is already funding for the position, but the request is to actually create a statutory position. Would also allow for the appointment of a referee in disputes

without party consent. The prime sponsor for this proposal is also Senator Sharon Shewmake and Representative Timmons.

Question on Proposal 2: Have the courts have learned from the Yakima River Basin adjudication ([Ecology v Acquavella](#)) so the process doesn't take as long as that.

Answer: Lessons have been learned from the Yakima River Basin adjudication process. For example, the commissioner should already be in place by the time this adjudication and have time before appointment in Whatcom County to learn the area. There will also be dedicated staff to support the commissioner.

Then there was discussion of proposal #5:

Proposal 5: Additional Judges for both Clark and Cowlitz County Superior Courts

Clark County (RCW 2.08.06) is requesting their 12th judicial officer and Cowlitz County (RCW 2.08.064) is requesting their 6th judicial officer. Both requests are supported by the most recent Judicial Needs Estimate (JNE) completed. The prime sponsor is Senator Lynda Wilson.

Then back to the main order:

Proposal 3: Notice of Court Reorganization

This proposal would require that counties and cities provide one-year written notice to AOC with changes to court or technology services and vendors. This notification would be in addition to the notice that they already provide the party with which they are terminating service. The prime sponsor Representative Greg Cheney and Senator Nikki Torres.

Proposal 4: Court Interpreter Statutory Revisions

This proposal changes Washington Statute to be compliant with the Department of Justice (DOJ) policy interpretations of Title VI; updates statutory Language to align with operations conducted by AOCs Court interpreter program; updates the policy regarding the Language Access and Interpreter Reimbursement Program (LAIRP) to allow more funding to courts resulting after the success of the Board of Judicial Administration's (BJA's) Interpreter Services Funding Taskforce. The prime sponsor Senator Saldaña and Senator Pedersen.

Proposal 6: Supreme Court Bailiff Information Sharing and Investigative Authority

This proposal would create limited investigative authority for the Supreme Court Bailiffs, so that they can better assess security threats and establish standards for them to be able to communicate with law enforcement regarding the potential threats. The prime sponsors are Senator John Lovick and Representative Roger Goodman.

Question on Proposal 6: Will this proposal result in better communication between the Judicial Branch and the Legislative Branch on security concerns?

Answer: This proposal should be a step in that direction.

Question on Proposal 4: Is there an opportunity to remedy two defects and omissions in current court interpreter statutes with the proposal? Past attempts to change language have run into problems with the "single subject rule" in the legislature- that a bill needs to address only one subject, not multiple subjects, in one bill.

Answer: The Chief Justice will work with Brittany and the Interpreter and Language Access Commission on this issue.

Question on Proposal 6: Is there an expectation that other levels of the judiciary will also ask for funding for additional security?

Answer: Other levels of the judiciary are also having security issues. The state is responsible for security of the Supreme Court and WA Court of Appeals. At this time the Court of Appeals fund their own security. There may be legislation on WA Court of Appeals security in 2025.

2024 Judicial Branch Budget Priorities

- The Supreme Court has authorized the Administrative Office of the Courts budget proposal. Overall, the budget request is tailored for a supplemental budget. This includes technical items, and fixing stuff that's broken or critically needs to be fixed. The entire judicial branch request from the general fund this year is \$18.1 million. If you look over 3 years (2024-2027) the request is for \$38.2 million of general fund dollars, which is not a lot considering that request would be for the entire judicial branch.

There are three main areas of the budget ask for this supplemental budget:

- **Support Trial Courts - \$2.4 million total**
 - Fund Water Rights Adjudication: \$1.5 million
 - Superior Court Judicial Officers: \$0.4 million
 - Fund 12th Clark County Superior Court Judge
 - Implement Protection Order Training for Judicial Officers: \$0.5 million
 - **Question:** What is the per diem rate for travel in the Judicial Branch to go to trainings?
 - **Answer:** Per diem fluctuates by area. For Thurston County it is \$74 for meals and about \$100 for hotel rooms per day.
- **Improve Access to Justice - \$3.3 million total**
 - Continue Funding Blake Implementation: \$1.7 million
 - Align Juror Pay Pilot Funding with Implementation: \$.17 million
 - Expand Self-Help Center Pilot: \$1.3 million
 - Increase Minority & Justice Commission Staffing: \$.13 million
 - The Minority and Justice Commission has been drawn into more legislative work recently and would benefit from an additional policy person.
- **Maintain Critical IT Infrastructure - \$1.8 million total**
 - Implement Small IT Projects
 - Cyber Security: \$239,000
 - Person Management: \$916,000
 - Appellate Case Management: \$400,000
 - Appellate Document Management: \$215,000

Legislative Update

Senator Padden, 4th Legislative District

- Session starts January 8th, bills able to be 'pre-filed' since December 4th. 42 bills officially listed in the Senate.

