

**MINUTES OF THE PUBLIC HEARING  
OF  
THE NEBRASKA JUDICIAL RESOURCES COMMISSION  
June 16, 2023**

Pursuant to the press release issued May 24, 2023, a public hearing of the Nebraska Judicial Resources Commission was held on the 16<sup>th</sup> day of June, 2023, in Room 1507, State Capitol Building, in Lincoln, Nebraska.

AGENDA ITEM I: The Chair called the proceedings to order at approximately 10 a.m. The proceedings included a Zoom videoconferencing option for Commission members and for members of the public. Roll call by the Secretary:

PRESENT (\*denotes Zoom attendance)

Justice Stephanie Stacy, Chair

Judge Travis O'Gorman\*

Judge Anne Paine

Timothy Engler

Taylor Gage

Cyd Hall

Kenneth Hartman\*

Roxanne Kracl\*

Nancy McCabe

Michael McCarthy\*

Brian Phares\*

Meagan Spomer\*

Darlene Starman

Ron Temple

Jacqueline Tessoroff\*

Maria Whitmore\*

EXCUSED

Judge Matthew Kahler

AGENDA ITEM II: The Chair confirmed that all Commission members had received and reviewed the minutes from the annual meeting on December 9, 2022. On an oral vote, commissioners accepted the minutes of December 9, 2022.

AGENDA ITEM III: The following exhibits were received and considered by the Commission, and are attached to these minutes:

- Exhibit 1: Meeting Agenda
- Exhibit 2: Minutes of the annual meeting of December 9, 2022
- Exhibit 3: Judge J. Michael Coffey retirement letter
- Exhibit 4: Judge Douglas Luebe resignation letter
- Exhibit 5: Letter from Presiding Judge Alioth, District Court, 4<sup>th</sup> Judicial District
- Exhibit 6: Memo from C.J. Heavican and Corey Steel, State Court Administrator

- Exhibit 7. Letter from Cedar County Board of Commissions re County Court, 6<sup>th</sup>
- Exhibit 8: Letter from Dennis Collins re County Court, 6<sup>th</sup>
- Exhibit 9. Letter from Dixon County Board of Supervisors re County Court, 6<sup>th</sup>
- Exhibit 10. Letter from Miner Law Office re County Court 6<sup>th</sup>
- Exhibit 11. Letter from Drew Law Firm re County Court 6<sup>th</sup>
- Exhibit 12. Letter from Dodge County Bar re County Court 6<sup>th</sup>
- Exhibit 13. Letter from John Hines re County Court 6<sup>th</sup>
- Exhibit 14. Letter from Senator Albrecht re County Court 6<sup>th</sup>
- Exhibit 15. Letter from attorneys in Cedar County re County Court 6<sup>th</sup>
- Exhibit 16. Letter from Senator Barry DeKay re County Court 6<sup>th</sup>
- Exhibit 17. Letter from the Cedar County Attorney re County Court 6<sup>th</sup>
- Exhibit 18. Letter from Nebraska County Judges Association re County Court 6<sup>th</sup>
- Exhibit 19. Letter from Judge Luebe re County Court 6<sup>th</sup>
- Exhibit 20. Letter from Kenney Pier Loftus Reynolds Law Firm re County Court 6<sup>th</sup>
- Exhibit 21. Letter from Northeast Nebraska News re County Court 6<sup>th</sup>
- Exhibit 22. Email from Melinda Wicks re County Court 6<sup>th</sup>
- Exhibit 23. Letter from Clerk District Court, Cedar County re County Court 6<sup>th</sup>
- Exhibit 24. Letter from the Thurston County Attorney re County Court 6<sup>th</sup>
- Exhibit 25. Letter from the NSBA re 4<sup>th</sup> and 6<sup>th</sup>
- Exhibit 26. CY-2022-County-Court-Weighted-Caseload-Report
- Exhibit 27. CY-2022-District-Court-Weighted-Caseload-Report

**PUBLIC TESTIMONY:** The Commission received and considered public testimony from: Chief Justice Heavican; Sarah Hammond, Dakota County Attorney's Office; Larry Koranda, Cedar County Sheriff; Attorney Alissa Baier; Judge Edward Matney; Senator Barry DeKay; Judge Francis Barron; Attorney Nicole Brandt; Judge Tricia Freeman; Liz Neeley, Nebraska State Bar Association; Corey Steele, Nebraska State Court Administrator.

**AGENDA ITEM IV:** It was moved by Ken Hartman and seconded by Megan Spomer to declare a judicial vacancy exists in the 4<sup>th</sup> Judicial District due to the retirement of Judge J. Michael Coffey from the district court bench, and to recommend the primary office location of such vacancy be in Omaha, Douglas, Nebraska. On a roll call vote, the motion passed unanimously.

**AGENDA ITEM V:** It was moved by Ron Temple and seconded by Judge Anne Paine to declare a judicial vacancy exists in the 6<sup>th</sup> Judicial District due to the resignation of Judge Douglas Luebe from the county court bench, and to recommend that the primary office location of such vacancy be in Hartington, Cedar County, Nebraska.

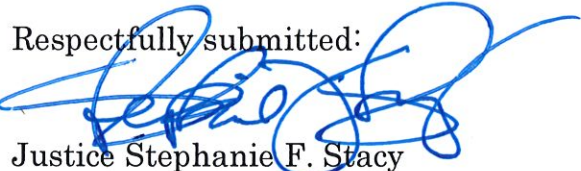
During discussion on the main motion, a subsidiary motion was made by Darlene Starman and seconded by Nancy McCabe to lay the matter of Judge Luebe's resignation over to the Commission's next quarterly meeting on September 15, 2023. On a roll call vote, the subsidiary motion failed with 3 voting yes and 13 voting no.

The main motion was then taken up, and on a roll call vote, the main motion passed with 14 voting yes and 2 voting no.

AGENDA ITEM VI: Due to the length of the meeting, the Chair laid over the issue of appointing an interim Secretary to a future meeting.

AGENDA ITEM VII: The Chair reminded members to calendar the 10 a.m. meeting on September 15, 2023.

There being no other matters brought before the Commission, the Chair adjourned the meeting.

Respectfully submitted:  
  
Justice Stephanie F. Stacy  
Chair

## ATTACHMENTS TO MINUTES:

- Exhibit 1: Meeting Agenda
- Exhibit 2: Minutes of the annual meeting of December 9, 2022
- Exhibit 3: Judge J. Michael Coffey retirement letter
- Exhibit 4: Judge Douglas Luebe resignation letter
- Exhibit 5: Letter from Presiding Judge Alioth, District Court, 4<sup>th</sup> Judicial District
- Exhibit 6: Memo from C.J. Heavican and Corey Steel, State Court Administrator
- Exhibit 7: Letter from Cedar County Board of Commissions re County Court, 6<sup>th</sup>
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- Exhibit 25: Letter from the NSBA re: 4th and 6th
- Exhibit 26: CY-2022-County-Court-Weighted-Caseload-Report
- Exhibit 27: CY-2022-District-Court-Weighted-Caseload-Report

**HEARING AGENDA**  
**JUDICIAL RESOURCES COMMISSION**  
**June 16, 2023 – 10 a.m. CDT**  
**Room 1507, State Capitol, Lincoln, Nebraska**  
**Proceedings include virtual conferencing VIA WEBINAR**

- I. Call hearing to order; roll call of members by secretary.
- II. Approve minutes from the annual meeting held December 9, 2022.
- III. Identify/receive exhibits to be considered by Commission.
- IV. Whether a judicial vacancy exists in the office of the District Court, 4th Judicial District, due to the retirement of Judge J. Michael Coffey, effective June 1, 2023, and if so whether to recommend a primary office location.
- V. Whether a judicial vacancy exists in the office of the County Court, 6th Judicial District, due to the resignation of Judge Douglas Luebe, effective June 2, 2023, and if so whether to recommend a primary office location.
- VI. Appointment of Secretary.
- VII. Other items.
- VIII. Adjournment.



MINUTES OF THE ANNUAL PUBLIC HEARING  
OF  
THE NEBRASKA JUDICIAL RESOURCES COMMISSION  
December 9, 2022

The annual public hearing of the Nebraska Judicial Resources Commission was held on the 9<sup>th</sup> day of December, 2022, in Room 1510 of the State Capitol Building in Lincoln, Nebraska. The Chair called the meeting to order at 1 p.m. The meeting included a WebEx videoconferencing option for Commission members and for the public.

Roll call showed a quorum of the following members:

PRESENT

Justice Stephanie Stacy, Chair  
Judge Matthew Kahler  
Judge Travis O’Gorman\*  
Judge Anne Paine  
Timothy Engler (Vice Chair)  
Taylor Gage  
Cyd Hall  
Kenneth Hartman  
Roxanne Kracl\*  
Nancy McCabe  
Michael McCarthy\*  
Brian Phares\*  
Meagan Spomer\*  
Darlene Starman  
Ron Temple\*  
Jacqueline Tessororf\*  
Maria Whitmore

ABSENT

\*Participating by WebEx

The Chair introduced and welcomed new commission members Taylor Gage, Cyd Hall, and the Honorable Travis O’Gorman.

The Chair confirmed that all Commission members had received and reviewed the minutes from the last quarterly meeting on September 9, 2022. On an oral vote, the minutes of September 9, 2022 were accepted.

The Chair identified and received the following exhibits for consideration during the hearing:

Exhibit 1 –Agenda



Exhibit 2 – Minutes of meeting of September 9, 2022  
Exhibit 3 – 2022 NSBA report to the Judicial Resources Commission  
Exhibit 4 – Letter from 9<sup>th</sup> Judicial District, County Court Judges  
Exhibit 4a – Letter from Harouff Law Firm  
Exhibit 4b – Letter from Goding Law Firm  
Exhibit 4c – Letter from Rowley Law Firm  
Exhibit 4d – Letter from Bradley Law Firm  
Exhibit 5 – Letter from Judge Alioth asking added judge to DC, 4<sup>th</sup>  
Exhibit 6 – Judge Robert Otte retirement letter  
Exhibit 7 – FY-0222 District Court Weighted Caseload Report

All commissioners in attendance confirmed they had received and reviewed the exhibits listed above; all such exhibits are attached to these minutes, with the exception of the Weighted Caseload Report which is archived on the Nebraska Supreme Court website.

The Chair presented the 2022 Report of Judicial Caseloads, Trends and Resources. Supportive data was shared via a PowerPoint presentation, a copy of which is attached to these minutes.

The Commission received and considered public testimony from the following individuals: Michael G. Heavican, Chief Justice of the Nebraska Supreme Court; Amy Prenda, Deputy State Court Administrator for Court Services; Dr. Liz Neeley, Nebraska State Bar Association Executive Director; Jodi Nelson, District Court Judge in the 3<sup>rd</sup> Judicial District; Jeffrey Lux, District Court Judge in the 4<sup>th</sup> Judicial District; Alfred Corey, County Court Judge in the 9<sup>th</sup> Judicial District; Ray Aguilar, State Senator, District 35; Attorney Jan Reeves; Attorney John Icenogle; and Marty Klein, Hall County Attorney.

The Commission took up the judicial retirement in the 3<sup>rd</sup> Judicial District; it was moved by Timothy Engler and seconded by Darlene Starman that the Commission declare a judicial vacancy exists in the 3<sup>rd</sup> Judicial District due to the retirement of Judge Robert R. from the district court bench, and recommend the primary office location of such vacancy be in Lincoln, Lancaster County, Nebraska. On a roll call vote, the motion passed unanimously.

The Commission took up whether it is appropriate to recommend adding a judgeship in any judicial district. Two specific requests were presented and considered:

- (1) The county court judges in the 9<sup>th</sup> Judicial District submitted a written request (Exhibit 4) to consider recommending the addition of a county court judgeship with a primary office location in Hall County. It was moved by Timothy Engler and seconded by Judge Anne Paine to

recommend adding a new county court judgeship in the 9<sup>th</sup> Judicial District, with a primary office location in Hall County. On a roll call vote, the motion passed unanimously.

- (2) The district court judges in the 4<sup>th</sup> Judicial District submitted a written request (Exhibit 5) to consider recommending the addition of a district court judgeship with a primary office location in Douglas County. It was moved by Judge Matthew Kahler and seconded by Ken Hartman that the Commission recommend the addition of a 19<sup>th</sup> district court judge in the 4<sup>th</sup> Judicial District. On a roll call vote, the motion failed on a vote of 2 to 13, with 2 members absent during the vote.

The Commission took up whether it is appropriate to recommend reducing a judgeship in any judicial district. No specific requests were received and no motion was made to recommend reducing a judgeship in any judicial district.

The Commission took up whether to recommend changes to any judicial district boundary or to the number of judicial districts. It was observed that although the new Judicial District Mapping Tool has been distributed to all judges, to the NSBA's Judicial Resources Committee, and to all Commission members, the Commission has not yet received any specific redistricting proposals. No motion was made to recommend any specific changes to the number or configuration of judicial districts at this time. Over the course of the next year, the Commission will continue to encourage the submission of specific proposals for possible discussion at the next annual meeting.

The Commission took up whether to make any other recommendations for the more balanced use of existing judicial resources. It was moved by Timothy Engler and seconded by Darlene Starman that the Commission's Annual Report to the Legislature should call attention to the potential impact of population growth on the current statutory framework governing the number of separate juvenile court judges in counties that have established such a court. More specifically, Neb. Rev. Stat. § 43-2119 (Reissue 2016) states there shall be "Two judges in counties having seventy-five thousand inhabitants but less than two hundred thousand inhabitants" and there shall be "Four judges in counties having at least two hundred thousand inhabitants but less than four hundred thousand inhabitants" and "Six judges in counties having four hundred thousand inhabitants or more." Currently, Sarpy County has two separate juvenile court judges, Lancaster County has four such judges, and Douglas County has six. Because the populations in Sarpy County and Lancaster County are approaching statutory thresholds that would require adding two more judges in each county, the Judicial Resources Commission determined it is appropriate to inform the Legislature that neither the Weighted Caseload Reports, nor the historical caseload



data, suggest a need for additional judges in any of Nebraska's separate juvenile courts. On a roll call vote, the motion passed unanimously.

The Chair addressed the current vacancy in the office of Secretary. In June 2022, the Honorable John Samson was elected to a 2-year term as Secretary, and in September 2022 he resigned such position, creating a vacancy. Rule 001.05 of the Judicial Resources Commission Rules provides that in the event of a vacancy in the office of either Vice-Chair or Secretary, the Chair shall appoint a member to serve the balance of the original term. Any Commission members interested in being considered for appointment to serve as Secretary through June 2024, should contact the Chair directly.

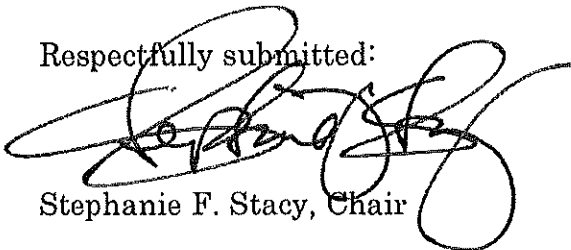
The Chair advised Commissioners of the following tentative quarterly meeting dates for 2023:

- February 17, 2023 at 10 a.m.
- June 16, 2023 at 10 a.m.
- September 15, 2023 at 10 a.m.
- December 14, 2023 at 1 p.m.

