



TESTIMONY OF
JEFFREY A. LOCKE
TRIAL COURT CHIEF JUSTICE

&

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TRIAL COURT ADMINISTRATOR

ON THE TRIAL COURT
FISCAL YEAR 2024 BUDGET REQUEST

FOR THE JOINT COMMITTEE ON WAYS AND MEANS

April 4, 2023

Trial Court Chief Justice Jeffrey A. Locke
Trial Court Fiscal Year 2024 Budget Request
Joint Ways and Means Committee Hearing Testimony
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Good afternoon, Chair Williams, Chair Gomez, and Honorable Members of the Joint Ways and Means Committee. My name is Jeffrey Locke and I come before you as Chief Justice of the Trial Court, a position I have occupied for the last 14 months. Before this appointment, I served as a Superior Court Judge for 21 years and as Chair of Sentencing Commission since 2018. I also served as the Regional Administrative Judge for the Superior Court in Plymouth and Suffolk Counties, as Norfolk County District Attorney from 1997-1999, and as Commissioner of the Department of Social Services from 1999-2001.

Thank you for the opportunity to highlight what is happening in our courts and to outline our budget needs. We appreciate your continued support for the Trial Court and our operations without which we could not provide access to justice to thousands of court users daily across the state.

FY24 Budget Request

Our FY24 maintenance budget estimate is \$868.7M. This amount supports approximately 6,500 employees, 94 courthouses, 1.2M daily MassCourts transactions. We are also requesting a total of \$7.6M in additional funding for three crucial access to justice initiatives that will help us create a more accessible, open court system, especially for individuals for whom English is not their first language and for those individuals who cannot afford an attorney.

Governor Healey's FY24 budget recommendation included \$877M for the Trial Court, including full funding for all three of our expansion proposals as well as an additional \$500,000 for community re-entry services.

Courts and Covid-19 Recovery

As I begin my second year as Chief Justice of the Trial Court, I am pleased to report that we are largely recovered from Covid. We are physically back in our courthouses, and we are conducting the trials that we could not reach during the pandemic. Though we are back physically, we did learn valuable lessons from having to pivot to a virtual court space almost overnight. We learned that not every single court proceeding has to be in-person. We also learned that virtual proceedings can be more efficient for many participants and their attorneys. Each of our court departments have issued standing orders to incorporate virtual proceedings when appropriate in the future.

IT Bond Bill

In the last legislative session, the Legislature enacted the Judiciary's information technology bond bill. I want to thank Judiciary House Chair Mike Day and former Representative Sheila Harrington for filing and supporting the bill. I also want to thank the Legislature for its support of the Judiciary and our IT endeavors. We believe in justice with dignity and speed and this bond funding will help us to further realize these core values. We are in the process of determining how much spending authorization we will receive from the Executive Office for Administration and Finance.

Increasing Probate and Family Judicial Resources

As I mentioned earlier, we are requesting additional funding for three initiatives, which would expand access to justice. Our first request is to add eight judges to the Probate and Family Court bench.

The Probate and Family Courts are currently drowning in a flood of cases which has highlighted a shortage of judges to serve the needs of their litigants. These courts handle cases such as divorces, complaints for custody, support, and parenting time, and guardianships of incapacitated adults, as well as probate cases. The judges, each of whom presides over the life of a family's case and its varied related filings, must understand not only a single transaction or event, but each family's entire history, including the relationship between the spouses, their abilities as parents, and the needs of their children or, in some guardianship cases, the needs of an elderly parent or a drug-addicted adult child.

90% of most cases in Probate and Family Court involve at least one self-represented litigant. Those who cannot afford an attorney must go it alone in an area of law that is often dense and difficult to understand, even for lawyers. As recognized recently by the editorial board of Massachusetts Lawyers Weekly, "judges have increased responsibilities when a party has no lawyer."¹ A judge must stop and explain what is happening in order to fulfill their ethical responsibility, pursuant to the Code of Judicial Conduct, to "help self-represented litigants understand the proceedings."² While this duty is incumbent upon judges, executing it in a courtroom with an overbooked daily

¹ Massachusetts Lawyers Weekly, "Legislature must address Probate Court shortages," Editorial Board, March 17, 2023.

