

State of the Judiciary Address
delivered by
Chief Justice I. Beverly Lake, Jr.

Lieutenant Governor Perdue, Speaker Black, President Pro Tempore Basnight, Senators and Representatives of the 2001 General Assembly, distinguished guests, and ladies and gentlemen: Thank you for tonight's invitation to share with you the progress and overall status of North Carolina's Third Branch of Government, our Judicial Branch. It is indeed an honor for me to be given the privilege of entering this chamber to address a joint session of this General Assembly.

If I may, I would like to begin on a point of personal privilege. Twenty-four years ago, I was given another honor which I will always cherish. The people of Wake, Harnett and Lee Counties made me a member of this General Assembly. Because of my years here, I know firsthand how hard you work, the burdens of constituent service and what an overall joy it is to represent and serve as you do all the people of North Carolina. While here, I served with many great North Carolinians, and six are still serving and are, I believe, here with us tonight: Senator Plyler, Senator Soles, Representative Brubaker, Representative Easterling, Representative Holmes, and Representative Nye. I want to pay a special tribute tonight to these six members who have rendered such long and laudable service to our State. Thank you so much.

One of the primary goals which we have worked toward over the past several years, under the good leadership of our last two Chief Justices, has been the enhancement of the partnership which we share, wherein you make our laws and we apply them---consistent with your intent, our Constitution and the Common Law. In working toward this real partnership goal, it is critical that we continue to improve the sense of partnership between the Legislative and Judicial Branches. To this end, it is essential that we in the Judicial Branch be forthright and accurate in anticipating our needs and in communicating them to you. This I am committed to do.

It is, I believe, reflective of this commitment that, in filling the very critical position of Director of our Administrative Office of the Courts, I chose Judge Robert Hobgood, a former member of this General Assembly. He has worked with you through the years and is, as you know, a man in whom we all can have complete confidence and who will greatly enhance our partnership.

Now, with that preliminary, I am pleased to report to you tonight that the state of the judiciary is generally good and justice in North Carolina has improved, thanks in large part to the recent actions of this body in moving our courts further into the technological age. This is the message reflected in our year 2000 Annual Report, which outlines a number of accomplishments and some of our concerns for the future. A copy of this report is hopefully with each one of you tonight.

As you well know, it is simply a fact of life that today we live or die by the computer. From the county magistrate's office to the Supreme Court, new technology saves valuable time, a great deal of money, and lives. Our law enforcement officers are back out on our streets more quickly, and our citizens don't have as long to wait for critical services at our 100 offices of clerk of court. The clerk's office of the Supreme Court is the first in the country to offer e-filing.

Since its inception a year and a half ago, 88 briefs have been filed electronically resulting in substantial cost savings. We thank you for understanding our most critical court needs in the area of technology.

In terms of case management and backlog, our courts are doing reasonably well in light of the continued, substantial increase in cases and petitions filed at all levels each day. I am pleased to report that at the end of the year 2000, the Supreme Court was current and today is able to set cases for oral argument without delay. Our Court of Appeals judges continue to work exceptionally hard, and they produce an incredible number of well-written opinions. Last year, 1592 appeals were filed with that court, and notwithstanding the election, the court disposed of 98% of them by written opinion. The Court of Appeals judges welcome the three new judgeships which you created last year. Our 105 Superior Court Judges across the state disposed of 285,408 cases last year, approximately 96% of the number filed (296,380), and our 235 District Court Judges, incredibly, disposed of nearly 2.5 million cases, or 98% of the total cases filed (2,530,221).

As you can see from these numbers, our trial judges, these 340 public servants, who like you are elected by our people, are doing a tremendous amount of work, and they are doing it exceptionally well. However, they are no longer able to keep pace with the incoming surge of people seeking help from our courts. In this regard, I would like to recall the words of former Chief Justice Burley Mitchell in his 1999 address to you, and I quote: "Our trial courts are struggling but holding their own. They will not be able to do so much longer without help."

These words were prophetic, as was the report of the internationally respected Gartner Group, which warned of severe, pending problems due to lack of technology in our courthouses across the state. Your initial funding has already been used to begin a number of urgently needed and cost-effective programs. I emphasize "to begin" because without additional or at least continuation funding, these programs will falter and fail, thus wasting the investment made to date.

These programs include: Courtflow and Casewise computer systems enabling much more efficient management of cases; an Automated Judgment Abstracting System; and a Set-Off Debt Collection Program, which last year collected more than 2 million dollars for future indigent defendant representation by tracking the tax returns of former defendants still owing the state money.

This is good news and a good beginning, but let me again recall the words of former Chief Justice Mitchell in his message to you two years ago. He stated: "Many elements of the existing equipment, software and communication vehicles are so old and outdated that we cannot begin to meet the needs of the various users across the state." We need funding to purchase updated replacement technology, to maintain the new programs in which our partnership has invested, and to provide the training resources which we must have throughout the state.