It is anticipated that, in 2023, all quarterly meetings will be held in-person at the Nebraska State Capitol and will include the option of videoconferencing via WebEx.

There being no other matters brought before the Commission, the Chair asked whether there was any objection to adjourning. There being none, the Commissioners were thanked for their preparation and participation and the meeting was adjourned.

Respectfully submitted:

A handwritten signature in black ink, appearing to read 'Stephanie F. Stacy', written over a large, stylized circular flourish.

Stephanie F. Stacy, Chair



State of Nebraska  
District Court of Nebraska  
Fourth Judicial District

JUDGE J. MICHAEL COFFEY  
HALL OF JUSTICE  
OMAHA, NEBRASKA 68183-0410  
402-444-1997  
FAX 402-996-8160.

PATTY SPAWN  
BAILIFF

MARY S. McKEEVER, RPR  
COURT REPORTER

March 24, 2023

RECEIVED

APR -3 2023

Office of the Chief Justice

Chief Justice  
Hon. Michael G. Heavican  
State Capitol #2214  
P. O. Box 98910  
Lincoln, NE 68509

Re; Retirement

Dear Chief Heavican:

This is to advise that I will be retiring from my position as a District Court Judge effective June 1, 2023. I have genuinely enjoyed my nearly 25 years on the bench.

It has been an honor and a privilege to serve the citizens of Douglas County and the State of Nebraska.

Very truly yours,

*J. Michael Coffey*  
J. Michael Coffey  
District Court Judge

JMC:jc



# CEDAR COUNTY COURT

## Sixth Judicial District

101 South Broadway · P.O. Box 695  
Hartington, Nebraska 68739  
Phone (402) 254-7441 Fax (402) 254-7447  
Douglas L. Luebe, County Judge  
Diane L. Sudbeck, Clerk Magistrate

April 28, 2023

Governor Jim Pillen  
P O Box 94848  
Lincoln, NE 68509-4848

Honorable Michael G. Heavican, Chief Justice  
State Capitol Room 2214  
P O Box 98910  
Lincoln, NE 68509

Re: Resignation/Retirement

Governor Pillen and Chief Justice Heavican,

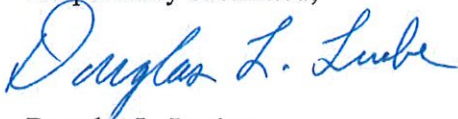
Since my appointment in November of 2023, like Nebraska's Preamble to our Constitution declares, I have been "Grateful to Almighty God" for the opportunity to serve as a County Judge in Nebraska's Sixth Judicial District.

Repeatedly, the great citizens of Nebraska have demonstrated they are honest, diligent, hardworking, compassionate people, with abundant common sense. I have been humbled and greatly honored to have served them.

But time passes to point where with respect and much gratitude, I will effective June 2, 2023, at 5:01 pm, resign to transition into retirement.

My thanks again to the citizens of Nebraska.

Respectfully submitted,



Douglas L. Luebe  
Judicial District 6  
Cedar, Dixon & Thurston County Judge

RECEIVED

MAY 21 2023

Office of the Chief Justice





State of Nebraska  
**District Court of Nebraska**  
Fourth Judicial District

**JUDGE TRESSA M. ALIOTH**  
HALL OF JUSTICE  
OMAHA, NEBRASKA 68183-0410  
402-444-7012  
FAX 402-996-8151

LYNETTE COLEMAN  
BAILIFF  
SARAH SHAW  
COURT REPORTER

April 12, 2023

Judicial Resources Commission  
c/o Dawn Mussmann  
State Capital Building  
P.O. Box 98910  
Lincoln, NE 68509  
Dawn.Mussmann@nebraska.gov

RE: Public Testimony

Dear Justice Stacy and Members of the Commission:

Please accept this letter as written testimony in support of the request of the Judges of the Fourth Judicial District Court that the Judicial Resources Commission determine the existence of a judicial vacancy in the District Court of the Fourth Judicial District. The vacancy is due to the retirement of Judge J. Michael Coffey, effective June 1, 2023.

When a Judge retires, other District Judges manage the retired Judge's cases, in addition to their own cases, until the Judicial Resources Commission declares a vacancy and a Judge is appointed.

Additionally, the Fourth Judicial District Court respectfully requests that the Judicial Resources Commission add to the 2023 Annual Meeting Agenda the item of whether to recommend the addition of an 19th judgeship in the District Court for the Fourth Judicial District. The 2022 Final Report of the Nebraska Judicial Branch Weighted Caseload Report (**Workload Assessment conducted by the National Center for State Courts**) concluded that the District Court of the Fourth Judicial District has **a need for 19 judges**. The March 2023 Pending Caseload Report for the Fourth Judicial District Court reflects the existence of 7,258 pending cases, 3,301 of which are family law cases.

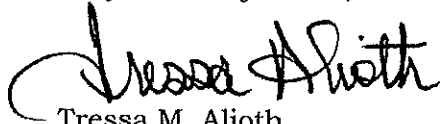
Accordingly, the Judges of the Fourth Judicial District Court respectfully request that the Judicial Resources Commission declare that a judicial vacancy exists in the District Court of the Fourth Judicial District due to the retirement of Judge J. Michael Coffey. Additionally, the Judges of the Fourth Judicial District Court respectfully request that the Judicial Resources Commission add to the 2023



Annual Meeting Agenda the item of whether to recommend the addition of an 19th judgeship in the District Court for the Fourth Judicial District.

Thank you for your consideration. Please do not hesitate to contact me should you have any questions.

Very Sincerely Yours,

A handwritten signature in black ink, appearing to read "Tressa M. Alioth". The signature is fluid and cursive, with a large initial "T" and "A".

Tressa M. Alioth  
Presiding Judge, Fourth Judicial District

CC: Judge Timothy P. Burns  
Judge Duane C. Dougherty  
Judge W. Russell Bowie  
Judge James M. Mastellar  
Judge Marlon A. Polk  
Judge J. Michael Coffey  
Judge Kimberly Miller Pankonin  
Judge Horacio J. Wheelock  
Judge J Russell Derr  
Judge Leigh Ann Retelsdorf  
Judge Peter C. Bataillon  
Judge Thomas A. Otepka  
Judge Shelly R. Stratman  
Judge T. Olon Engleman  
Judge Jeffrey J. Lux  
Judge Molly B. Keane  
Judge LeAnne M. Srb  
Judge Katie L. Benson  
Sheri Larsen, Douglas County District Court Administrator

# NEBRASKA SUPREME COURT



MICHAEL G. HEAVICAN  
CHIEF JUSTICE

P.O. BOX 98910  
STATE CAPITOL BUILDING  
LINCOLN, NEBRASKA 68509  
(402) 471-3738

## MEMORANDUM

**TO:** Judicial Resources Commission

**FROM:** Chief Justice Michael G. Heavican and  
Corey Steel, Nebraska State Court Administrator

**DATE:** June 14, 2023

**RE:** AOCPC Proposal to Postpone Determination of Whether Vacancy  
Exists in 6th Judicial District

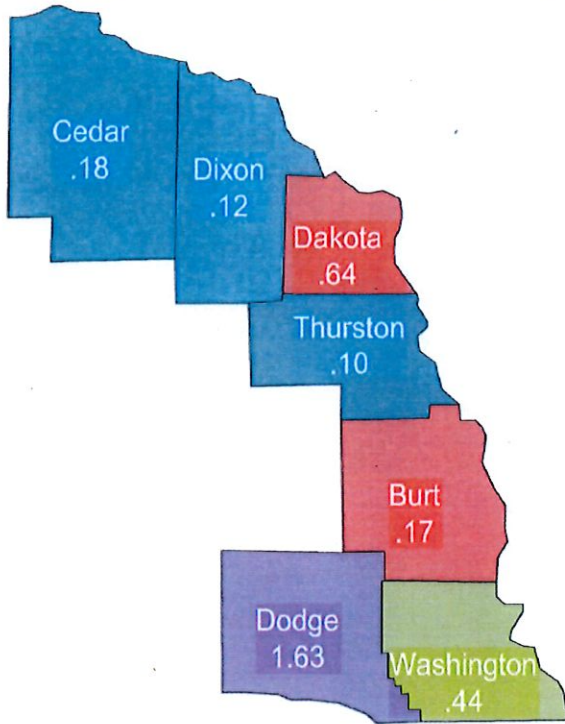
The Judicial Resources Commission is meeting on June 16, 2023, and one of the items on the agenda will be to consider whether a vacancy exists due to the recent resignation of Judge Luebe, effective June 2, 2023. As this memo explains, we will attend the meeting to ask the Commission to postpone final consideration of that agenda item for 3-6 months, to allow the Chief Justice to appoint a committee of judges to study and present specific recommendations for reconfiguring judicial districts as retirements occur.

### Weighted Caseload Data for 6th Judicial District

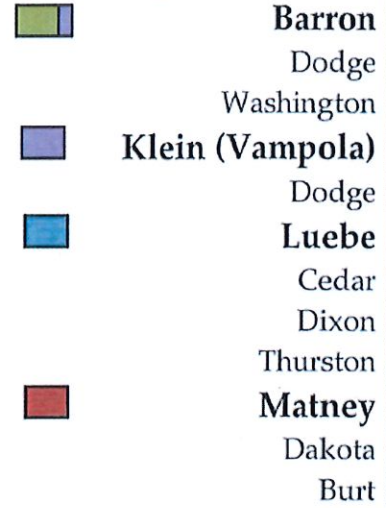
The most recent Weighted Caseload Report (reflecting data for the 2022 calendar year) shows a current need for 3.28 fulltime county court judges in the 6th Judicial District; the district currently has 4 fulltime judges. The average workload per judge in the 6th Judicial District is .82, but as the map below shows, the actual distribution of the workload among the judges varies. For example, the three counties historically served by Judge Luebe (Cedar, Dixon, and Thurston) currently provide a total judicial workload of just .40 of a fulltime judge.



Predicted judicial resources need by county



Judges Serving the 6th District



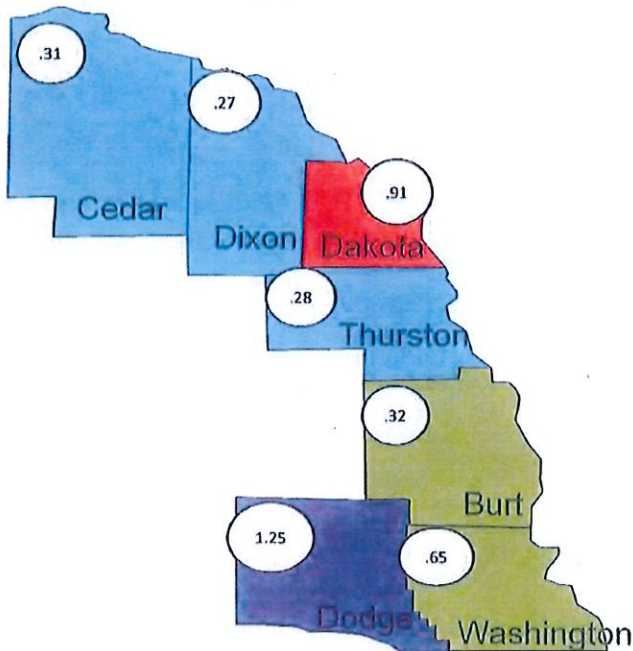
Historically, the judicial workload in Cedar, Dixon, and Thurston counties was more than double what it is today, as depicted by the 2012 Weighted Caseload map for the 6th judicial district:

Weighted Caseload Report  
6th Judicial District - County Court

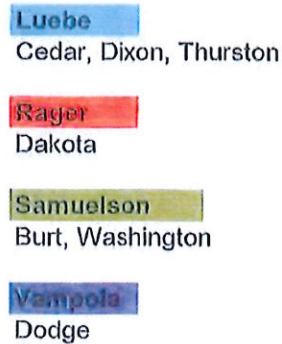
January 1, 2012 - December 31, 2012

Numbers represent total predicted judicial resources need by county

The county court need for judges is: 3.99  
The current number of judges is: 4



Primary Counties Served  
6th District Judges



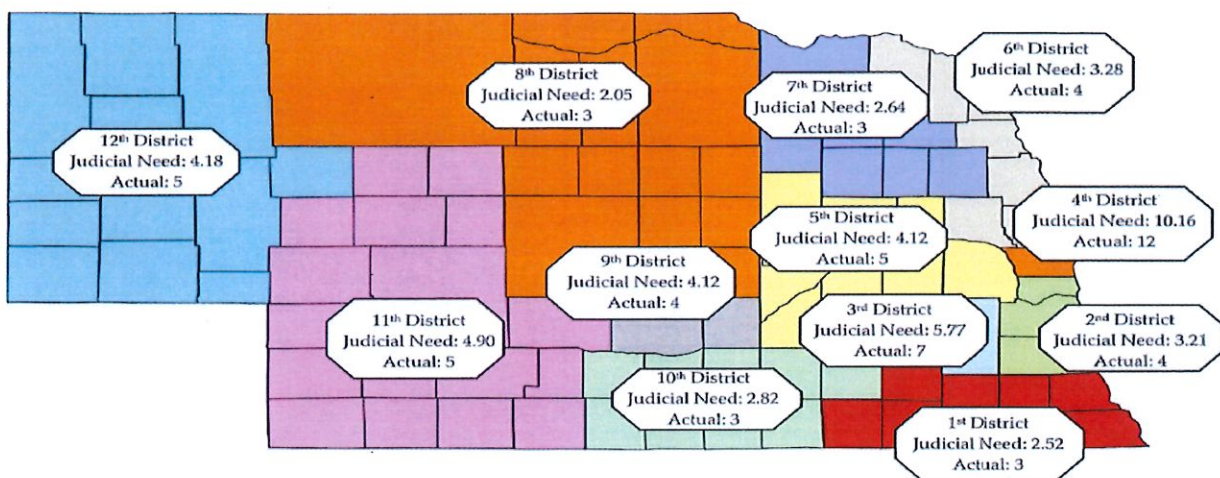
In 2012, the county court bench in the 6th Judicial District was optimally resourced, with a judicial need of 3.99 fulltime judges and four judges to share the work. But a steady decline in new case filings over the past decade, particularly in the northern counties of the district, has resulted in more judicial resources than the current docket requires.

Importantly, this phenomenon is not unique to the county court bench in the 6th judicial district. Rather, it is a sustained trend that we have seen statewide, in both metro and rural courts. As explained next, the current data show that, system wide, Nebraska’s county courts have significantly more judges than are needed to efficiently process the existing judicial caseload.

### Weighted Caseload Data Statewide

The most current Weighted Caseload Report (for Calendar Year 2022) shows that county courts in the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 10th, 11th, and 12th judicial districts *all* have more judges than they need to address the current judicial need. In 2022, only the 9th Judicial District had fewer judges than it needed, as indicated on the following map:

## Nebraska County Court Judicial Needs Calendar Year 2022 (Jan. 1 2022 – Dec. 31, 2022)



And although the 9th Judicial District was under-judged in 2022, the Legislature recently added a county court judge in Hall County, so it is anticipated that when the 2023 Weighted Caseload Reports are released, all 12 Judicial Districts will have more fulltime judges than needed to efficiently handle current caseloads.