² Comment 1A to S.J.C. Rule 3:09, Code of Judicial Conduct, Canon 2, Rule 2.6.

list and numerous self-represented litigants requires more time than often exists in a court day. The outcome is an unsustainable, overwhelming workload and judicial burnout. The result is a high of rate of judges retiring before the mandatory retirement age of 70 - the highest rate of all Trial Court departments.

These issues are further compounded by the disproportionate number of proceedings in this department in which written findings are specifically indicated. In no fewer than 181 distinct circumstances, Probate and Family Court judges are required to issue written determinations based on the specific facts of each case and getting it right takes time. Because of the volume and complexity of probate cases, judges typically sit for a full court day, after which little time is left for the painstaking work of drafting decisions. Judges in other Trial Court departments have lobby or “writing” days during which they are able to draft written decisions. But this is not the reality for Probate and Family Court judges. Due to the shortage of judges and long court days, lobby days are rare or nonexistent in Probate and Family Court. Judges are left to draft thoughtfully considered decisions with the proper explanation of the Court’s decision, which the litigants both need and deserve, late at night or on the weekends.

While the impact of judicial strain and burnout is significant, the real price of these issues is paid by the public who must bear intolerable delays in obtaining court judgments. Individuals and families must appear, litigate, and wait – sometimes for months on end – for a judge’s decision in important matters such as divorces, adoptions, and estates. Families have no choice but to bide their time until receiving such decisions, making them unable to move on with their lives, while suffering additional emotional tolls and often significant financial costs.

To decrease these delays, under the leadership of Chief Justice John Casey, the Probate and Family Court has implemented innovative initiatives to maximize its use of limited resources. It has rolled out the Pathways case management program to divert cases from the courtroom to settlement conferences and thereby reduce court time and produce quicker tangible results for the public. It has also created the Fiduciary Litigation Session, which operates in two venues and accepts complex probate litigation cases referrals from judges state-wide and has partnered with the Department of Revenue's child support enforcement system to establish a conferencing session.

These initiatives have been possible due in large part to the continued service from seven retired judges who have served on a recall basis to assist the 49 other judges of the Probate and Family Court. Without their service, families seeking justice through the court would have suffered by increased delays. But, reliance on the willingness of retired recall judges to keep our heads above water is not a sustainable model.

Therefore, we are requesting \$1.6M in additional funding, accompanied by statutory authorization, for eight additional Probate and Family judges. Three of these judges would support the Child Support Case Conferencing Session and Fiduciary Litigation Session, reducing our dependence on recall judges. The remaining five judges would float among divisions, as needed, to be assigned to any division in which the workload demanded an additional judge. The flexibility inherent in circuit judges allows them to cover cases assigned to retiring or otherwise unavailable judges, rather than requiring other judges in the division to absorb these cases. None of the proposed

eight judges would require any additional support staff or infrastructure, as judges permanently housed in a division might require.

We have two additional expansion requests which Court Administrator Ambrosino will present.

Specialty Courts

Last year at this hearing, I spoke about specialty courts and how they are helping to meet the substantial increase in substance use disorder and co-occurring mental health issues impacting defendants and litigants. We are able to continue to meet the needs of these high-risk, high-need defendants in 52 specialty courts, thanks to funding provided by the Legislature. With your help in FY23, we continue to expand our specialty courts. Over the past year, we have opened a new Drug Court session in Attleboro and are opening a new Veterans Treatment Court in Gardner. With our focus on the intersection of mental health issues in the criminal system, we are also in the process of opening three new mental health court sessions in Chelsea, Lynn, and New Bedford.

