

# 2024 Condition of the Judiciary



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## **2024 STATE OF THE JUDICIARY**

Madame President, Mr. Speaker, Members of the General Assembly, Governor Reynolds, Lieutenant Governor Gregg, state officials, colleagues, family, friends and all Iowans.

Thank you for the opportunity to address this joint convention of the 90<sup>th</sup> General Assembly on the condition of the judiciary.

As introduced, I am Suzy Christensen, and I am honored to stand before you today as your chief justice. I continue to live in Harlan with Jay, my husband of 42 years. He is here today along with our five children and their spouses. And when Grammy has an open mic, our eight grandchildren expect a shoutout. My brothers join me today as well as my mom, sitting up front like moms do. Dad is with me in spirit—I am once again wearing his robe for this special day.

Thank you to members of Iowa's Court of Appeals as well as the chief judges from our eight judicial districts across the state who are in attendance today.

As I've said before, I am only one of seven justices on the Iowa Supreme Court. I would like to introduce the other six members: Justices Tom Waterman, Ed Mansfield, Christopher McDonald, Dana Oxley, Matt McDermott and Dave May. I want to thank each of you for entrusting me with the extraordinary responsibility of serving as chief justice.

It is truly an honor to serve with these distinguished jurists who are not only my colleagues but also my friends. As justices, we spend a lot of time

reviewing trial records and appellate briefs, participating in oral arguments, conferencing all cases before us, and setting policy for the judicial branch. But we also make time to break bread together and learn a little bit more about our families and non-judge lives. And for the first time since I've been standing up here, I am not the only justice who has grandchildren to brag about. Within the past few months, Justices Waterman and McDonald each welcomed a new grandson into the world. I may not be their Grammy, but I'm giving them a shout out. It's been said, "The reason grandchildren and grandparents get along so well is that they have a common enemy." You're gonna love it.

Today's speech is my fourth condition of the judiciary. Each year I choose a theme. My first theme was hope. At that time, we were not yet one year into the pandemic, and I wanted the people of Iowa to know that the judiciary did not succumb to COVID-19 and that we remained open for business to ensure continued access to justice. My second theme was peace. Because we were still in the midst of a pandemic, I wanted the people of Iowa to know that the judicial branch was blocking out all the chaos and staying laser focused on our commitment to provide Iowans with meaningful access to justice.

Last year, my theme was listening. With Director Kelly Garcia of the Department of Health and Human Services, I toured the state, visiting eleven communities to learn how the department and judicial branch could work together to improve the lives of Iowa's most vulnerable children and their families.

As you may recall from last year's speech, we created a Juvenile Justice Task Force with some very noble goals:

- Improve outcomes for youth and families;
- Increase public safety;
- Decrease recidivism;
- Be fiscally responsible; and
- Reduce disproportionality & overrepresentation of youth of color in our system.

In early 2023, that task force, which was composed of all the relevant stakeholders including several legislators, came up with 55 recommendations. I am really excited about one particular recommendation that is already being implemented, the diversion program. The intent of diversion is to provide low level juvenile offenders with opportunities to address negative behaviors and become productive members of society, without the barriers the juvenile justice system may unintentionally create. Since implementation of the statewide diversion policy on June 5 of last year, Juvenile Court Services has already diverted nearly 2,500 youth from formal processing. We are confident that diversion will help us meet many of the goals the task force set out to address.

I could spend an entire speech on this topic but instead I will direct you to our annual report released just today for an in-depth discussion of the Juvenile Justice Task Force recommendations and the many other great things going on with the judicial branch.

Fast forward another year. My colleagues and I continue to listen and learn better ways to administer justice more efficiently for the sake of all Iowans. One thing we know for sure: Judges, court staff and lawyers cannot do it alone. We need your help.

At this very moment, I am standing before 150 people (actually 151 people with the Governor) who, hands down, have the most direct line of communication to Iowans. I have no doubt that you, Iowans elected by Iowans, have a mighty interest in upholding the public's trust and confidence in the judicial branch.

- When new laws are enacted by you, or
- when one neighbor sues another neighbor, or
- when an officer charges someone with a violent crime,

it is your judicial branch who applies those laws, determines the outcomes of legal disagreements, and sends convicted criminals to prison to ensure community safety.

I am no Pollyanna. I respect that you may not agree with every opinion issued by the Iowa Supreme Court or decision handed down by one of our trial court judges or magistrates. Heck, I don't agree with every opinion issued by the supreme court. And when I was practicing law, I remember a few cases where the trial court judge or appellate court got it dead wrong (in my opinion). But from the bottom of my heart, I believe that every judge in this state is trying his or her best to apply the law to the facts of a case and make a thoughtful decision.