- Law and Justice Committee, Senator Dhingra will chair the committee once again. William Bridges is the new committee coordinator for the Law and Justice Committee. Law and Justice Committee generally has more policy bills than any other committee in the legislature.

Senator Pedersen, 43rd Legislative District

- There should be some breathing room in the supplemental budget this year. The total surplus for spending should be about \$1 Billion.
- Appreciates having the Judicial Branch's defects and omissions letter before the end of the year.
- Senator Padden and Pedersen working together on a bill about guardianship to fix technical issues that have come up in the Uniform Act over the last couple of years. Opportunity for a pilot project in the Office of Public Guardianship to help with some of the difficult to discharge patients who are stuck in hospitals and are having trouble being transferred to other forms of care.

Representative Taylor, 30th Legislative District

- \$11 million for therapeutic interventions for Blake Decision related cases, expanded to \$21 million this Biennium. Drug cases in courts of limited jurisdiction have expanded exponentially.
- Brings a family law lens to policy making, particularly behavioral health issues.
- Colleagues have talked about wanting to expand therapeutic courts.
- Workforce shortage is affecting all sectors.
- Revamp of Senator Dhingra's SB 5205. Courts don't see many of the family law cases that exist because of a lack of attorneys to litigate them.
- Bill last year to establish a "Commission on Men and Boys". What are we trying to address when it comes to marginalized in our communities? Could we create solution pipelines to deal with suicide, gang involvement, or extremist activity?

Representative Cheney, 18th Legislative District

- Working with Rep. Farivar, and other colleagues on "[Trueblood Decision](#)" issues.
- Major cyber incident issue in Clark County on election day this year. Caused major process issues for over 4 days. Working on a cyber security bill.
- Have been working on Public Defender issues/shortages in workgroup during the interim with OPD.

Committee Member Updates

Attorney General's Office (AGO)

- Affirms the lack of public defenders in judicial system, is seeing its affects at all levels of the legal system.

Washington Association of County Clerks (WSACC)

- 1 Bill priority HB 1205 (2023-2024) - Dependency Publications. 30-years ago, the state took dependency cases and sent the responsibility to the Attorney General, but left the responsibility to publish them to the County's, specifically the County Clerks. The legislation would shift responsibility for publication to the Attorney General.
- Want to find a path forward to eliminating juvenile legal financial obligations from juvenile records.

Senator Padden, 4th Legislative District

- Working on a possible oral swab test for DUIs bill with Rep. Goodman.
- Will possibly have a bill to encourage growth of bee population.

Pro Bono Legal Council (PBLC)

- 2024 will be the year for strategic legal advocacy training. Hoping for a larger event this year and partnership with the courts.

Office of Public Defense (OPD)

- Blake Decision at the top of the list to litigate remaining outstanding cases.
- Working to make meaningful connections with educational institutions at all levels to widen pipeline of aspiring legal professionals entering law as a public defender, possibly including two dedicated staff people going across the state to educational institutions for this purpose.
- Working on legislation related to dependency and termination of custody cases, including increased funding for contracting groups related to this. They have a \$50,000 budget request for funding issues related to these cases for small things such as helping with an outstanding utility bill if needed (as an example).
- Thanks to Representatives Taylor and Cheney for co-sponsoring HB 1911.

Superior Court Judges' Association (SCJA)

- Working on past proposals, RCW 26.09.191, working with stakeholders to fix language stakeholders have had issues with in the past. SB 5295.
- Working on a bill related to DCYF not picking up children from detention facilities when parents do not get them. Senator Trudeau and Senator Claire Wilson are working on this issue. A legislative fix may be necessary.
- Notes lack of increased funding for Judicial education since 2008.
- Working with minority and justice commission on a few bills, including jurisdictional language changes for minors.

District and Municipal Court Judges' Association (DMCJA)

- 'You've been served' event coming up, great opportunity for judges and legislators to interface in the community and get a better understanding of the different functions of Washington courts.
- Participating in a national conference on the courts and AI. They should walk away from it with suggestions on policy and procedures regarding the courts and AI.
- Bill in the works to change "incompetent to stand trial" to "inability to proceed".

Court of Appeals (COA)

- No requested legislation, but some funding requests. This includes salary adjustments, funding for security issues, and funding for Americans with Disabilities Act (ADA) access issues in COA facilities.

Upcoming Meetings

- Next Interbranch Advisory Committee meeting will be in April 19th, 2023. Exact location and time TBD but will be announced. It will be a 2024 Legislative Session debrief and look ahead.