Of course, since judicial need is often expressed in fractional terms, some districts are more over-resourced than others. Currently, the 3rd and 4th Judicial Districts are over-resourced by more than 1 fulltime judge; the 8th Judicial District is over-resourced by almost 1 fulltime judge; the 2nd, 5th, 6th, and 12th Judicial Districts are over-resourced by about three-fourths of a fulltime judge; the 1st and 7th Judicial Districts are over-resourced by approximately one-half of a fulltime judge; and the 10th and 11th Judicial Districts are nominally over-resourced. But when judicial



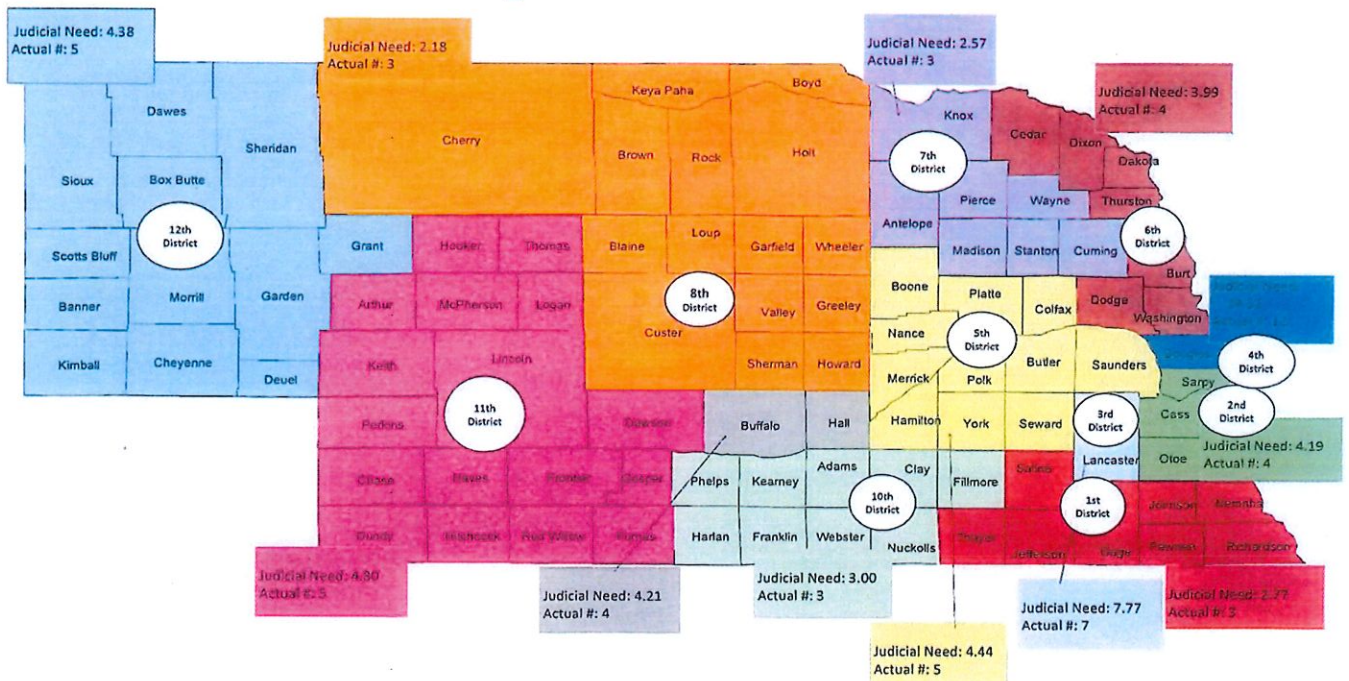
resources are viewed at the statewide level rather than district-by-district, the real scope of the issue becomes clear.

**Statewide, during the 2022 Calendar Year, there were 58 fulltime county court judges, and the court system had a collective judicial need (based on current weighted caseloads) for only 49.77 fulltime judges.**

District	Judicial Need	Actual # Judges
1	2.52	3
2	3.21	4
3	5.77	7
4	10.16	12
5	4.12	5
6	3.28	4
7	2.64	3
8	2.05	3
9	4.12	4
10	2.82	3
11	4.90	5
12	4.18	5
<b>TOTAL</b>	<b>49.77</b>	<b>TOTAL 58</b>

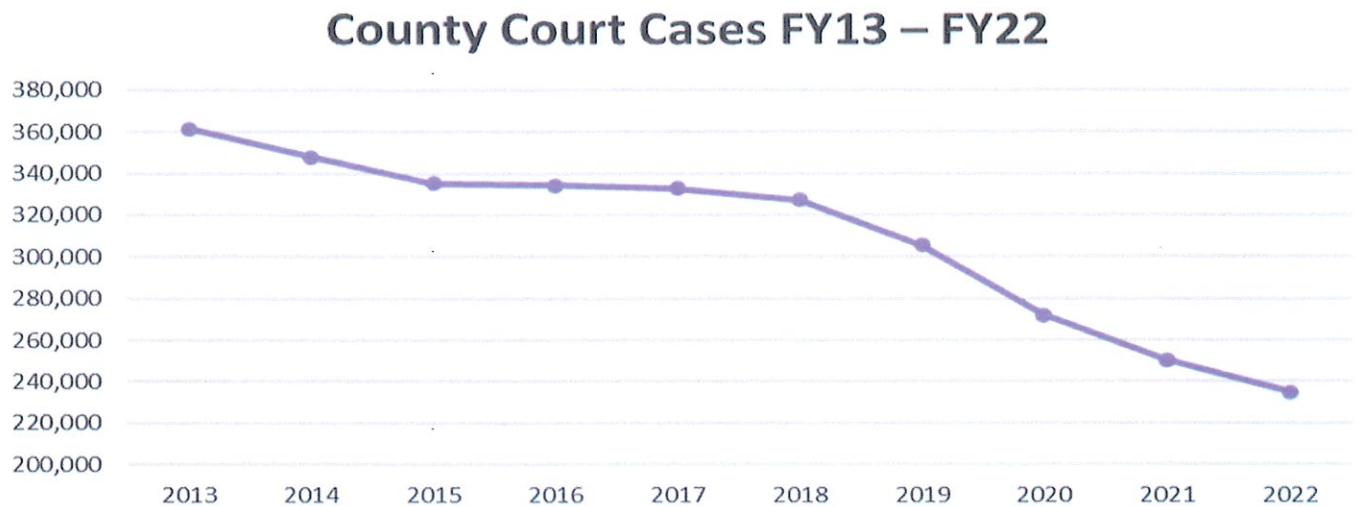
This is a significant change from just 10 years ago, when Nebraska county courts had a collective judicial need for 58.82 fulltime judges, and had 58 judges serving, as depicted in this 2012 Weighted Caseload Map:

## Nebraska County Courts Judicial Needs



While the number of county court judges statewide has remained the same for the past 10 years, judicial caseloads have been significantly impacted by a steady decline in case filings. As a result, Nebraska now has approximately 8 more county court judges than the court system needs to efficiently process current county court caseloads.

Declining judicial caseloads is a national trend, and one which does not appear likely to change in Nebraska absent a dramatic expansion of county court jurisdiction. In 2013, there were more than 360,000 new cases filed in Nebraska's county courts; in 2022, new case filings dropped to just over 230,000:



Importantly, the trend of declining caseloads is occurring in our metro and rural courts alike. This is not a rural/urban issue, it is a systemic issue, and it requires a systemic solution. That is why, at the Judicial Resources Commission hearing on June 16th, we plan to ask the Commission to consider both a short-term and a long-term strategy for gradually moving the court system toward a more optimal distribution of judicial resources in our county courts.

Short term, we will ask that the Commission consider postponing, for no longer than 3-6 months, consideration of whether Judge Luebe's recent resignation creates a vacancy in the County Court for the 6th Judicial District which needs to be filled. During this 3-6 month period, the AOCPC will work directly with the judges in the 6th Judicial District to determine whether they prefer to cover the dockets in Cedar, Dixon, and Thurston counties themselves, or whether there is a need for retired judges or judges from neighboring districts to assist. We will ask that the issue of Judge Luebe's resignation be carried over for discussion at the next quarterly meeting of the Commission on September 15, 2023, and, if appropriate, carried over again to the annual meeting on December 14, 2023.

Long term, the Chief Justice is appointing a committee of judges from each of the 12 judicial districts. The committee will be charged with studying the current distribution of judicial resources statewide and reaching consensus on at least two detailed, long-term, redistricting proposals to present to the Judicial Resources Commission at its annual meeting on December 14, 2023. The expectation is that, as future judicial retirements are announced, these proposals will give the Commission

concrete options and ideas, vetted by the judges, for gradually right-sizing judicial resources statewide through attrition and redistricting, so that the number of fulltime judges better approximates the current and anticipated judicial need in our county courts.

We recognize that no court system will always be perfectly resourced, and that some overcapacity can be beneficial as it gives judges extra time to take on additional administrative duties that improve the court system and to assist in other courts when needed. It is critical to the delivery of swift, fair justice that the Judicial Branch has an appropriate number of judges to efficiently process the caseload. To that end, we will advocate for additional judicial resources when the need exists, and we will admit when the system has more judicial resources than needed to operate efficiently. Currently, the county court system has significantly more judges than the caseload requires.

By postponing consideration of whether Judge Luebe's resignation creates a vacancy on the county court bench in the 6th Judicial District for a period of 3-6 months, the Commission will maximize its ability to recommend any redistricting proposals that may involve the 6th Judicial District and the other districts along its boundaries (including the 4th, 5th, and 7th districts--all of which currently have more judges than needed to efficiently process the judicial workload). Additionally, since only two weeks have passed since Judge Luebe's resignation became effective, there has been little opportunity to evaluate whether the three remaining judges can efficiently cover the .40 judicial workload in the northern counties previously served by Judge Luebe.

We will attend the Commission meeting on June 16 and be available to answer any questions about the request to postpone consideration of whether Judge Luebe's resignation creates a judicial vacancy, and to discuss the short-term and long-term strategies for gradually moving the court system toward a more optimal distribution of judicial resources on the county court bench.

**CEDAR COUNTY BOARD OF COMMISSIONERS**  
**P.O. BOX 47 – 101 SOUTH BROADWAY – COURTHOUSE**  
**HARTINGTON, NE 68739**

**DISTRICT 1**  
**Chris Tramp**  
**402-640-2093**

**DISTRICT 2**  
**Craig Bartels**  
**402-640-2092**

**DISTRICT 3**  
**David McGregor**  
**402-640-2094**

---

Hon. Stephanie F. Stacy  
Chairwoman  
Judicial Resources Commission  
P.O. Box 98910  
Lincoln, NE 68509-8910

RE: Judicial Vacancy in the County Court of the 6<sup>th</sup> Judicial District

Dear Chairwoman Stacy and Commissioners:

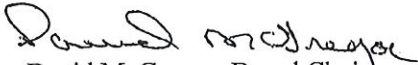
I am writing to express my support for filling the vacancy in the County Court of the 6<sup>th</sup> Judicial District, and to ask the Judicial Resources Commission to declare a vacancy and recommend that such judgeship be filled without delay. The courts are an essential function of our government and judges are essential personnel. The number of judges in the 6<sup>th</sup> District should not be reduced as part of any cost-saving measures.


The factors to be considered in the Commission's determination are established by statute. Those statutory factors are "judicial workload statistics," "adequate access to the courts," "population of the judicial district" and "other judicial duties and travel time" (See: Neb.Rev.Stat. § 24-1206). The Commission is not required to give equal weight to each of these factors, and it should not.

While the "judicial workload statistics" may show that the 6<sup>th</sup> District does not need four county court judges, the Commission's decision cannot be based on those statistics alone. If this determination was based solely on "judicial workload statistics," there would be no need for the Commission. Other factors greatly outweigh the information that can be gained from merely looking at workload statistics.

The most important factor, and the one that should be the Commission's primary focus, is "adequate access to the courts." To fulfill this goal and to ensure "adequate access to the courts," the 6<sup>th</sup> District needs four county court judges. Anything less would be detrimental to the justice system in the area and would be a disservice to the citizens of the 6<sup>th</sup> District. I appreciate your consideration of this letter, and I urge you to declare a vacancy in the County Court of the 6<sup>th</sup> Judicial District without delay.

Sincerely,  
Cedar County Board of Commissioners

  
David McGregor, Board Chairman

  
Richard Donner, Vice Chair



# JEWELL & COLLINS

ATTORNEYS AT LAW

*Established 1956*

June 7, 2023

Nebraska Judicial Resources Commission  
c/o [Dawn.Mussmann@nebraska.gov](mailto:Dawn.Mussmann@nebraska.gov)

In light of Judge Luebe's retirement, please consider this letter in support of declaring a vacancy in his position, and appointing a judge to fill that vacancy.

If that vacancy is not filled, we're very concerned about the effect this would have on the ability to access a judge in both the 6<sup>th</sup> and 7<sup>th</sup> Judicial Districts.

We've been at this for over 50 years, and we primarily access the county court system to complete probates, trust proceedings, guardianships, conservatorships and real estate work in those areas. In my opinion, Northeast Nebraska courts are excellent at making justice available upon relatively short notice, and with excellent results, so I'd be very sorry to see that changed.

Thanks for your attention to this problem, and I hope Judge Luebe's vacancy will be filled.

Yours very truly,

  
Dennis Collins

DWC:fo

EXHIBIT

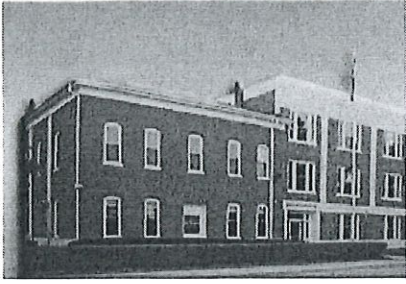
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8

DANIEL D. JEWELL (1922-2013) • DENNIS W. COLLINS\* • DONNA S. FUNK\*\*

105 SOUTH SECOND STREET • NORFOLK, NE 68701 • PHONE: 402.371.4844 • FAX: 402.371.5673 • LAWYERS@JEWELLCOLLINS.COM

\*ALSO ADMITTED IN SOUTH DAKOTA \*\*PARALEGAL



## DIXON COUNTY BOARD OF SUPERVISORS

PO BOX 546  
PONCA, NE 68770-0546  
402-755-5602

June 8, 2023

Judicial Resources Commission  
C/O Dawn Mussmann  
State Capital Building  
PO Box 98910  
Lincoln, NE 68509

RE: Public Testimony

Dear Justice Stacy and Members of the Commission,

The Dixon County Board of Supervisors would like the vacancy created by the retirement of Judge Doug Luebe to be filled.

Judge Luebe has been a part of the community and has been a great service to the county. We appreciate everything he has done for the county through his tenure as a judge.

It would be a detriment to Dixon County residents if his position is not filled. The residents of the county have a right to access justice and the judicial system.

Citizens of Dixon County want an in-person judge and not feel like their issue is belittled by having a judge hear their case via Zoom.

There is a need for more attorneys in Dixon County. It will make it more difficult to attract attorneys to come and practice in the area. Citizens would have to drive farther distances for legal services.

Having judges from other districts cover Dixon County will not fix the issue.

Again, we ask you to declare Judge Luebe's position as a judicial vacancy and the role be filled.