So, exactly how am I asking for your help today? If your constituents tell you a judge got something wrong, or maybe you tell your constituents the same thing, that is your right to hold such a belief. I may even agree with you. But what I'm asking you to do is to take that opportunity to explain that, even when you believe a judge is dead wrong, they are public servants—just like you—and they are committed to the rule of law—just as you would want them to be.

That leads me to my theme for this year, building connections. Connections are so important in state government. All three branches work for a common constituency—each and every Iowan. And all three branches are held together by the same framework—our great constitution. Government has often been compared to a three-legged stool with one leg for executive, one leg for legislative and one leg for judiciary. We owe it to the people of Iowa to work together and ensure that the three-legged stool remains rock solid.

Another form of support that I am asking for today will come as no surprise: financial. We rely on you, our legislature, to provide us with adequate funding and this year we are asking for a 4.3% increase in funding.

What makes up that 4.3%? In the judicial branch, salaries and benefits account for 95% of our budget. That isn't just a piece of the pie—it's pretty darn near the whole pie. Just like every other employer, public or private, we need to competitively pay our employees and judges. These people have an incredibly important responsibility: making sure all Iowans have meaningful access to justice.

I would like to talk a little bit about judicial pay. Salaries for judges are set by statute. In the last 15 years, judges have received only five increases. That means they have been told “no pay increase” 10 out of 15 years. When we take inflation into consideration, the purchasing power of judges’ pay has actually decreased 17.2% in the past 12 years.

Our judges feel the impact of their salaries not even keeping pace with the cost of living. It is discouraging to know that they are paid less than judges in every state bordering Iowa. For example, Iowa judges make \$16,000 less per year than South Dakota judges, and they make \$38,000 less per year than Nebraska district court judges.

It’s no wonder that the average number of applicants per district court judge vacancy in Iowa has decreased 62% in the past 20 years. In 2003 there was an average of about 17 applicants per vacancy but in 2023 it was down to an average of 6.5 applicants per vacancy. This dramatic decrease in applicants is deeply distressing; being appointed by the Governor to the bench should be the pinnacle of an attorney’s career, not a deep financial sacrifice.

While judicial pay may be unpredictable and considered a barrier when soliciting qualified attorneys to apply for judgeships, we have always been able to minimize that bit of a stick by waving a carrot—a predictable pension plan.

For those of you who have listened to my prior speeches, I have never broached the topic of either pay or pension for our judges. I talk about these things one-on-one with you during our session meetings, but I have never used

the state of the judiciary as a soapbox to relay that message. This year is different. I feel compelled to publicly speak from this platform, in front of our general assembly, as the voice of all judges in our state. Throughout the past year or so, the judicial pension has faced a real problem.

Let me back up a bit for those of you who may not know about Iowa's judicial pension. Iowa judges do not participate in IPERS, the retirement plan offered to most public employees in Iowa. Instead, we are members of the Judicial Retirement System. The Iowa Constitution guarantees judges "adequate retirement compensation" which is further specified in Iowa Code section 602.9104. Until recently, judges paid a fixed contribution rate into their retirement system. For those of you who have IPERS, which also has its own fixed contribution rate, this may sound familiar.

Anyway, that same code section includes a trigger for the judicial pension: once the system reaches "fully funded status," the contribution rates for judges and the state change from fixed to variable. That happened for the first time at the start of fiscal year 2022 when the judicial pension became fully funded—it rang the bell. But if that balance dips below fully funded status again, which it has already done since the bell was rung, the statute makes no provision for reverting back to a fixed contribution rate.

As a result, beginning in fiscal year 2023 and each year after, the rates judges pay into their pension system is no longer consistent and now fluctuates every year. What does that look like so far? Judges are paying more of their



salaries into their pension. When you combine stagnate salaries with increasing pension rates, we end up with every single judge in the state experiencing a net pay decrease. For current judges, that's a hard pill to swallow. For those we are trying to persuade to join the judicial ranks, the unpredictability of the pension makes it less useful as a carrot.

We are asking you to fix this problem so that we can recruit and retain talented judges. The Judicial Branch has filed a bill to return the Judicial Retirement System to a fixed contribution rate like originally set by our legislature. We believe it is in the best interests of the judges, and state, to have certainty in budget predictions. And this can be accomplished with a fixed contribution rate structure, like it used to be, and similar to what IPERS still has.