We are now, by evolution, committed to the course of technology. If you will pardon the analogy, we have launched our boat on a rapid river, which we must now travel. There is no turning back, and if we do not stay the course, we will founder. If we do that, it will cost the taxpayers of North Carolina many millions of dollars to relaunch and get back to where we are now and millions more to recover lost ground.

Now, I fully understand the magnitude of our budget crisis, and we are doing our part to help. I implemented a hiring slowdown on March 1, which is now a freeze. Additionally, we

have taken steps to meet the request by the Office of State Budget to reduce our next year's budget by more than 3.6 million dollars. However, I would be remiss if I did not advise you that this restriction on our budget---this cut---will deeply and severely impact our ability to serve the people of North Carolina.

There are several items I must bring to your attention that are very pertinent as you consider the budget. Last year, we had more than forty positions with start dates other than July 1, and the continuation budget funding for these positions is for only part of a year. Thus, we are scrambling to find funds to pay these positions for a full year. For example, the three new Court of Appeals positions were budgeted on the continuation budget for only six months. We have new and essential courtroom space under construction that must receive basic equipment, such as telephone systems. Further, we were provided nonrecurring funds last year for items that are in fact recurring expenses, such as rent for the Business Court in Greensboro. This is a normal operating expense, necessary to sustain the work of the Business Court, which you authorized last session and which is making our overall court system much more efficient. We are in critical need of funding in these areas---just to remain open.

Before this General Assembly convened, we had our State Judicial Council approve an expansion budget, which was carefully prioritized in accordance with absolute need. The highest category, setting forth our critical needs, calls for \$2,498,000 for fifteen new positions and basic support equipment. The next highest category calls for \$16,074,974 for 220 positions and basic support equipment. These are real, priority needs of the Judicial Branch.

Speaking of priority needs, let me cite to one example where we have been much less than cost efficient. It is not an infrequent occurrence for a Superior Court Judge to open court on a Monday morning for the call of the calendar and the trial of an important case. The attorneys are in place, the litigants are there, the witnesses are there, the clerk of court is there, and the courtroom is filled to overflowing with prospective jurors from throughout the county. The case is ready to proceed---with one notable exception. There is no court reporter. The entire process disintegrates, not just for that important case, but usually for the entire session of court.

The damage from this kind of breakdown is measured not just in the cost of wasted time and resources, but also in the enormous amount of bad will and hostility generated and directed toward our court system by all those citizens who have been made to suffer the wasteful loss of valuable time out of their lives. The cost of a court reporter is minimal compared to this. Also, the lack of sufficient court reporter time is probably the single factor most responsible for extreme delay in appellate review of cases. I urge you to give us at least four additional court reporters as a priority matter.

Now, I would like to get away from the numbers and try to put a human face on our judicial system. Thanks to you, we now have in place, and operating well, a number of new programs designed to help individuals, families, and most important, our children. Most of these programs might be described broadly under the term "therapeutic justice." This simply means that litigants and those close to them normally spend more time receiving counseling and related services and less time in the courtroom. These innovations include such programs as drug treatment courts, family courts, sentencing services, custody mediation, arbitration, foreign language services and our Guardian Ad Litem Program.

In just a few years, we have achieved some very positive results through our Drug Treatment Courts. As you know, the majority of criminal cases arising in our trial courts have a

direct connection with substance abuse. Since its inception, this court program has been giving many substance abusers the incentive to kick their destructive and often fatal habits. The Drug Treatment Courts require much more time and energy on the part of our judges and other court personnel than do ordinary courts. They are by all standards “labor intensive.”

The Family Courts are also very labor intensive, but in my opinion, they are well worth the extra investment. We began with three and now have eight Family Courts in operation. These kinder, family-friendly and more efficient courts are helping families resolve their conflicts through mediation and treatment programs, often without ever having to see a judge. This saves valuable court time and makes room for other cases. When these cases do come to court, since one judge hears the family’s multiple issues, he or she has a much better grasp of the family’s history and can make a much more appropriate resolution. Judge Paul McCoy reports that the program in Halifax County has been well received, with litigants much better satisfied with the outcome of their cases.

With Sentencing Services, our judges are getting the information they need to impose appropriate sentences that make the best use of available resources, again thanks to legislation this Assembly passed last year.

Our Custody Mediation Program is seeing significant success. When divorcing parents are in conflict, which is almost always the case, it is, of course, the children of the marriage who suffer the most. The State’s Custody Mediation Program provides the opportunity for parents to turn difficult situations into problem-solving opportunities. Last year, more than 2,000 couples ended their disputes and worked out parenting agreements through custody mediation offices. Judge Clarence Horton, Chairman of the Custody Mediation Advisory Committee, reports that “divorced and separating parents across North Carolina have embraced the opportunity to resolve their own parenting issues through this program.”