Respectfully,

*Lisa Lunz*  
Lisa Lunz  
Chair of the Dixon County Board of Supervisors

*Cindy Puckert, Dixon County Clerk and Secretary to the Board*

CC: Don Andersen, Supervisor  
Neil Blohm, Supervisor  
Terry Nicholson, Supervisor  
Steve Hassler, Supervisor  
Roger Peterson, Supervisor  
Deric Anderson, Supervisor



**MINER LAW OFFICE**  
419 Main Street, P.O. Box 171  
Wakefield, Nebraska 68784  
(402) 287-2419

Leland K. Miner

M. Theresa Miner

June 8, 2023

Judicial Resources Commission  
State Capitol Building  
P.O. Box 98910  
Lincoln, NE 68509

Re: Judicial Vacancy/6<sup>th</sup> Judicial District

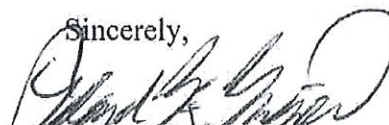
Greetings:

I write to support the finding of a judicial vacancy in the 6<sup>th</sup> Judicial District when the Judicial Resources Commission meets to consider the issue at the public hearing scheduled for June 16, 2023, at 10:00 o'clock A.M.

I believe it is essential that the citizens of the 6<sup>th</sup> Judicial District, particularly those residing in Dixon, Cedar, and Thurston Counties which Judge Luebe formerly served, have regular access to the County Court. Should the Commission not declare a judicial vacancy, I believe that the remaining judges will struggle to provide the coverage necessary for the efficient transaction of legal business in these counties. By restricting access to a Judge, a disservice is done to the attorneys and their clients. With one fewer Judge in the district, it will have the practical effect of making it harder to schedule hearings and prolong cases unnecessarily. The present situation where four County Judges serve the 6<sup>th</sup> Judicial District has worked well during the thirty-six years that I have practiced law in the district, both as a general practitioner and Dixon County Attorney, to provide for our legal needs. It is my hope that the members of the Judicial Resources Commission will recognize that it is in the best interest of the citizens of the 6<sup>th</sup> Judicial District to continue to be served by four judges and, therefore, find that there is a judicial vacancy within the district.

Thank you for your consideration.

Sincerely,



Leland K. Miner

LKM:n



# DREW LAW FIRM P.C., L.L.O.

1612 LINCOLN ST.- P.O. BOX 462 BLAIR, NE 68008

T 402-426-2636 F 402-426-2777

WWW.DREWLAWFIRM.NET

June 8, 2023

VIA Email to [Dawn.Mussmann@nebraska.gov](mailto:Dawn.Mussmann@nebraska.gov)

Justice Stephanie F. Stacy, Chair  
Judicial Resources Commission  
1445 K St.  
Lincoln, NE 68508

RE: 6<sup>th</sup> Judicial District – County Court Vacancy

Dear Justice Stacy:

Please accept this letter in support of declaring a judicial vacancy for the County Court of the 6<sup>th</sup> Judicial District, due to the retirement of Judge Douglas L. Luebe. Filling this vacancy is necessary for the following reasons:

1. Current Caseload. This Judicial District has a large caseload based on several metrics. First, the caseload report shows that the workload per judge is 0.82. If this vacancy is not filled, the workload per judge will become approximately 1.1 which would make the workload the highest of any judicial district. Second, as a practical matter, the County Court judges were spread thin with four judges. Each county should have County Court once a week, or three times a month at the very least. This is necessary to cover the time sensitive matters under the jurisdiction of the County Court, including arraignments, bond reviews, juvenile detention and removal proceedings, and covering protection order hearings. These types of hearings should not sit idle for 2 weeks. With only 3 County Court Judges, it is likely that Cedar, Dixon, Thurston and Burt County would be reduced to having court every other week or less.
2. Future Caseload. Washington and Dodge County are rapidly growing. Costco, Coldstone, Cargill and Dollar General are adding jobs that will impact the population and therefore the caseload. If this judicial vacancy is not filled, it will be difficult to fill it at a later date to account for growth.
3. Judicial Nominating. Members of our firm have served and are serving on the Judicial Nominating Committee. Part of the oath of this commission is to encourage qualified candidates to accept judicial office. It is difficult to find and recruit qualified candidates to fill a judicial position where the caseload will be a 1.1 full time equivalent while

GREGORY P. DREW  
GPDREW@DREWLAWFIRM.NET

DAVID V. DREW  
DVDREW@DREWLAWFIRM.NET

NICKOLA  
NRSACHAU@D





covering several counties and without sufficient court days to adequately serve the counties.

4. Rural Practice Initiative. The Nebraska Bar Association and UNL College of Law created a Rural Practice Initiative in 2013 because the legal needs of the public in rural areas are not being met. Filling this vacancy would be one step in the direction of ensuring that rural Nebraskans have adequate access to the legal system.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'David V. Drew', with a long horizontal flourish extending to the right.

David V. Drew

enclosure

**Dodge County Bar Association**  
Fremont, Dodge County, Nebraska

June 9, 2023

Judicial Resources Commission  
c/o Ms. Dawn Mussman  
State Capitol Building  
P.O. Box 98910  
Lincoln, Nebraska 68509  
Dawn.Mussmann@nebraska.gov

Re: Public Testimony / Written Submission  
County Court, 6<sup>th</sup> Judicial District Vacancy

Dear Justice Stacy and Members of the Judicial Resources Commission:

Please accept this letter as written testimony in support of the request on behalf of the Dodge County Bar Association that the Judicial Resources Commission determine the existence of a judicial vacancy regarding in the County Court of the 6<sup>th</sup> Judicial District as a result of the resignation of Judge Douglas Luebe. The Dodge County Bar Association supports a declaration that a judicial vacancy exists in the District.

As the Commission is aware, much of the 6<sup>th</sup> Judicial District is considered rural in nature. However, in recent years, many of our counties have had an influx of constant and continuous growth resulting in a significant increase in some dockets. It is true that there are some counties that have experienced a decline, but the increase in daily business for those counties experiencing growth outweighs those counties tremendously.

For example, Washington County now has a completed two-lane highway directly from the county seat to Omaha, which has created an increase in the ever-growing movement of Douglas County residents moving to Washington County and the creation of many new neighborhood developments and county residents.

Also, Dodge County is growing at a considerable rate and with the current caseload is likely in need of two full-time Judges. Over the past four years, the caseload has continued to increase. In 2019, the weighted caseload was 1.15; in 2022 it rose to 1.63, for an approximate thirty-percent increase in just three years. With the commercial and residential growth continuing in this county through the addition of Lincoln Premium Poultry and its Costco partnership, and the growing manufacturing community this growth will continue. The county continues to invest and add infrastructure and new family housing communities, which have brought new residents to the county.

In 2022, the juvenile case load in Dodge County was the highest it has been in approximately ten years, with 288 cases filed in comparison to the 183 cases filed in 2020. And, with the influx of new families to the County, there also is a growing need for interpreter services in many languages, which has directly affected the court docket and operating system.



Our Courts have added several additional days to the normal weekly docket to ensure everyone is given his or her fair opportunity in the court system using those interpreter days.

The Dodge County Bar Association thanks you for your time and consideration and respectfully requests that the Judicial Resources Commission declare that a judicial vacancy exists in the 6<sup>th</sup> District.

Sincerely,

Linsey Moran Bryant  
Dodge County Bar Association

# CRARY HUFF

ATTORNEYS AT LAW

**John M. Hines**  
Attorney

PHONE: 712.224.7550  
EMAIL: [jhines@craryhuff.com](mailto:jhines@craryhuff.com)

---

329 Pierce Street, Suite 200  
Sioux City, IA 51101

[craryhuff.com](http://craryhuff.com)

June 9, 2023

**VIA EMAIL**

Judicial Resources Commission  
Attn: Commission Chair  
Sent via email only: [Dawn.Mussmann@nebraska.gov](mailto:Dawn.Mussmann@nebraska.gov)

Re: Written Testimony of John M. Hines for the Public Hearing on Friday, June 16 at 10:00 am regarding the judicial vacancy for the County Court of the 6th Judicial District.

Dear Judicial Resources Commissioners:

Please accept this letter as my written testimony in support of declaring a judicial vacancy in the office of the County Court, 6th Judicial District due to the resignation of Judge Douglas Luebe.

I have been a practicing attorney in the 6th Judicial District for nearly five years and appear in court most frequently in Dakota County. I have reviewed the Court's Weighted Caseload Report for 2022 and see that the workload per judge of 0.82 in the 6th Judicial District was in line with the workload for judges throughout the state (ranging from 0.68 to 1.03). If no vacancy is declared in the 6th District, the workload per judge would rise to the highest in the State at 1.09. That workload would not be acceptable for any District.

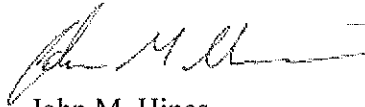
It is my understanding that the Commission is considering a potential "pilot program" whereby judges in the 7th District would hear cases in Cedar and Dixon Counties. It is further my understanding that this pilot program would be conducted to determine whether it is possible to reallocate existing resources between the 7th District and 6th District without declaring a vacancy in the 6th District. I do not support the pilot program for the reasons explained below.

First, based on the 2022 Weighted Caseload Report, the pilot program would create a workload per judge of 0.99 for the judges in the 6th District and 0.98 for the judges in the 7th District. Those workloads would have been the 2nd and 3rd (tied) highest workloads for judges across the state in 2022. Considering the difficulty of recruiting and retaining qualified judges, those workloads are neither sustainable nor wise. Second, the Weighted Caseload Report does not take into account the importance of timely availability of judges to litigants – particularly in criminal, juvenile, and domestic matters. The pilot program would undoubtedly limit the availability of judges, potentially delaying the ability of parties to have their matters heard. It has long been a legal maxim that "justice delayed is justice denied."



Understandably, the State must contend with an ever-growing need for qualified judges and access to courts while managing a limited pool of resources. It is my opinion that the proposed pilot program reallocating those limited resources between the 6th and 7th Districts would have a negative effect on judges, court staff, and litigants in both Districts. Based on the above, it is my belief that a judicial vacancy exists in the 6th Judicial District, and access to justice would be diminished if the judicial vacancy is not declared by the Commission.

Sincerely,

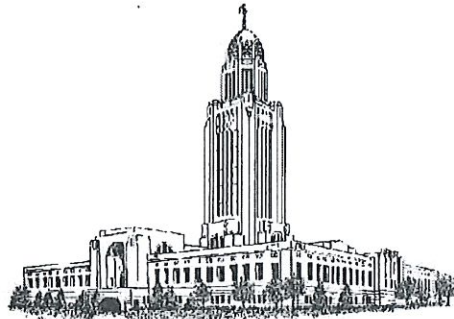
A handwritten signature in black ink, appearing to read "John M. Hines", with a horizontal line extending to the right.

John M. Hines

# Nebraska State Legislature

SENATOR JONI ALBRECHT

District 17  
State Capitol  
PO Box 94604  
Lincoln, Nebraska 68509-4604  
(402) 471-2716  
jalbrecht@leg.ne.gov



COMMITTEES

Chairperson – Committee on Committees  
Vice Chairperson - Education  
Revenue  
State-Tribal Relations

June 9, 2023

Nebraska Judicial Resources Commission  
%: Dawn Mussmann  
State Capitol Building  
P. O. Box 98910  
Lincoln, NE 68509  
[dawn.mussmann@nebraska.gov](mailto:dawn.mussmann@nebraska.gov)

Dear Justice Stacy and members of the Judicial Resources Commission:

An agenda item for your upcoming June 16 meeting involves consideration of whether a judicial vacancy exists in the office of the county Court, 6th Judicial District, due to the retirement of Judge Douglas Luebe. I am writing today to urge the Commission to determine that a judicial vacancy exists in the 6th Judicial District.


It has come to my attention that there is a proposal for the six existing county judges in the 6th and 7th to cover all of the 6th and 7th Judicial Districts by redistributing the caseload. This proposal would be tested for a period of time and then be reevaluated. I think this proposal would be very detrimental to the constituents in both the 6th and 7th Districts and would limit access to judicial services in those districts due to longer travel times.

With the retirement of Judge Luebe, times have increased for an expedient trial when dealing with court cases. Instead of court happening once a week, it is now up to twice a month with even longer delays due to the lack of judges available to oversee cases. This is an inconvenience to those who are sitting in jail who can't post bond for a minor offense and waiting two weeks for their case to be heard. Or for those cases that are dealing with families and children, a delay in hearing their case could become a safety concern. I would encourage you to talk with the county attorneys in Cedar, Dixon, and Thurston counties as they are finding it more difficult to get court dates in a timely manner and the delay is costing their clients precious time to be heard.



I respectfully request that the Judicial Resources Commission determine that a judicial vacancy exists in the office of the County Court, 6th Judicial District, with the principal office in Hartington, Nebraska.

Sincerely,

A handwritten signature in black ink that reads "Joni Albrecht". The signature is written in a cursive style and is underlined.

Senator Joni Albrecht  
District 17

June 9, 2023

Hon Stephanie F. Stacy  
Judicial Resources Commission, Chairperson  
State Capitol Building  
Room 2219  
Lincoln, Nebraska 68509

RE: 6<sup>th</sup> Judicial District Judicial Vacancy

Dear Members of the Judicial Resources Commission:

This Commission is tasked with the responsibility to determine “whether a judicial vacancy exists or a new judgeship, a reduction in judgeships, a change in number of judicial districts or boundaries, or the reallocation of a judgeship from a ... county ... in another judicial district is appropriate ... based upon (1) its analysis of judicial workload statistics compiled pursuant to section 24-1007, (2) whether litigants in the judicial district have adequate access to the courts, (3) the population of the judicial district, (4) other judicial duties and travel time involved within the judicial district, and (5) other factors determined by the Supreme Court to be necessary to assure efficiency and maximum service. *Neb. Rev. Stat.* §24-1206.

The first factor favors declaring a judicial vacancy exists. The 2022 caseload statistics indicate that the 6<sup>th</sup> Judicial District needs 3.28 county court judges, with the average workload per judge being 0.82. There is no possible combination where Judge Luebe’s workload can be shared among the remaining three judges of the 6<sup>th</sup> Judicial District without overextending the judges. It should also be noted that the average workload per judge for Districts 1, 2, 3, 4, 5, 6, 7, 8, and 12 are between 0.68 and 0.88.

If a judicial vacancy is not declared and the workload of the 6<sup>th</sup> District is shared with the judges of the 7<sup>th</sup> District, the average workload for those six judges in the 6<sup>th</sup> and 7<sup>th</sup> Districts would be 0.99 per judge. This is not a feasible solution as it would max out two districts as far as workload per county judge. You also need to consider that the number of cases in these districts could increase.

The Nebraska Judicial Workload Assessment Report completed in October 2020 supports declaring a judicial vacancy in the 6<sup>th</sup> District. A copy of this Report is attached as Exhibit ‘A’. We would direct your attention to pages 16 and 17. “To determine if a change to the number of judicial positions is merited, the full-time equivalent workload per judge is examined relative to a rounding rule... The rounding convention using workload per judge was designed to provide empirical guidance as to which courts are over- or under-resourced... The rounding convention can be summarized... If workload per judge < 0.60, subtract a judge ONLY if resulting workload per judge < 1.15.”





The second factor also supports a judicial vacancy exists. Prior to Judge Luebe's retirement, he covered Dixon County Court every Tuesday, Cedar County Court every Wednesday, and Thurston County Court every Thursday. On Mondays and Fridays, Judge Luebe was in the office reviewing cases for upcoming hearings, briefs, case plans, alcohol evaluations, presentence investigation reports, and making decisions on cases under advisement. He also did search warrants, protection orders, and set bonds for warrants. Furthermore, Judge Luebe aided in caseloads in other counties in the District. Litigants in these counties should continue to have their cases heard at least once a week and should not be limited to one to two court dates a month.