We also seek to supplement our resources with grant funding to implement innovative practices in our courts. Last April, the Juvenile Court Department received a federal \$1.5 million three-year grant to implement the Prevention and Treatment for the Health and Stability of Children and Families (PATHS) Project which enable the child welfare system to better serve children and families affected by substance use disorder, behavioral and mental health challenges, and other factors affecting safety, stability, and permanency. As a part of this initiative, we will be integrating Family Treatment

Court best practices in all child welfare cases in Juvenile Court and expanding Family Treatment Court sessions throughout the state.

Diversity, Equity, and Inclusion

Lastly, let me highlight the Trial Court's commitment to and focus on diversity, equity, and inclusion. We recently published our sixth annual Diversity Report, which summarizes our progress in some areas. We recognize that there is much more to do and we are committed to our objective of a fair and equitable system where all persons are treated with dignity and respect.

To demonstrate this commitment and to centralize our efforts within the Trial Court, we have created a new senior level position in the Trial Court – the Chief Access, Diversity and Fairness Officer. This individual will oversee the Trial Court offices that focus on access and fairness, diversity, equity, and inclusion which includes our Office of Diversity, Equity, and Inclusion; Office for Language Access; Office of Court Services; Office of Access to Justice and the User Experience; and the Office of Alternative and Online Dispute Resolution. The Chief Access, Diversity and Fairness Officer will ensure that that work and our many initiatives are focused on our mission of a fairer and more just system. We have shared this posting with the Black and Latino Caucus and I am happy to share it with you.

Conclusion

Thank you again for the opportunity to speak to you today. I invite all of you and your staff members to reach out at any time to learn more about our work in the Trial

Court. We greatly appreciate and thank you for your past and ongoing interest in and support of the court system. I will now turn this over to my partner in justice Court Administrator Tom Ambrosino to tell you more about our budget and other initiatives.

Trial Court Administrator Thomas G. Ambrosino
Trial Court Fiscal Year 2024 Budget Request
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Good afternoon, Chair Budd, Chair Gomez, and Honorable Members of the Joint Ways and Means Committee.

I am Tom Ambrosino, the new Court Administrator for the Trial Court. I'm actually quite new. I've only been in this position for a short period of time – just about two months. But I have spent more than 30 years in public service, including 12 as Mayor in Revere and, most recently, for the past 7½ years, as City Manager in Chelsea.

I very much appreciate the opportunity to provide testimony today regarding the court system and its needs, and I really just want to highlight a few items.

As Chief Justice Locke mentioned in his remarks, our FY23 budget maintenance estimate is \$868.7 million—which is the amount we need to continue to provide our current level of service. That is an increase of less than 1% from this year's spending. That figure does not include any expansion of efforts, nor does it include any potential cost of living adjustments or collective bargaining agreement increases for union and confidential employees.

We do have three expansion items in our budget request, that total together another almost \$7.7 million. I consider all three of them to be important “access to justice” initiatives. Expanding access to justice to the courts, making our courts more accessible, more welcoming to our users, is among my highest priorities. Coming from the City of Chelsea, a city with an overwhelming majority of residents who did not speak

English as a first language, where almost half were foreign born, and many thousands were undocumented, I am acutely aware of how challenging and intimidating the court system can sometimes be to marginalized groups. My goal is to make our system more accessible, and easier to navigate, for these users.

Expand Resources at Court Service Centers

Chief Justice Locke talked already about the request to add eight judges to the Probate and Family Court. That to me is a real “access to justice” issue. With almost 90% of the cases in that court involving at least one self-represented litigant, adding more judges to ensure that decisions are issued more expeditiously directly benefits some of our most vulnerable users.

Likewise, our remaining two expansion items are also aimed at helping the most vulnerable. The first of the remaining two is funding to add staff to our Court Service Centers so that they can open five days a week while also operating full time in a virtual capacity.