Enough about money. I'd like to talk to you about other ways the judicial branch would like to build connections. As I stated a few minutes ago, all three branches work for a common constituency—each and every Iowan. As constitutional partners, it makes sense that we work together to help the public understand our respective roles and duties.

Every September, in celebration of Constitution Day, the University of Pennsylvania releases results of its civics knowledge survey. In 2023, it reported that only 66% of adults in the United States could rattle off the three branches of government—executive, legislative and judicial. A staggering 17% of those

surveyed could not name one branch of government. That is beyond disappointing.

Just last month, I was honored to attend the funeral of Justice Sandra Day O'Connor. Justice O'Connor was eulogized by some famous people, but the most moving tribute, in my opinion, was by her son, Jay. While his mother may be best known for making history by being the first woman to be appointed to the United States Supreme Court in 1981, Jay wants us to remember that her rich legacy of public service cannot be understated.

For example, in 2009, after retirement, Justice O'Connor founded the iCivics program aimed at teaching democracy to the next generation. In her own words, "The practice of democracy is not passed down through the gene pool. It must be taught and learned by each new generation." The judicial branch is supportive of our schools incorporating programs such as Justice O'Connor's iCivics, which I understand is already being used by many schools in our state.

Something else we are doing to help the public understand our respective roles and duties goes back to 2011, when we started something called Court on the Road. The name is perfect. We hit the road and hold court in various Iowa communities in an effort to interact with adults, students and local legislators about real cases on our docket. This has allowed us to provide the public with a better understanding of what the judicial branch does beyond the headlines of high-profile cases. Since its inception, we've held court in 35 communities and visited 228 schools. I am confident that the experience has been a smashing

success. If you think your community would like to have the Iowa Supreme Court come to town, please let me know!

I have a new idea to share with you for building connections, something called Trial Court Show & Tell. On behalf of the judicial branch, I am extending a personal invitation to you, our legislators, to visit your local courthouse when court is in session so you can observe a typical day in the life of a trial court judge. To kick off this new idea, the judicial branch intends to invite legislators to participate in staggered times throughout the year, starting with leadership and members of the House and Senate Judiciary Committees.

I can't wait to see this idea unfold. No doubt you will walk away from Trial Court Show & Tell with a better understanding of what we do, and a deep respect for all the folks who keep the wheels of justice turning.

I have spent quite a bit of time talking about how we, as leaders of Iowa's three branches of government, can work together to keep the three-legged stool rock solid. Iowans will also benefit when we build and nurture connections with other partnerships, individuals and entities we fondly refer to as our bar family.

The Iowa County Attorneys Association, the Iowa Defense Counsel Association and the State Public Defender are all part of that bar family among other groups. I would be remiss if I didn't discuss with you another very important topic from last year, and that is indigent defense. According to the 6<sup>th</sup> Amendment of the United States Constitution and Article 1, section 10 of our

state constitution, criminal defendants have a right to counsel. This is constitutionally crystal clear.

In that speech, I started my remarks with a bold statement: the statewide contract attorney shortage is threatening to bring criminal proceedings to a screeching halt. Unfortunately, that is still true. Talk to your county attorney...talk to a judge...talk to a local criminal defense attorney, and you will undoubtedly get an earful.

A whopping 95% of Iowa's nearly 10,000 licensed attorneys are not signed up to accept court appointments to represent juveniles and indigent defendants. What can be done to get more licensed attorneys to sign up? The judicial branch is working with the State Public Defender, Jeff Wright, and the Iowa State Bar Association to figure out solutions. But we need your help.

Over and over again, from across the state, I continue to hear from judges and lawyers that Iowa needs to substantially increase the pay for attorneys doing indigent defense work. Like the judge pay issue, every state that touches Iowa pays more for this work. We are seeing this most acutely in eastern Iowa where attorneys are choosing to work in Illinois over Iowa because Illinois recently revised its hourly rate to be approximately twice as much as Iowa. We have got to do better.

My battle cry this year is the same as last year. The state must fulfill its constitutional duty to provide criminal defendants with the right to counsel. To increase the number of licensed attorneys who will sign up, the judicial branch

continues to support your efforts to increase funding for indigent defense and thank you for what you have done thus far. Justice is in jeopardy by the lack of contract attorneys. And based on what we're being told, the current pay structure is simply too low.