If the number of court dates are reduced, litigants will not have adequate access to the court. Certain matters, such as the following, require immediate attention.

- a) Trial for landlord-tenant actions for possession must be 10 to 14 days after summons. *Neb. Rev. Stat. §76-1446.*
- b) Forcible entry and detainer actions must also be tried in 10 to 15 days after summons. *Neb. Rev. Stat. §25-21,223.*
- c) An individual arrested without a warrant must be given a probable cause determination by a judge within 48 hours. *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991).
- d) Adoption hearings must be heard in 4 to 8 weeks after the filing of the petition. *Neb. Rev. Stat. §43-103.*
- e) Criminal cases must be tried within 6 months. *Neb. Rev. Stat. §29-1207.*
- f) Some juvenile cases must have a detention review hearing within 48 hours. *Neb. Rev. Stat. §43-271.*
- g) Protection order hearings must be heard within 14 days. *Neb. Rev. Stat. §28-311.09.*

There is very limited time in the judge's calendars for these matters with their current court schedules and factoring in drive time. The litigants in the 6<sup>th</sup> District deserve to have these matters timely addressed. It is important to note that since Judge Luebe's retirement, the number of court dates in Cedar County has already been reduced and is causing scheduling issues. There is now county court only twice a month in Cedar County rather than once a week. Additional loss of courtroom time is simply unacceptable. Eliminating this judgeship in the 6<sup>th</sup> Judicial District will limit citizens' access to justice and hinder fundamental rights.

Although Zoom hearings may work for some of these hearings, the litigants deserve to have in-person hearings with a judge. Please read the editorial "Why virtual court is a threat to our justice system," which is attached as Exhibit 'B'.

The third factor of population is not decisive either way. According to the 2022 survey by the United States Census Bureau, the population of the 6<sup>th</sup> District is approximately 106,776 people. The 6<sup>th</sup> District ranks 6th out of the 12 judicial districts in terms of population.

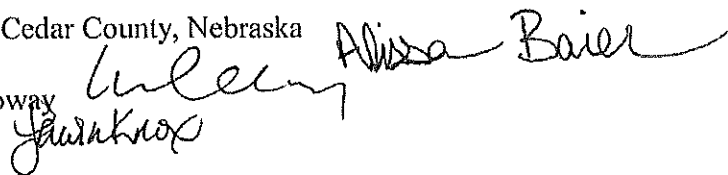
The fourth factor of travel time and other judicial duties strongly supports declaring a judicial vacancy exists. The 6<sup>th</sup> District is located along the eastern border of the state. It extends from Blair in the southeast up to the South Dakota border with Hartington in the northwest. It will take Judge Barron over two hours of travel time one-way to drive from Blair to Hartington. Judge Klein will also have to travel approximately two hours to cover court in Hartington when he drives from Fremont. Judge Matney is located in the northeast part of the District in Dakota City. He drives about one hour from Dakota City to Tekamah to preside over court in Burt County. These travel times do not take into consideration extra time for inevitable road construction and poor road conditions during the winter months. If a vacancy is not declared, the judges will have extensive windshield time, which is not a good use of judicial time and resources.

The current judges in the 6<sup>th</sup> District spend a considerable amount of time on other judicial duties. Along with serving on the bench, the judges serve on various committees. Furthermore, they all help oversee the staff in the various Clerk of Court offices. As the District's presiding county court judge, Judge Barron has additional administrative responsibilities as well. Judge Klein assists with problem solving court in Dodge County.

Another component to consider is how this decision will impact recruiting attorneys to practice in the 6<sup>th</sup> Judicial District, especially in the rural northern part of the District. There are less than a handful of attorneys based out of Cedar County, which has a population of 8,401. We need more attorneys in several counties of the 6<sup>th</sup> District to provide adequate access to legal services. If you eliminate this judgeship and cut down the number of court dates in the District, what is that signaling to young lawyers who may be looking to practice in our area? It will make it more difficult to attract attorneys to practice in underserved communities of the 6<sup>th</sup> District.

Taking all the factors into consideration, it heavily weighs in favor that a judicial vacancy exists in the 6<sup>th</sup> Judicial District. Sharing the 6<sup>th</sup> District caseload with the 7<sup>th</sup> District is not a feasible option. Therefore, we respectfully ask the Judicial Resources Commission to declare a judicial vacancy exists in the 6<sup>th</sup> Judicial District and for the judgeship seat to remain in Cedar County.

Sincerely,  
Attorneys in Cedar County, Nebraska  
Alissa Baier  
Keelan Holloway  
Laura Knox



Alissa Baier  
Keelan Holloway  
Laura Knox

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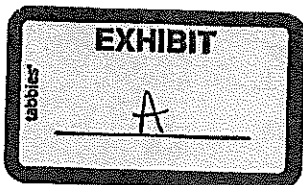
# Nebraska Judicial Workload Assessment

*Final Report*

October 2020

Brian J. Ostrom, Ph.D.  
Lydia E. Hamblin, Ph.D.  
John W. Douglas

Research Division  
National Center for State Courts



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Hon. Matthew Acton, County Court, 3<sup>rd</sup> Judicial District  
Eric Asboe, AOC  
Hon. Chad Brown, Separate Juvenile Court, 4<sup>th</sup> Judicial District  
Hon. Kale Burdick, County Court, 8<sup>th</sup> Judicial District  
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Hon. Travis O'Gorman, District Court, 12<sup>th</sup> Judicial District  
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## **EXECUTIVE SUMMARY**

At the request of the Nebraska Supreme Court, the Nebraska Administrative Office of the Courts and Probation (AOCB) contracted with the National Center for State Courts (NCSC) to perform a comprehensive update, extension, and improvement of the existing Nebraska judicial weighted caseload system in line with state-of-the-art practices. A clear and objective assessment of court workload is essential to establish the number of judges required to resolve in a timely manner all cases coming before the court. The primary goals of the study were to:

- Develop a valid measure of judicial workload in all District, County and Separate Juvenile Courts, accounting for variations in complexity among different case types, as well as differences in the non-case-related responsibilities of judges;
- Evaluate the current allocation of judicial resources;
- Establish a transparent and empirically driven formula for determining the appropriate level of judicial resources in each judicial district.
- Enable compliance with Nebraska Rev. Stat. §24-1007, which requires the state court administrator to compile accurate judicial workload statistics for each district, county, and separate juvenile court based on caseload numbers weighted by category of case.

### ***Project Design***

To provide oversight and guidance on matters of policy throughout the project, Chief Justice Michael G. Heavican appointed a 19-member Judicial Needs Assessment Committee (JNAC) representing District, County and Separate

Juvenile courts across the state. The workload assessment was conducted in two phases:

1. A quantitative Time Study in which all judges recorded all case-related and non-case-related work over a four-week period. The purpose was to provide an empirical description of the amount of time currently devoted to processing each case type, as well as the division of the workday between case-related and non-case-related activities.
2. A qualitative Sufficiency of Time survey to provide a statewide perspective on areas of concern in relation to current case processing practice and existing judicial resources. All judges were asked to complete the web-based survey. The survey provided important insight into whether judges believe they have sufficient time available to perform all of their various case-related and non-case-related responsibilities.

### ***Project Results***

Applying the final weighted caseload model to current case filings shows that the current number of judges is appropriate to handle the existing judicial workload. The lone exception is the 4<sup>th</sup> Judicial District where the model shows a current need for an additional two judgeships. Viewed statewide, Nebraska currently has a need for a total of 58 District Court judges, 58 County Court judges, and 12 Separate Juvenile Court judges.

## ***Recommendations***

The final weighted caseload model discussed in this report provides an empirically grounded basis for analyzing judicial workload and need in each of Nebraska's District, County, and Separate Juvenile Courts. The following recommendations are intended to ensure the effective use of the weighted caseload model and to preserve the model's integrity and utility over time.

### **Recommendation 1**

The revised weighted caseload model clearly illustrates the changing character of judicial workload in Nebraska. The model is used to determine the number of judges needed in each District, County and Separate Juvenile Court. The model finds the current complement of judges is appropriate in all court locations, with the exception of the 4<sup>th</sup> Judicial District. The model suggests the need for two new judgeships in the 4<sup>th</sup> Judicial District, but does not reflect the additional judgeship to be added in that district effective July 1, 2021.

### **Recommendation 2**

A critical assumption of Nebraska's weighted caseload models is that case filings are entered into JUSTICE uniformly and accurately. NCSC recommends that Nebraska's district and county court clerks continue their efforts to improve the uniformity of data entry and that the trial courts continue efforts to encourage uniformity in case filings. Ideally, for all criminal and civil case types, multi-charge or multi-petition cases should be counted as a single case unless they are unable to be consolidated and must be processed separately. For juvenile 3A cases, NCSC recommends counting 3A children rather than 3A cases due to the disparate filing practices among prosecutors across the state. A case with multiple children should count each child only once, when they are added to the case.

### **Recommendation 3**

The calculations of judge need in this report are based upon a three-year average of case filing data. NCSC recommends that Nebraska AOCPC recalculate judge need on an annual basis using the same methodology set forth in this report and updated with year-end case filing data to produce a 3-year rolling average. The application of the workload formula to the most recent filings will reveal the impact of any caseload changes on judicial workload.

### **Recommendation 4**

The availability of support personnel, especially law clerks, bailiffs, court clerks, and child support referees, has a profound impact on judges' ability to perform their work efficiently and effectively. The recommended case weights were calculated based on the actual judge time only, so if support personnel are no longer provided or are reduced in a particular district, the judicial need will be higher than is reflected in the weighted caseload report. JNAC members and results from the Sufficiency of Time survey stressed the importance of strong support staff. NCSC recommends that periodic workload assessments be conducted for law clerks, bailiffs, court clerks, and child support referees.

### **Recommendation 5**

Over time, the integrity of any weighted caseload model may be affected by external factors such as changes in legislation, case law, or court technology. NCSC recommends that the Nebraska Supreme Court and the AOCPC conduct a comprehensive review of the weighted caseload models every five to seven years. Between updates, if a major change in the law appears to have a significant impact on judicial workload, JNAC and/or a representative focus group of judges that handle the case type(s) may be convened to make interim adjustments to the affected case weight(s).

## **I. INTRODUCTION**

The Nebraska Administrative Office of the Courts and Probation (AOCP) contracted with the National Center for State Courts (NCSC) to develop a method to measure judicial workload in Nebraska's District, County, and Separate Juvenile Courts. A clear measure of court workload is central to determining how many judicial officers are needed to resolve all cases coming before the court. Adequate resources are essential if the Nebraska judiciary is to effectively manage and resolve court business without delay while also delivering quality service to the public. Meeting these challenges involves assessing objectively the number of judicial officers required to handle the caseload and whether judicial resources are being allocated and used prudently. In response, judicial leaders around the country are increasingly turning to empirically based workload assessments to provide a strong foundation of judicial resource need in their state trial courts.

The need for financial and resource accountability in government is a strong stimulus to develop a systematic method to assess the need for judges. The state-of-the-art technique for assessing judicial need is a weighted caseload study because population or raw, unadjusted filings offer only minimal guidance regarding the amount of judicial work generated by those case filings. The weighted caseload method explicitly incorporates the differences in judicial workload associated with different types of cases, producing a more accurate and nuanced profile of the need for judges in each court.

The current study represents a comprehensive overhaul of the Nebraska weighted caseload system to update the case weights to reflect developments in the law and court procedures. This effort is timely because Nebraska's judicial weighted caseload system was last reviewed and

updated about fifteen years ago. Since the previous weighted caseload study, developments in statutes, rules, case law, case management practices, new technology, a growing number of self-represented litigants, and increasing complexity of cases have had a significant impact on the work of District, County, and Separate Juvenile Court judges, necessitating an update of the case weights. The current workload assessment incorporates several innovations in comparison with previous studies conducted in Nebraska. Specifically, the current study:

1. Increases time study participation, soliciting statewide participation from all District, County, and Separate Juvenile Court judges, to more accurately estimate the time required to resolve cases.
2. Updates and establishes weights for more granular case types across all court levels, to reflect differences in current practice and case processing.
3. Reassesses the amount of time available for case-related work, adjusting the judge day and year values to reflect current practice, incorporating real-time reported travel by district.
4. Develops a rounding convention that puts courts of all sizes on equal footing and sets threshold standards to gauge the need for a change in judicial positions based on workload per judge.

### **A. The Weighted Caseload Model**

The weighted caseload method of workload analysis is grounded in the understanding that different types of court cases vary in complexity, and consequently in the amount of judicial work they generate. For example, a typical felony case creates a greater need for judicial resources than the average traffic case. The weighted caseload method calculates judicial need based on each court's total workload. The weighted caseload formula consists of three critical elements:



3. *Case filings*, or the number of new cases of each type opened each year;
4. *Case weights*, which represent the average amount of judge time required to handle cases of each type over the life of the case; and
5. The *year value*, or the amount of time each judge has available for case-related work in one year.

Total annual workload is calculated by multiplying the annual filings for each case type by the corresponding case weight, then summing the workload across all case types. Each court's workload is then divided by the year value to determine the total number of full-time equivalent judges and/or judicial officers needed to handle the workload.

Judicial weighted caseload is well established in Nebraska. This methodology is mandated in statute, and for over two decades, the Judicial Resources Commission has used the weighted caseload method to assess judicial resource needs and recommend judgeships to the Nebraska Legislature.

#### **B. The Judicial Needs Assessment Committee**

To provide oversight and guidance on policy throughout the project, the Nebraska Supreme Court appointed a 19-member Judicial Needs Assessment Committee (JNAC) consisting of judges from District, County, and Separate Juvenile Courts from all geographical regions and court sizes, as well as AOC representatives and the Nebraska State Bar Association (NSBA). JNAC's role was to advise NCSC on the selection of case types (e.g., criminal, civil, domestic) and the time study design, as well as to recommend policy decisions regarding the amount of time allocated to case-related and non-case-related work (judge day and year values) and review the results of the analysis. Hon. Stephanie Stacy, Supreme Court of Nebraska, served as chair of JNAC. The full Committee met two times over the course of the project, in addition to multiple sub-

committee conference calls held to identify case types and evaluate the data collection strategy. Committee responsibilities included:

- Advising the project team on the definitions of case types and case-related and non-case-related events to be used during the time study;
- Encouraging and facilitating participation by judges statewide in the time study and Sufficiency of Time survey;
- Reviewing and commenting on the results of the time study and the content of the final model.

#### **C. Research Design**

The workload assessment was conducted in two phases:

1. A *time study* in which all District, County, and Separate Juvenile Court judges were asked to record all case-related and non-case-related work over a four-week period. The time study provides an empirical description of the amount of time currently devoted to processing each case type, as well as the division of the workday between case-related and non-case-related activities.
2. A Sufficiency of Time survey to provide a statewide perspective on areas of concern in relation to current case processing practice and existing judicial resources. All judges were asked to complete the web-based survey. The survey provided important insight into whether judges believe they have sufficient time available to perform all of their various case-related and non-case-related responsibilities.

## **II. CASE TYPES AND EVENTS**

At JNAC's first meeting on August 22, 2019, one of the committee's primary tasks was to establish the case type and event categories upon which to base the time study. Together, the case types, case-related events, and non-case-related

events describe all the work required and expected of Nebraska's District, County, and Separate Juvenile Court judges.