We currently have seven brick and mortar Court Service Centers located in Boston, Brockton, Greenfield, Lawrence, Lowell, Springfield, and Worcester. They are a lifeline to self-represented litigants who must navigate the court system without an attorney. At a Court Service Center, people can access Trial Court attorneys and staff for help filling out forms, getting information about court rules, procedures, and practices, and learning about community resources, legal assistance programs, and social service agencies. These facilities are very well-received and heavily utilized when they are open.

Unfortunately, they are not always open. Currently, we only have sufficient staffing to open them two days per week. During the pandemic, we had to close our physical locations, but we went live with a virtual Court Service Center. Now that we are moving past Covid and are back in our courthouses, we do not have sufficient staff to both continue to maintain the virtual Court Service Center, for which there is still great demand statewide, and open the physical locations full time.

We are requesting \$2.2 million to fund 33 new positions, including 19 new staff attorneys. That will allow us to do three things: open the existing centers full time; expand the virtual Court Service center from its current three hours per day operation to all day; and add one more brick and mortar location to Bristol County.

Enhance Language Access Through Interpreters

Our final expansion request is focused on our court users for whom English is not their first language. We currently employ 65 full-time court interpreters and rely upon per diem interpreters to meet the language needs of our users. In FY22, we had almost 160,000 interpreter requests for 108 languages. We also had 34,000 same day requests.

With our current staffing structure, we have not been able to meet these demands. Our per diem contract employees do tremendous work for the Court system. But we cannot always guarantee per diem interpreters will be available *exactly* when the Court needs them, which means that interpreter requests go unfilled. This is especially true with same day interpreter requests—someone shows up unexpectedly for a restraining order or an arrest occurs during the court day. When an interpreter is not

available for these events, a witness, a litigant, or a person seeking a restraining order, must wait for hours or return to court another day. That is not adequately delivering justice.

To address this problem, we are requesting \$3.8 million to add 52 full-time staff interpreters so that we can better fulfill the demand for interpreter services and meet our responsibility to ensure that court users with limited English proficiency can understand court proceedings and process. Keep in mind funding this request will *not* eliminate the need for per diem interpreters. We will always need some level of outside support. But having more full-time interpreters will substantially lessen our unmet needs.

Again, the total of all three of these expansion requests is approximately \$7.7 million, which is less than 1% of our total budget. And, even with these expansion items, our total budget request of \$876.4 million is less than a 2% increase from FY23.

IT Bond Bill

I do want to take a moment to conclude with two other items. First, I want to thank the Legislature for the IT Bond Bill that was approved last August, and especially recognize the work of Judiciary Chair Mike Day and former Representative Sheila Harrington for filing the bill. With that funding, we are substantially modernizing our IT systems. The initiatives now underway as a result of that funding include; rebuilding our network infrastructure across the state; installing public Wi-Fi throughout our system; instituting digital signage for our courthouses; upgrading our security systems and bringing on board new case management systems for both the appellate courts and our Probation Department. We hope that our continued partnerships with the Executive

Office of Technology Services and Security and Administration and Finance will help us maintain progress and allow us to deliver on our promise to bring our judiciary into the 21st century.

Massachusetts Probation Service

Finally, speaking of the Probation Department, you may be aware that the Commissioner of the Massachusetts Probation Service, Ed Dolan, has announced that he is retiring at the end of April. This is an enormous loss for the court system and the Commonwealth. Commissioner Dolan came to us a decade ago from the Department of Youth Services, and he is leaving us with an organization much different, and greatly improved, from the one he stepped into 10 years ago. During his tenure, he has achieved one of, if not the lowest, re-incarceration rates for technical violations in the country, while maintaining historically low rates of rearrest for new offenses committed while on probation.

Chief Justice Locke and I have already begun the search for his successor, but it will be very difficult to find someone to step into Commissioner Dolan's shoes. We publicly thank him for his exceptional service.

Conclusion

That concludes my comments. I thank you again for your time and your attention. And I'm happy to try to answer any questions you may have.