While higher pay would certainly help ease the pain, it won't entirely fix the problem. More broadly, and like many other states, we need more attorneys in rural Iowa. We need creative solutions to attract attorneys to practice in rural areas. Something we're doing right now to address the need for rural attorneys is increasing the implementation of a tool that became necessary during the pandemic—remote proceedings. We cannot expect our lawyers to be in two places at one time, yet that is the position we are putting them in when the number of criminal cases far exceeds the number of available attorneys. That's why we have revised our court rules to direct judges to conduct more remote proceedings when the circumstances are appropriate.

In addition to using remote proceedings to alleviate the problem, we are looking into how we can incentivize young attorneys to hang out a shingle in rural areas. Some of the ideas that seem promising are student-loan forgiveness, stipends and tax breaks. Those things are very familiar in the medical profession—doesn't it make sense to look into similar opportunities for the legal profession to help Iowans access justice? Ultimately, these are policy decisions best left in your hands, but we encourage you to explore ways we can increase

the number of rural attorneys. And we stand ready to partner with you to ensure these policies are promoted and ultimately successful.

I'd like to share with you a connection recently made that resulted in a positive outcome for many Iowans. Once upon a time, several years ago, I was presiding over a jury trial in Fremont County. It is a quaint community but, as many of you know, no one has to use blinkers in a small town because everyone knows where you're going. Anyway, it was becoming abundantly clear that we might not be able to seat a jury of 12 people who didn't have a close relationship or conflict with one of the players. We were down to the last juror who could be considered for jury duty. If she was dismissed, I warned the local sheriff that I would have to send him out to the town square and start snagging potential jurors.

This potential juror was willing to serve on the jury but had a newborn child at home and needed frequent breaks and privacy for pumping. As the presiding judge, I could ensure frequent breaks, but what about a private setting for her? We quickly worked with the Fremont County officials to find an old closet that could be locked from the inside, and a handwritten sign that said "PRIVATE" was taped on the door. That woman not only served as a juror but was the foreperson.

Recently, we called upon Iowa State Association of Counties [ISAC] to help implement a federal law that requires employers to provide basic accommodations, such as time and space, for breastfeeding mothers at work.

They didn't hesitate to help and immediately reached out to its members. I am excited to report that Pottawattamie County was the first to notify us that it created a very nice and welcoming lactation room which I was pleased to tour in October. It sure beats an old closet lit with a single bulb, and helps jurors, court staff, attorneys and litigants participate in the legal system with dignity.

I applaud the counties who either already had lactation rooms in their courthouses or who are implementing them now. On behalf of women and babies everywhere, thank you!

As chief justice, I represent 1529 employees and 261 judges who serve in the judicial branch. These public servants are special. They get it. They understand that what may be a typical day at work for them is perhaps the most difficult day for the person they see engaging in our judicial system.

Iowans rely on these public servants to delicately handle:

- Divorces
- child custody and support
- adoptions
- personal injury and wrongful death
- administration of estates
- criminal matters ranging from seatbelt violations to murder, and
- cases involving children who have been neglected or abused.

Our staff and judges handle these cases with the solemnity and care they deserve. Like I said, these are special people, and I am so very proud of them. But, like many employers, we need more employees to help us fulfil our duty to provide Iowans with access to justice.

The work of a public servant is deeply rewarding, and I encourage Iowans to consider a career in Iowa's Judicial Branch. If you're interested, please take a look at our [website](#) where you can learn more about specific job postings, salary and benefits.

One job in the judicial branch that warrants additional comment is that of court reporting. Last year, I reported on the court reporter shortage crisis. Although we are still severely short-staffed in that area, I want to share some good news that will hopefully move the needle.

Iowa's official form of court reporting has been stenotype. With a small machine that has very few keys, court reporters softly take down every single word during a trial. Their notes look like gibberish, but court reporters can magically turn gibberish into beautiful transcripts.

The Supreme Court recently expanded the definition of official court reporting to include not only stenotype but stenomask reporting, also called voice writers. They are professionals who use a handheld mask, which has a microphone inside, to repeat what is said in a court proceeding, verbatim. That audio is then transformed into text in near real time through the use of a



transcription system. Surprisingly, the stenomask is soundproof and allows the reporter to do his or her work without disturbing others.

Broadening the definition of court reporting to include stenomask opens up the door to more people filling these positions in the judicial branch. Because the military has been exclusively using stenomask reporters for over 50 years, we can now recruit and hire a previously untapped pool of potential court reporters—veterans.