### **A. Case Type Categories**

JNAC was charged with establishing three sets of case type categories, one set each for District, County, and Separate Juvenile Court, which satisfied the following requirements:

- Categories are legally and logically distinct;
- There are meaningful differences among categories in the amount of judicial work required to process the average case;
- There are a sufficient number of case filings within the category to develop a valid case weight; and
- Filings for the case type category or its component case types are tracked consistently and reliably in JUSTICE.<sup>1</sup>

Using the case type categories currently tracked in JUSTICE as a starting point, JNAC revised and defined 8 case type categories for District Court, 19 case types for County Court, and 10 for Separate Juvenile Court (Exhibit 1). This was an update to the previous workload assessment study done in 2006, which used a condensed set of case type categories for the time study (District: 6 case types; County: 12 case types; Separate Juvenile: 4 case types). JNAC decided to better delineate several case types that were collapsed into larger categories or otherwise excluded in the 2006 study. This was done to account for differences in time spent processing those case types as their processing has changed over the course of 15 years.

Details regarding the specific case types included in each category are available in Appendix A (District Court), Appendix B (County Court), and Appendix C (Separate Juvenile Court).

### **B. Case-Related Event Categories**

To describe case-related work in more detail, JNAC defined three case-related event categories that cover the complete life cycle of each case. Case-related events cover all work related to an individual case before the court, including on-bench work (e.g., hearings) and off-bench work (e.g., reading case files, preparing orders). A uniform set of three case-related event categories applied to all three court levels, with a fourth category specifically for the District Court. Exhibit 2 shows the case-related event categories and their definitions.

### **C. Non-Case-Related Events**

Work that is not related to a particular case before the court, such as court management, committee meetings, travel, and judicial education, is also an essential part of the judicial workday. To compile a detailed profile of judges' non-case-related activities and provide an empirical basis for the construction of the judge day and year values, JNAC defined nine non-case-related event categories (Exhibit 2). To simplify the task of completing the time study forms and aid in validation of the time study data, vacation and other leave, lunch and breaks, and time spent filling out time study forms were included as non-case-related events.

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<sup>11</sup> JUSTICE, (*Judicial User System to Improve Court Efficiency*), is the Supreme Court's case-based data

storage system comprised of clerk entries of information from relevant courts.

### **Exhibit 1: Case Type Categories**

<u>District Court</u>	<u>County Court</u>	<u>Separate Juvenile Court</u>
Problem Solving Court Cases	Felony	Adoption
Protection Orders	Misdemeanor	Domestic Relations
Civil	District Court:	Juvenile:
Class I Felony	Adult Problem-Solving Court	3A Children & Problem-Solving Court*
Other Criminal	Domestic Relations	3A Cases & Problem-Solving Court
Domestic Relations	Protection Orders	Delinquency
Appeals	Traffic	Status Offender 3B
Administrative Appeals	Civil	Mentally Ill and Dangerous 3C
	Probate	Bridge to Independence (B21)
	Guardianship/Conservatorship	Interstate Compact
	Small Claims	
	Adoption	
	Juvenile:	
	3A Children* & Problem-Solving Court**	
	3A Cases & Problem Solving-Court	
	Delinquency	
	Status Offender 3B	
	Mentally Ill and Dangerous 3C	
	Bridge to Independence (B21)	
	Interstate Compact	

\*3A Children cases include: Abuse/Neglect/Dependency, and Termination of Parental Rights

\*\*At the time of the study, only separate juvenile courts had problem-solving courts, and all participants were involved in a 3A case.

As such, the problem-solving court case category was combined with 3A children to arrive at a single weight. The goal is to determine a separate weight for juvenile problem-solving court cases at a future point.

## Exhibit 2. Non-Case-Related Events

### Non-Case-Related Events

Non-Case-Related Administration

General Legal Research

Judicial Education and Training

Committee Meetings, Other Meetings, and Related Work

Community Activities and Public Outreach

Work-Related Travel

Vacation, Sick Leave, and Holidays

Lunch and Breaks

NCSC Time Study

### III. TIME STUDY

The time study phase of the workload assessment measured current practice—the amount of time judges currently spent handling cases of each type, as well as on non-case-related work. For a period of four weeks, all Nebraska District, County, and Separate Juvenile Court judges were asked to track all of their working time by case type and event. Separately, the AOC provided counts of filings by case type category and court. NCSC used the time study and filings data to calculate the average number of minutes currently spent by the judges in each court resolving cases within each case type category (preliminary case weights). The time study results also informed JNAC's selections of day and year values for case-related work.

#### A. Data Collection

##### 1. Time Study

During a four-week period from October 21 – November 17, 2019, all District, County, and Separate Juvenile Court judges were asked to track all working time by case type category and

by case-related or non-case-related event (for non-case-related activities). County Court judges that heard District Court problem-solving court cases were also asked to track their time for that work. Participants were instructed to record all working time, including time spent handling cases on and off the bench, non-case-related work, and any after-hours or weekend work. Judges tracked their time in five-minute increments using a Web-based form.

To maximize data quality, all time study participants were asked to view a live or recorded webinar training module explaining how to categorize and record their time. In addition to the training webinars, NCSC staff presented a live training at their judicial education conference, judges were provided with Web-based reference materials, and NCSC staff were available to answer questions by telephone and e-mail. The Web-based method of data collection allowed time study participants to verify that their own data were accurately entered and permitted real-time monitoring of participation rates.

Across the state, the vast majority of District Court judges (96%), County Court judges

(98%), and Separate Juvenile Court judges (100%) participated in the time study. This level of statewide participation ensured sufficient data to develop an accurate and reliable profile of current practice in Nebraska's District, County, and Separate Juvenile Courts.

## **2. Caseload Data**

To translate the time study data into the average amount of time expended on each type of case (preliminary case weights), it was first necessary to determine how many individual cases of each type are filed on an annual basis. The AOCPC provided filings data for 2017, 2018, and 2019. The caseload data for all three years were then averaged to provide an annual count of filings within each case type category and court, shown in Exhibit 3. The use of a 3-year annual average rather than the caseload data for a single year minimizes the potential for any temporary fluctuations in caseloads to influence the case weights.

### **B. Preliminary Case Weights**

Following the four-week data collection period, the time study and caseload data were used to calculate preliminary case weights as shown in Exhibit 3. A preliminary case weight represents the average amount of time judges currently spend to process a case of a particular type, from pre-filing activity to all post-judgment matters. The use of separate case weights for each case type category accounts for the fact that cases of varying levels of complexity require different amounts of judicial time for effective resolution.

To calculate the preliminary case weights, the time recorded for each case type category was weighted to the equivalent of one year's worth of time for all judges statewide. The total annual time for each case type was then divided by the average annual filings to yield the average amount of hands-on time judges currently spend

on each case. The preliminary case weights proposed by NCSC are set out in Exhibit 3.

The standard approach for calculating preliminary case weights works well as long as new cases are filed and counted consistently across the state. This was the case in most, but not all, of the case types in Nebraska.

Juvenile Problem-Solving Court cases are currently offered only in the separate juvenile courts and such cases are not consistently tracked and coded in JUSTICE. Consequently, JNAC determined that the time recorded under Problem-Solving Court cases during the time study should be combined with time recorded in Juvenile 3A to form a single "Juvenile 3A & PSC" category. A goal for AOCPC is to produce a separate Juvenile PSC case weight at a future point.

Additionally, the counting of Juvenile 3A cases proved problematic in both the county courts and the separate juvenile courts, due to disparate filing practices. Prosecutors in some judicial districts routinely file a separate case for each child, while prosecutors in other districts will file a single case to address multiple children and parents. This creates an equity problem if some courts are getting workload credit for each child and others are getting the same workload credit per case that may involve multiple children. As a consequence, NCSC calculated two versions of the Juvenile 3A & PSC case weight: one version counted 3A cases as has been done historically, and the other version counted 3A children instead. NCSC recommends counting 3A children (using the 3A Children & PSC case weight in Exhibit 3) rather than counting 3A cases, as this approach better addresses the disparate filing practices across the state and puts all courts on a more equal footing.

JNAC reviewed the preliminary case weights developed by NCSC (see Exhibit 3) and with one exception discussed later, generally

considered the weights to be an accurate representation of current judicial practice in the district, county, and separate juvenile courts. JNAC also agreed with NCSC's recommendation to count 3A Children rather than 3A Cases. However, as discussed in the next section, JNAC could not reach consensus on whether to accept or reject the different case weights proposed by NCSC for 3A Children & PSC in County and Separate Juvenile Courts.

### *1. Different Weights in Different Courts*

Based on the actual time reported by judges during the time study, NCSC developed different case weights for several case types of juvenile case types depending on whether the case was being handled in a county court or a separate juvenile court. In county courts, adoption cases, domestic relations cases, and bridge to independence cases were all weighted higher than the same cases in a separate juvenile court. And in separate juvenile courts, 3A & PSC, status offense cases, and delinquency cases were all weighted higher than the same cases in county court. Of the different proposed case weights, only one prompted concern from members of the JNAC: the case weight for 3A children and PSC. Members of the JNAC devoted considerable discussion to this issue, and NSCS accepted additional input on the issue after the meeting. The time study data showed that judges spend different amounts of time handling 3A cases in the county and separate

juvenile courts. Some members of JNAC observed that the separate juvenile courts were established to specialize in these cases and given resources to handle them in ways different from traditional county court processes. These members suggested the different weights shown in Exhibit 3 reflect the actual variation in judicial practice among Nebraska courts and the higher weights in separate juvenile acknowledge investment in "better" practices. On the other hand, it was suggested that all 3A cases are governed by the same law whether they are handled in county court or separate juvenile court, and the goal should be that the quality of justice is the same for all citizens of Nebraska regardless of whether they live in a district with a separate juvenile court.

NSCS recognizes that, at this point in time, it may not be statutorily possible to create Separate Juvenile Courts in all Nebraska districts. The proposed weights in Exhibit 3 accurately reflect the actual judicial handling practices in each courts, but it is a separate policy question whether the 3A weights should be adjusted to obtain a judicial consensus that the weights are perceived as fair to both county court judges and separate juvenile court judges. NSCS was provided with several policy-based suggestions for adjusting the recommended case weights, and in Appendix G, the impact of the various policy-based adjustments to the case weights is discussed in more detail.

### Exhibit 3. Filings and Preliminary Case Weights

<b>District Court</b>	Annual Filings (average 2017-2019)	Preliminary Case Weight (minutes)
Problem Solving Court Cases	441	683
Protection Orders	6,102	32
Civil	5,904	219
Class I Felony	1,044	367
Other Criminal	11,368	149
Domestic Relations	13,502	97
Appeals	262	343
Aministrative Appeals	125	540
<b>Total</b>	<b>38,748</b>	

<b>County Court</b>	Filings (average 2017-2019)	Preliminary Case Weight (minutes)
Protection Orders	3,298	32
Felony	17,074	26
Misdemeanor	79,124	23
District Court: Adult Problem-Solving Court	14	683
Traffic	119,853	1
Civil	85,675	8
Probate	6,066	61
Guardianship/Conservatorship	2,049	133
Small Claims	3,709	30
Adoption	696	92
Domestic Relations	4	97
Juvenile: 3A CHILDREN & PSC	1,290	272
Juvenile: 3A CASES & PSC	1,138	308
Juvenile: Delinquency	3,090	100
Juvenile: Status Offender 3B	533	37
Juvenile: Mentally Ill and Dangerous 3C	21	265
Juvenile: Bridge to Independence (B21)	51	58
Juvenile: Interstate Compact Hearings/Filings	141	2
<b>Total</b>	<b>323,834</b>	

<b>Separate Juvenile Court</b>	<b>Annual Filings (average 2017-2019)</b>	<b>Preliminary Case Weight (minutes)</b>
Adoption	289	49
Domestic Relations	89	26
Juvenile: 3A CHILDREN & PSC	1,381	518
Juvenile: 3A CASES & PSC	713	1,003
Juvenile: Delinquency	2,634	136
Juvenile: Status Offender 3B	762	54
Juvenile: Mentally Ill and Dangerous 3C	1	265
Juvenile: Bridge to Independence (B21)	119	36
Juvenile: Interstate Compact Hearings/Filings	122	2
<b>Total</b>	<b>6,133</b>	



#### **IV. SUFFICIENCY OF TIME SURVEY**

To provide a statewide perspective on any areas of concern related to current practice, all District, County, and Separate Juvenile Court judges were asked to complete a Web-based Sufficiency of Time survey in February/March 2020.

For each case type, judges were asked to rate the extent to which they had sufficient time in the average day to handle case-related activities on a scale from 1 (almost never) to 5 (almost always). Judges were then asked to identify and rank-order specific case-related tasks, if any, where additional time would improve the quality of justice. The survey also included questions about the sufficiency of time for general court management (e.g., participation in court planning and administration), as well as space for judges to comment freely on their workload. The majority of District Court judges (85%), County Court judges (67%), and Separate Juvenile Court judges (77%) completed the survey. Appendix D (District Court), Appendix E (County Court), and Appendix F (Separate Juvenile Court) present the survey results in detail.

#### **V. JUDICIAL NEED**

In the weighted caseload model, three factors contribute to the calculation of judicial need: caseload data (filings), case weights, and the year value. The year value is equal to the amount of time each full-time judge has available for case-related work on an annual basis. The relationship among the filings, case weights, and year value is expressed as follows:

$$\frac{\text{Filings} \times \text{Case Weights (minutes)}}{\text{Year Value (minutes)}} = \text{Resource Need (FTE)}$$

Multiplying the filings by the corresponding case weights calculates the total annual workload in minutes. Dividing the workload by the year value yields the total number of full-time equivalent (FTE) judges needed to handle the workload.

##### **A. Judge Year Values**

To develop the year values for District, County, and Separate Juvenile Court judges, it was necessary to determine the number of days each judge has available for case-related work in each year (judge year), as well as how to divide the work day between case-related and non-case-related work (judge day value)

### **1. Judge Year**

As shown in Exhibit 5, the judge year value was constructed by beginning with 365 days per year, then subtracting weekends, holidays, vacation and sick leave, and full-day participation in judicial education and training. The 2006 JNAC from the previous NCSC judicial workload studies adopted a judge year of 218 case-related days for all levels of court. The current JNAC reviewed and decided to keep that value as it is still reflective of typical working days in a year.

#### **Exhibit 5. Judge Year**

Total days per year	365
Weekends	- 104
Holidays	- 12
Vacation	- 20
Sick Leave	- 8
Education/Training	- 3
<hr/> Total working days per year	218

### **2. Judge Day**

The judge day value represents the amount of time each judge has available for case-related work each day. This value is calculated by subtracting time for lunch, breaks, travel, and non-case-related work (e.g., administration, education) from the total working day.

Travel time is an important distinction between courts based on their geographical location. To measure the amount of time some judges spend driving between courts in their district, real-time reporting was used to capture actual travel time during the 4-week time study. Actual travel time was averaged within judicial districts for each court type, then travel time was factored out of the amount of available case-related time in the year value. This results in a different judge year value in each judicial district based on the reported travel time in that district.

### **3. Judge Year Values**

To calculate the final year values for case-related work, the number of days in the working year was multiplied by the day value for case-related work. This figure was then expressed in terms of minutes per year. Exhibit 6 shows the calculation of the year values for District, County, and Separate Juvenile Court.