Likewise, we are seeing marked success in the area of arbitration. At least 70% of the people who go through arbitration find a quick resolution and are satisfied by the outcome of their case. About three fourths of the counties have an arbitration program, and we would like to see it expanded statewide.

Thanks to grants from the State Bar’s IOLTA program, the Reynolds Foundation and the Governor’s Crime Commission, our new Foreign Languages Service Project is off to a strong start, with our training programs producing an increasing number of certified court interpreters. Last year, this General Assembly authorized funds for interpreters for civil domestic violence cases, and in all types of cases, these interpreters are proving to be critical to the needs of our exploding Hispanic population. The time has come to make the Foreign Languages Services Project a permanent part of our court administration.

Last year, you established a new, independent commission to develop guidelines and oversee the Indigent Defense Program. This kind of accountability was needed for many years. The Commission is charged with overseeing the 60 million dollar indigent defense budget and developing control regulations. The right to an attorney, especially for the poor and less fortunate, is a fundamental part of our judicial heritage. The goal of the Office of Indigent Defense Services is twofold: to improve the quality of services for indigent defendants and to control the cost of these services. I urge your continued support of this important program.

One of the finest examples of your proactive, people-oriented court system is seen in our Guardian Ad Litem Program. This program makes a tremendous difference in the lives of

literally thousands of our children each year. During the last fiscal year, this program provided essential representation to 15,364 children through more than 3,500 volunteers and 99 attorneys.

These many services, which are provided by thousands of dedicated people each and every day, including Saturdays and Sundays, are making a real difference in the quality of life for all of the people of North Carolina. These services address the fundamental, personal problems so important to the daily lives of our people, and they are the responsibility of our judicial system, over and above our core constitutional mandate to give just and speedy resolution to all cases for trial in our courts.

I want to emphasize one important factor in connection with the overall work of our courts and especially these service-oriented programs. Your judicial system, with almost three million cases filed each year, deals with and affects, on a daily basis, the lives of thousands of our most precious assets---our children. Our future, through the lives of these children, is directly impacted through our juvenile and domestic courts and the other programs I have mentioned. In this regard, I want to stress to you that each and every one of these children is just as important to North Carolina as any of our children in our public schools or in Smart Start, and I submit to you that they are much more at risk. We must not let them down by failing to fund their future.

For many years now, our entire third branch of government, our Judicial Branch, has been required to operate with less than 3% of all funds available to the State of North Carolina. With that level of funding, we have not been able to meet adequately our constitutional responsibilities and expand our services as demanded by our growing population. Now, we find that with the current budget crisis, which we fully understand, we are being asked to curtail all critically needed expansion and even cut substantially into our continuation budget. We recognize that we are being asked to do this while other programs in other areas are recommended for further substantial expansion. In this regard, I submit to you that there are at least three institutional areas within our government which should be close to sacrosanct, even in times of severe crisis. Our public schools should remain open and effective for all; our health-care facilities should remain open and available to all; and our halls of justice should be open, effective and accessible to all.

In closing, let me mention one additional substantial concern. As the Futures Commission of the Courts reported to us several years ago, and as we see even more clearly today, there is a growing lack of confidence and trust in our legal system, including our courts. Many in our society today have little or no confidence in the integrity of our legal system. In my opinion, this stems more from a lack of understanding and a lack of knowledge than from personal experience. In any event, this is having a direct, negative impact on our ability as a society to continue to live together under the rule of law. If our laws and our courts are not respected because they are perceived to be discriminatory or dishonest, then we are moving inexorably toward a level of disorder and societal breakdown that law enforcement and our courts cannot address.

In order to halt and reverse this sharp trend, we need to begin to better educate our people, particularly our young people, about the uniqueness and incredible value of the legal system which we enjoy and which has made this country the greatest nation in the history of mankind.

In my humble opinion, the State of North Carolina should teach substantially more history and civics in our public schools, not less. Our young people simply cannot appreciate the value of that of which they have no knowledge. I believe that “The Greatest Generation,” about which Tom Brokaw so eloquently wrote, was that greatest generation, in our time of greatest need, because they were taught, and thus knew, our history, our governmental institutions and our traditional values. Without such knowledge, our next generation will not come through as that one did.

I have discussed this concern with my friend Mike Ward, our Superintendent of Public Instruction, and I believe he shares this view. I told him that I was willing to commit our Judicial Branch in a concerted effort to assist our schools, in ways that will cost no money, in teaching our young people to know and respect our system and our laws, the people that make them and the people that apply them. To this end, I ask for your help so that in working together we can remain One Nation Under God With Liberty and Justice For All.

Thank you again for this opportunity to speak to you. I wish for each of you the very best of legislative sessions and a very good evening.