To make sure Iowans and soon-to-be Iowans are aware of this opportunity, we are also connecting with Home Base Iowa and Workforce Development. Recently, the Governor and I had a great conversation about this topic, and she offered her administration's assistance to pursue potential court reporter training opportunities for high school students.

One time I was making small talk with a court reporter and asked, “What made you decide to be a court reporter?” I have never forgotten her answer, and I believe it illustrates the importance of making connections. When Dixie was only 15 years old, she was returning home from a family vacation with her family when her dad parked the popup camper at a campground for the night. Everyone but Dixie headed to the bathhouse. When Dixie’s mom returned to the camper and asked, “Where’s Grandma?” Dixie told her she should have been at the bathhouse too. The family began looking for her in the dark, unfamiliar campground. Sadly, they found Dixie’s grandma floating in the campground swimming pool. There were no lights or fencing around the pool.

In a room full of lots of lawyers and judges, it will come as no surprise that a lawsuit was filed. Dixie was an important witness for the case because she was the last person to see her grandmother alive. Dixie doesn't remember a lot about the trial, but she does remember that the court reporter was kind, and she showed her how the machine works and why it's important to have a record of what people are saying in court.

A seed was planted. A connection was made. Dixie reflects upon that interaction with a court reporter as the catalyst for her becoming an official reporter herself. She reported for 41 years, with the last 27 years as an official reporter with the Iowa Judicial Branch.

I want to do more to connect with you, our elected leaders. It's a lot easier to talk about our budget and other things on the judicial branch's wish list when I know the person sitting across the table.

That's why I'm taking this opportunity to remind you of my office hours at the capitol during session. Starting January 22 and going through March 11, I'll be in the Old Supreme Court chambers from 10 to noon. On those Mondays, I'll stick around and eat lunch on the ground floor. Please stop in. I'd love to get to know you better and hear what's on your mind. If you can't make one of those Mondays work, please reach out and we can find another time to connect. If something pops up and I can't make it work, I have six other justices who I know would be more than happy to scoot across the street and take my spot.

As I'm preparing for this speech every year, I am often asked, "How's Shawn doing?" I have no doubt that Shawn's journey from methamphetamine addiction to recovery continues to provide encouragement to others who may be struggling with any kind of addiction.

When I checked in with Shawn, I asked him my standard question from our old days in STEPS Family Treatment Court: "Shawn, how many days of sobriety?" He still keeps track, every single day. And his answer is stunning. It's 2,123 days. That's 5 years and 8 months. On his five-year anniversary, he went skydiving and sent me a picture to prove it. Rylan joined his dad on the phone with me the other night. He is turning into a fine young man and will celebrate his 12<sup>th</sup> birthday in three days.

Of all the things Shawn shared with me about this past year, I was most overjoyed that he and his friend, Jason, are now the proud co-founders of a new AA in their hometown of Anita. Meetings are held every Thursday night from 6:45 to 7:45 in the basement of the Congregational Church. And the name of their group is pretty darn catchy: "I Need A Meeting." Say it fast. "I Need A Meeting." Sounds just like "Anita Meeting." Great marketing.

As always, thank you Shawn, for allowing me to keep Iowans updated on your story of how Iowa's judicial branch provided a path for your enduring sobriety. You continue to be an inspiration to many, and always to me.

This chamber holds a lot of tradition...tradition I must relearn every January when we are invited to be guests in your home for the condition of the

judiciary. Many of you may not have noticed something out of the ordinary during my speech—something from the judiciary. I asked Jodi, my court reporter, to be at my right side like she was for nearly 12 years. I cannot think of a better way to memorialize my commitment to building connections than to make an official record with one of Iowa’s finest certified shorthand reporters.

In closing, I would like to invite everyone to join us shortly downstairs in the historic courtroom for coffee and cookies.

I also want to thank the many silent heroes who stand ready to protect us at today’s public event. They risk their own safety in order to protect and serve our communities. I know that I speak for everyone in this room—thank you for serving, for doing a job that puts others first, and for preserving law and order.

I’d also like to acknowledge Captain Mark Miller who agreed to be here today at what may be his last official duty before retirement and provide security for an old friend. Mark and I built a connection over 30 years ago when he started trooping and I was an assistant county attorney.

I also want to thank my colleagues for their commitment to our work and to the legislature for its support of our work and for giving me this opportunity to speak with you today.

As chief of the Iowa Supreme Court, I promise to work hard towards building meaningful connections. Like I said, we owe it to the people of Iowa to work together and ensure that the three-legged stool remains rock solid.

Thank you.