### Exhibit 6. Judge Year Values

#### District Court Judge Year Value

	District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	District 11	District 12
Day (hours)	8	8	8	8	8	8	8	8	8	8	8	8
Minutes per hour	× 60	60	60	60	60	60	60	60	60	60	60	60
Total minutes per day	480	480	480	480	480	480	480	480	480	480	480	480
Non-case related	– 60	60	60	60	60	60	60	60	60	60	60	60
Travel time	– 60	0	0	0	30	10	45	60	10	70	45	45
Case related time	360	420	420	420	390	410	375	360	410	350	375	375
Judge year (days)	× 218	218	218	218	218	218	218	218	218	218	218	218
Year value (minutes)	78,480	91,560	91,560	91,560	85,020	89,380	81,750	78,480	89,380	76,300	81,750	81,750

#### County Court Judge Year Value

	District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	District 11	District 12
Day (hours)	8	8	8	8	8	8	8	8	8	8	8	8
Minutes per hour	× 60	60	60	60	60	60	60	60	60	60	60	60
Total minutes per day	480	480	480	480	480	480	480	480	480	480	480	480
Non-case related	– 60	60	60	60	60	60	60	60	60	60	60	60
Travel time	– 60	30	0	0	60	60	60	90	10	60	60	60
Case related time	360	390	420	420	360	360	360	330	410	360	360	360
Judge year (days)	× 218	218	218	218	218	218	218	218	218	218	218	218
Year value (minutes)	78,480	85,020	91,560	91,560	78,480	78,480	78,480	71,940	89,380	78,480	78,480	78,480

#### Separate Juvenile Court Judge Year Value

	District 2	District 3	District 4
Day (hours)	8	8	8
Minutes per hour	× 60	60	60
Total minutes per day	480	480	480
Non-case related	– 60	60	60
Travel time	– 10	0	0
Case related time	410	420	420
Judge year (days)	× 218	218	218
Year value (minutes)	89,380	91,560	91,560

## B. Judicial Need

To calculate the number of judges needed in District, County, and Separate Juvenile Court, the annual average filings count for each case type was multiplied by the corresponding case weight to calculate the annual judicial workload associated with that case type, in minutes. In each court type, judicial workload was calculated, then divided by the judge year value, or the amount of time each full-time judge has available for case-related work in one year. This yielded the total number of judges required to handle the court's case-related workload, as well as judges' ordinary non-case-related responsibilities, in full-time equivalent (FTE) terms.

Exhibit 7 (District Court), Exhibit 8 (County Court), and Exhibit 9 (Separate Juvenile Court) present the final calculation of judicial workload and need, by district. Overall, the model suggests a need for 58 District Court judges, 58 County Court judges, and 12 Separate Juvenile Court judges.

In some courts, workload-based judicial need may exceed or fall below the number of currently allocated judicial positions. To determine if a change to the number of judicial positions is merited, the FTE workload per judge is examined relative to a rounding rule.

### 1. Rounding Rule

The rounding rule sets an upper and lower threshold by which to determine whether a court has too few or many judicial positions given the typical workload in that district. A standard rule is applied to all districts, court levels, and court sizes. The lower threshold is set at 0.6 FTE per judge; the upper threshold is 1.15 FTE per judge. If a court's FTE per judge falls outside of

that range, they may qualify to have a review of their number of judicial positions.

Weighted caseload calculations typically result in estimates of judicial need that contain fractional judgeships. In some instances when implied need exceeds the number of sitting judges, the current complement of judges in a given court can organize to handle the additional workload, perhaps with the periodic assistance of a retired or substitute judge. However, at some point, the additional workload crosses a threshold that means the court needs another full-time judicial position to effectively resolve the cases entering the court. The main purpose of the rounding rule is to provide a uniform way to identify the threshold. In other words, the rounding rule provides a consistent method to guide the decision of when to round up or down to a whole judicial position and thereby determine the appropriate number of authorized judicial positions in each circuit and district.

Workload per judge is calculated by dividing the total judge need in each circuit/district by the number of funded judicial positions. According to the rounding convention, when workload per judge is greater than or equal to 1.15 FTE, there is a need for one or more additional judicial positions; where workload per judge falls below .6 FTE, there is a need for fewer positions.<sup>2</sup> For example, in the 3<sup>rd</sup> Judicial District there are currently 8 FTE district court judges. Dividing the *Implied Need* by the *Actual Judges* (8.44 FTE ÷ 8 FTE) results in a *Current Workload per Judge* of 1.05 FTE. Since workload per judge is below the upper threshold of 1.15 FTE, no additional judgeships are recommended.

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<sup>2</sup> A position should not be subtracted, however, when this would result in a per-judge workload greater than 1.15

FTE. For this reason, final workload per judge may be lower than .9 FTE in some counties.

The rounding convention using workload per judge was designed to provide empirical guidance as to which courts are over- or under-resourced. It also provides a means to rank jurisdictions regarding their relative need. The higher the workload per judge, the greater the need for additional resources (e.g., a court with a workload per judge of 1.29 would have a greater need for an additional judge than a court with a workload per judge of 1.12). The upper and lower thresholds are guidelines for an initial identification of courts that may need additional (or fewer) resources.

Courts that are near the threshold (e.g., courts with a workload per judge between 1.10 and 1.20) may benefit from a secondary analysis that

examines additional contextual factors affecting the need for judges. For courts falling slightly below the threshold (e.g., workload per judge of 1.14), these extra factors should be considered when determining whether additional judicial resources are needed.

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The rounding convention can be summarized as:

Rule 1: If workload per judge  $\geq 1.15$ , add judges until workload per judge  $< 1.15$

Rule 2: If workload per judge  $< 0.60$ , subtract a judge ONLY if resulting workload per judge  $< 1.15$

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**Exhibit 7. Judicial Workload and Need, District Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	244,056	416,957	772,490	1,893,644	275,364	252,543	182,868	120,081	347,305	168,962	348,001	311,290	5,333,561
Judicial Year Value	÷ 78,480	91,560	91,560	91,560	85,020	89,380	81,750	78,480	89,380	76,300	81,750	81,750	
Implied Judge Need (from model)	3.11	4.55	8.44	20.68	3.24	2.83	2.24	1.53	3.89	2.21	4.26	3.81	60.78
Actual Judges	÷ 3	4	8	16	4	3	2	2	4	2	4	4	56
Workload per judge (implied ÷ actual)	1.04	1.14	1.05	1.29	0.81	0.94	1.12	0.77	0.97	1.11	1.06	0.95	1.09
Judge need rounded (1.15/.6)	3	4	8	18	4	3	2	2	4	2	4	4	58

**Exhibit 8. Judicial Workload and Need, County Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	215,683	330,412	676,087	1,235,494	326,377	270,590	203,234	135,406	367,949	214,682	396,941	317,911	4,690,766
Judicial Year Value	÷ 78,480	85,020	91,560	91,560	78,480	78,480	78,480	71,940	89,380	78,480	78,480	78,480	
Implied Judge Need (from model)	2.75	3.89	7.38	13.49	4.16	3.45	2.59	1.88	4.12	2.74	5.06	4.05	55.55
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	0.92	0.97	1.05	1.12	0.83	0.86	0.86	0.63	1.03	0.91	1.01	0.81	0.96
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**Exhibit 9. Judicial Workload and Need, Separate Juvenile Court**

	District			Statewide
	2	3	4	
Total Workload	167,764	340,828	627,150	1,135,733
Judicial Year Value	÷ 89,380	91,560	91,560	
Implied Judge Need (from model)	1.88	3.72	6.85	12.45
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.94	0.93	1.14	1.04
Judge need rounded (1.15/.6)	2	4	6	12

## **VI. RECOMMENDATIONS**

The final weighted caseload model provides an empirically grounded basis for analyzing judicial workload and need in each of Nebraska's District, County, and Separate Juvenile Courts. NSCS recommendations are intended to ensure the effective use of the weighted caseload model and to preserve the model's integrity and utility over time.

### **Recommendation 1**

The revised weighted caseload model clearly illustrates the changing character of judicial workload in Nebraska. The model is used to determine the number of judges needed in each District, County and Separate Juvenile Court. The model finds the current complement of judges is appropriate in all court locations, with the exception of the 4<sup>th</sup> Judicial District. The model suggests the need for two new judgeships in the 4<sup>th</sup> Judicial District, but does not reflect the additional judgeship to be added in that district effective July 1, 2021.

### **Recommendation 2**

A critical assumption of Nebraska's weighted caseload models is that case filings are entered into JUSTICE uniformly and accurately. NCSC recommends that Nebraska's district and county court clerks continue their efforts to improve the uniformity of data entry and that the trial courts continue efforts to encourage uniformity in case filings. Ideally, for all criminal and civil case types, multi-charge or multi-petition cases should be counted as a single case unless they are unable to be consolidated and must be processed separately. For juvenile 3A cases, NCSC recommends counting children rather than total cases due to the disparate filing practices across the state. A case with multiple children should count each child only once, when they are added to the case.

### **Recommendation 3**

The calculations of judge need in this report are based upon a three-year average of case filing data. NCSC recommends that Nebraska AOCPC recalculate judge need on an annual basis using the same methodology set forth in this report and updated with year-end case filing data to produce a 3-year rolling average. The application of the workload formula to the most recent filings will reveal the impact of any caseload changes judicial workload.

### **Recommendation 4**

The availability of support personnel, especially law clerks, court clerks, bailiffs and child support referees, has a profound impact on judges' ability to perform their work efficiently and effectively. The recommended case weights were calculated based on the actual judge time only, so if support personnel are no longer provided or are reduced in a particular district, the judicial need will be higher than is reflected in the weighted caseload report. JNAC members and results from the Sufficiency of Time survey stressed the importance of strong support staff. NCSC recommends that periodic workload assessments be conducted for law clerks, court clerks, bailiffs and child support referees.

### **Recommendation 5**

Over time, the integrity of any weighted caseload model may be affected by external factors such as changes in legislation, case law, or court technology. NCSC recommends that the Nebraska Supreme Court and the AOCPC conduct a comprehensive review of the weighted caseload models every five to seven years. Between updates, if a major change in the law appears to have a significant impact on judicial workload, JNAC and/or a representative focus group of judges that handle the case type(s) may be convened to make interim adjustments to the affected case weight(s).

## **APPENDIX A. GLOSSARY OF TERMS, DISTRICT COURT**

### ***Case Types***

#### **A. Problem-Solving Court Cases**

Young Adult, Adult Drug, Adult DUI, Veterans , Mental Health, Reentry

#### **B. Protection Orders**

Domestic Abuse, Harassment, and Sexual Assault

#### **C. Civil**

Everything that is not a Protection Order or Domestic Relations case

#### **D. Class I Felony**

Murder 1 & 2, 1<sup>st</sup> deg. Sex. Asslt, 1<sup>st</sup> deg. Sex. Asslt on a child

#### **E. Other Criminal**

All other criminal cases that are not Class I Felonies

#### **F. Domestic Relations**

Divorce, Paternity, Court Ordered Support, Grandparent Visitation, Interstate Child Support, etc.

#### **G. Appeals**

Civil, Criminal or Traffic Appeals

#### **H. Administrative Appeals**

### ***Case-Related Activities***

#### **1. Pre-Disposition/Non-Trial Disposition**

Includes all on-bench and off-bench activity related to pretrial proceedings and non-trial dispositions. In probate cases, includes uncontested proceedings to appoint a fiduciary or to order supervision of a trust. Includes all off-bench research and preparation related to pre-disposition and non-trial disposition activities. Some examples of pre-disposition/non-trial disposition activities include:

- Arraignment
- Pretrial motion that does not fully dispose of the case (e.g., motion in limine)
- Scheduling conference
- Issuance of warrant
- Entry of guilty plea and sentencing
- Motion to Dismiss
- Motion for default judgment
- Motion for summary judgment
- Uncontested disposition hearing in domestic/paternity case
- Bond reviews
- 404 & 414 motions
- Determine competency
- Daubert Motion, Trammel Motion



- Discovery motions
- Temporary injunctions

**2. Trial**

Includes all on-bench and off-bench activity related to a bench or jury trial or another contested proceeding that disposes of the original petition in the case.. Includes all off-bench research and preparation related to trials. Includes sentencing following a bench or jury trial. Some examples of trial activities include:

- Bench trial
- Jury trial
- Sentencing after conviction at trial
- Trial de novo
- Contested divorce/paternity/support hearing

**3. Post-Disposition**

Includes all on-bench and off-bench activity that occurs after the entry of judgment on the original complaint in the case. Includes all off-bench research and preparation related to post-disposition activity. Does not include trials de novo. Some examples of post-disposition activity include:

- Post-trial motion
- Motion to Revoke Probation
- Sentencing after revocation of probation
- Complaint to change of custody, support, parenting time, or domicile
- Child support enforcement
- Motion for installment judgment
- Custodial sanction hearing
- Post-conviction/habeas/DNA testing
- Motion for New Trial
- Motion to Alter/Amend, Motion to Set Aside Conviction/Judgment
- 
- Renewal on Protection Orders

**4. Post-Release Supervision (PRS)**

*For District Court only.*

- PRS hearing
- Custodial sanction hearing
- PRS status check
- Motion to revoke PRS
- Sentencing after revocation of PRS

***Non-Case-Related Activities***

**a. Non-Case-Related Administration**

Includes all non-case-related administrative work such as:

- Staff meetings
- Judges' meetings
- Personnel matters
- Staff supervision and mentoring
- Court management

**b. General Legal Research**

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

- Reading journals
- Reading professional newsletters
- Reviewing appellate court decisions

**c. Judicial Education and Training**

Includes all educational and training activities such as:

- Judicial education
- Conferences

*Includes travel related to judicial education and training.*

**d. Committee Meetings, Other Meetings, and Related Work**

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

- Community criminal justice board meetings
- Bench book committee meetings
- Other court-related committee meetings

*Includes travel related to meetings.*

**e. Community Activities and Public Outreach**

Includes all public outreach and community service that is performed in a judge's official capacity. This category does not include work for which judges are compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in your official capacity. Examples of work-related community activities and public outreach include:

- Speaking at schools about legal careers
- Judging moot court competitions

*Includes travel related to community activities and public outreach.*

**f. Work-Related Travel**

Work-Related Travel includes only travel between courts during the business day. Time is calculated from the primary office location as determined by the Nebraska Supreme Court to the visited court.

Do not include commuting time from your home to your primary office location. Record travel time from your primary office location to judicial education and training, committee meetings, or community activities and public outreach in the applicable category. This is an account of minutes spent on travel only.

**g. Vacation, Sick Leave, and Holidays**

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

**h. Lunch and Breaks**

Includes all routine breaks during the working day.

**i. NCSC Time Study**

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

## **APPENDIX B. GLOSSARY OF TERMS, COUNTY COURT**

### ***Case Types***

- A. Domestic Relations**  
Divorce, Paternity
- B. Protection Orders**  
Domestic Abuse, Harassment, and Sexual Assault
- C. Felony**  
Bond Settings, Bond Reviews, Preliminary Hearings
- D. Misdemeanor**
- E. District Court: Adult Problem-Solving Court**
- F. Traffic**
- G. Civil**
- H. Probate**  
Estates
- I. Guardianship/Conservatorship**  
Adult, Incompetent, Minor
- J. Small Claims**
- K. Adoption**
- L. Juvenile: Abuse/Neglect/Dependency, Guardianship, and TPR**
- M. Juvenile: Delinquency**
- N. Juvenile: Status Offender 3B**
- O. Juvenile: Mentally Ill and Dangerous 3C**
- P. Juvenile: Bridge to Independence (B2I)**
- Q. Juvenile: Interstate Compact Hearings/Filings**  
Transfer of Youth Under Supervision; Runaways, Escapees, and Absconders
- R. Juvenile: Problem-Solving Court Cases (currently this time is included in 3A weight)**

## ***Case-Related Activities***

### **1. Pre-Disposition/Non-Trial Disposition**

Includes all on-bench and off-bench activity related to pretrial proceedings and non-trial dispositions. In probate cases, includes uncontested proceedings to appoint a fiduciary or to order supervision of a trust. Includes all off-bench research and preparation related to pre-disposition and non-trial disposition activities. Some examples of pre-disposition/non-trial disposition activities include:

- Arraignment
- Pretrial motion that does not fully dispose of the case (e.g., motion in limine, motion to suppress)
- Proceeding to appoint a temporary guardian/conservator
- Scheduling conference
- Issuance of warrant (e.g., review probable cause affidavits and set bond; issue search warrant)
- Pre-Adjudication juvenile delinquency review
- Entry of guilty plea and sentencing
- Informal traffic hearing
- Motion for summary judgment
- Hearing on appointment of permanent guardian/conservator
- Uncontested disposition hearing
- Motions for judgment on the pleadings
- Motions for default judgment
- Motions to dismiss
- Motion to Suppress
- Competency hearings
- Bond Reviews
- Competency Motions
- Cancel Warrants
- Motions for Default Judgment
- Motions for Debtor Exams
- Signing and Reviewing Search Warrants during and after work hours
- Signing and Reviewing Arrest Warrants during and after work hours
- SIGNDESK
- Motions for Substitute Service
- Seal Orders (Juvenile and Adult)
- Gun Appeals
- Juvenile (3a)-ex parte finding for removal; appt counsel, etc.

### **2. Trial**

Includes all on-bench and off-bench activity related to a bench or jury trial or another contested proceeding that disposes of the original petition in the case. In probate cases, includes contested proceedings to appoint a fiduciary or to order supervision of a trust. Includes all off-bench research and preparation related to trials. Includes sentencing following a bench or jury trial. Some examples of trial activities include:

- Bench trial
- Jury trial
- Sentencing after conviction at trial
- Trial de novo
- Trial on appointment of a permanent guardian/conservator
- Contested divorce hearing

- Juvenile adjudicatory hearing
- Contested disposition hearing
- Will Contest
- Trial to Remove POA, Trustee, Guardian/Conservator, Termination of Guardianship/Conservatorship
- Expedited Visitation Hearings in Guardianships
- Contested Fee Application Hearings
- Conducted All Legal Research
- Draft all Orders (Motions, Trial, Scheduling, etc.)
- Drug court termination hearings by county judge for district court drug court cases
- Sentencing hearings to determine financial ability to pay
- Drug court termination hearings by county judge for district court drug court cases

### **3. Post-Disposition**

Includes all on-bench and off-bench activity that occurs after the entry of judgment on the original petition in the case. In probate cases, includes all activity after a fiduciary is appointed or trust supervision is ordered. Includes all off-bench research and preparation related to post-disposition activity. Does not include trials de novo. Some examples of post-disposition activity include:

- Post-trial motion
- Sentencing after revocation of probation
- Guardianship/conservatorship review
- Guardianship/conservatorship modification/termination proceeding
- Account review (probate)
- Motion for installment judgment
- Permanency hearing
- Termination of parental rights
- 90-day review hearing (child protective proceedings)
- Post-adjudication juvenile delinquency review
- Custodial sanction hearing
- Post-conviction/habeas/DNA testing
- Time to Pay Requests
- Motions to Set Aside
- Motion for Debtor Exams
- Revivor Hearings
- Application for Continuing Lien
- Release Garnishee
- Motions to Determine Garnishee Liability
- Release of Non Exempt Funds
- Motions to Seal
- Garnishments
- Debtor exams
- Contempt/orders to show cause hearings
- Hearings on failures to pay fines/costs

## ***Non-Case-Related Activities***

### **a. Non-Case-Related Administration**

Includes all non-case-related administrative work such as:

Staff meetings  
Judges' meetings  
Personnel matters  
Staff supervision and mentoring  
Court management

### **b. General Legal Research**

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

Reading journals  
Reading professional newsletters  
Reviewing appellate court decisions

### **c. Judicial Education and Training**

Includes all educational and training activities such as:

Judicial education  
Conferences  
*Includes travel related to judicial education and training.*

### **d. Committee Meetings, Other Meetings, and Related Work**

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

Community criminal justice board meetings  
Bench book committee meetings  
Other court-related committee meetings  
*Includes travel related to meetings.*

### **e. Community Activities and Public Outreach**

Includes all public outreach and community service that is performed in a judge's official capacity. This category does not include work for which a judge is compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in their official capacity. Examples of work-related community activities and public outreach include:

Speaking at schools about legal careers  
Judging moot court competitions  
*Includes travel related to community activities and public outreach.*

### **f. Work-Related Travel**

Work-Related Travel includes only travel between courts during the business day. Time is calculated from the primary office location as determined by the Nebraska Supreme Court to the visited court.

Does not include commuting time from a judge's home to their primary office location. Does include travel time from a judge's primary office location to judicial education and training, committee meetings, or community activities and public outreach in the applicable category. This is an account of minutes spent on travel only.

- g. Vacation, Sick Leave, and Holidays**  
Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.
  
- h. Lunch and Breaks**  
Includes all routine breaks during the working day.
  
- i. NCSC Time Study**  
Includes all time spent filling out time study forms and entering time study data using the Web-based form.

## **APPENDIX C. GLOSSARY OF TERMS, SEPARATE JUVENILE COURT**

### ***Case Types***

- A. Abuse/Neglect/Dependency, Guardianship, and TPR**
- B. Delinquency**
- C. Status Offender 3B**
- D. Mentally Ill and Dangerous 3C**
- E. Problem-Solving Court Cases (currently this time is included in the 3A weight)**
- F. Adoption**
- G. Domestic Relations**  
Paternity and Custody Determinations
- H. Bridge to Independence (B2I)**
- I. Interstate Compact Hearings/Filings**  
Transfer of Youth Under Supervision; Runaways, Escapees, and Absconders

### ***Case-Related Activities***

#### **4. Pre-Disposition/Non-Trial Disposition**

Includes all on-bench and off-bench activity related to pretrial proceedings and non-trial dispositions. Includes all off-bench research and preparation related to pre-disposition and non-trial disposition activities. Some examples of pre-disposition/non-trial disposition activities include:

- Initial appearance-both 3a and delinq.
- Docket call-
- Pretrial motion hearing (both types of cases)
- Plea hearing/informal adjudication(both types of cases)
- Formal adjudication/trial (both types of cases)
- Disposition hearing (both types of cases)

#### **5. Trial**

Includes all on-bench and off-bench activity related to a bench trial or another contested proceeding that disposes of the original petition in the case. Includes all off-bench research and preparation related to trials. Some examples of trial activities include:

- Continued disposition hearing (both types of cases)
- Review hearing (3a and probation)
- Permanency hearing (3a only)
- Exception hearing (3a only)
- Detention hearing (delinquency only)



## **6. Post-Disposition**

Includes all on-bench and off-bench activity that occurs after the entry of judgment on the original petition in the case. Includes all off-bench research and preparation related to post-disposition activity. Does not include trials de novo. Some examples of post-disposition activity include:

- Revocation of probation hearing docket call or plea (delinquency only)
- Revocation of probation hearing-contested hearing (delinquency only)
- Motion for commitment to yrtc hearings (delinquency only)
- Motion for termination of parental rights hearings (3a only) initial appearance, docket call and plea or formal hearing(trial)
- Guardianship review hearings (3a only)
- Placement check hearings (both delinquency and 3a)
- Placement change hearings (primarily 3a but occasionally probation review)
- Interstate compact hearings on runaways and absconders

### ***Non-Case-Related Activities***

#### **a. Non-Case-Related Administration**

Includes all non-case-related administrative work such as:

- Staff meetings
- Judges' meetings
- Personnel matters
- Staff supervision and mentoring
- Court management

#### **b. General Legal Research**

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

- Reading journals
- Reading professional newsletters
- Reviewing appellate court decisions

#### **c. Judicial Education and Training**

Includes all educational and training activities such as:

- Judicial education
- Conferences

*Includes travel related to judicial education and training.*

#### **d. Committee Meetings, Other Meetings, and Related Work**

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

- Community criminal justice board meetings
- Bench book committee meetings
- Other court-related committee meetings

*Includes travel related to meetings.*

#### **e. Community Activities and Public Outreach**

Includes all public outreach and community service that is performed in a judge's official capacity. This category does not include work for which a judge is compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in

their official capacity as a judge. Examples of work-related community activities and public outreach include:

- Speaking at schools about legal careers
- Judging moot court competitions

*Includes travel related to community activities and public outreach.*

**f. Work-Related Travel**

Work-Related Travel includes only travel between courts during the business day. Time is calculated from the primary office location as determined by the Nebraska Supreme Court to the visited court.

Does not include commuting time from a judge's home to their primary office location. Does include travel time from a judge's primary office location to judicial education and training, committee meetings, or community activities and public outreach in the applicable category. This is an account of minutes spent on travel only.

**g. Vacation, Sick Leave, and Holidays**

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

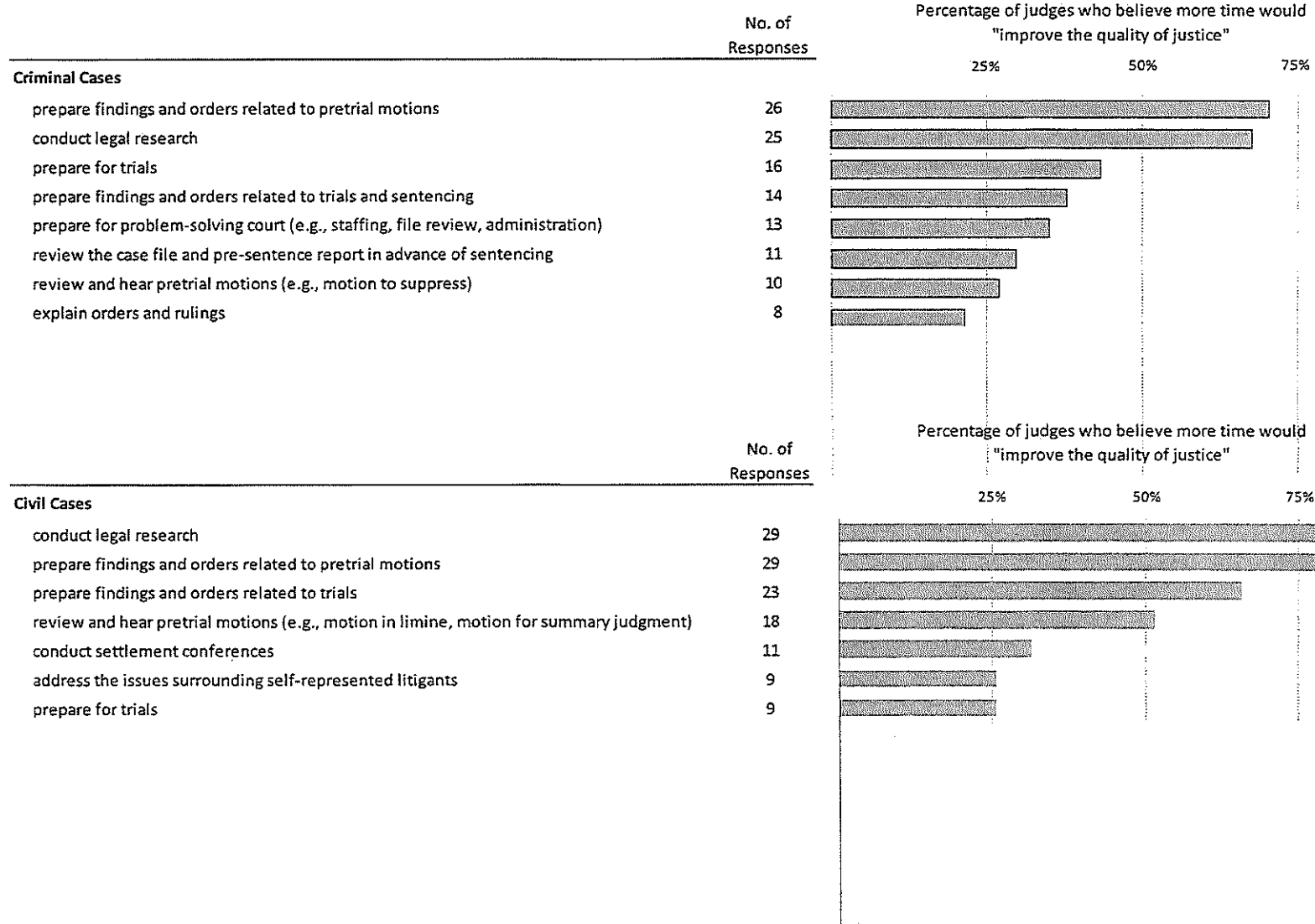
**h. Lunch and Breaks**

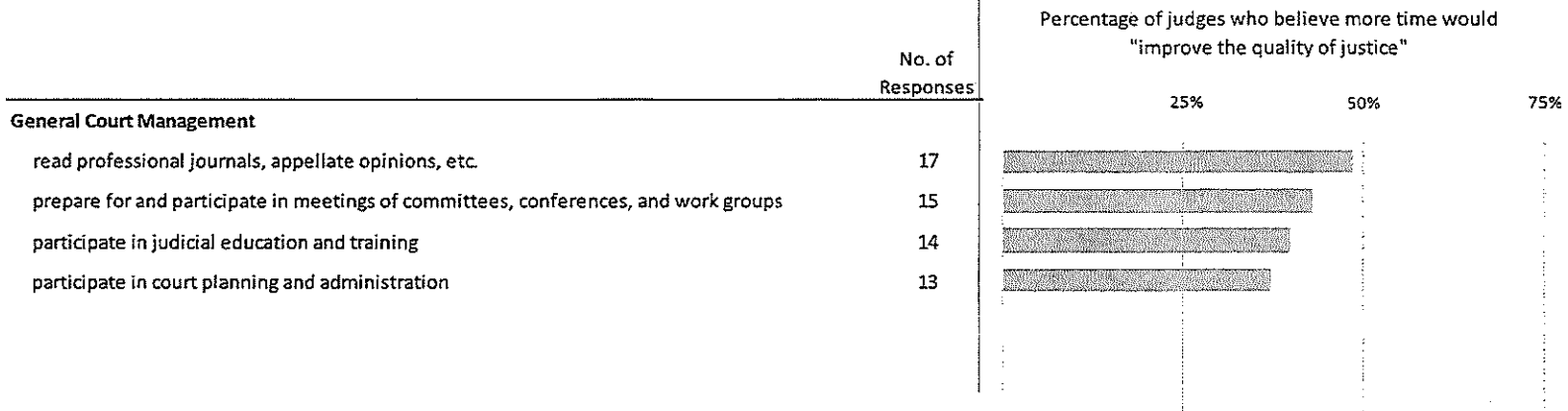
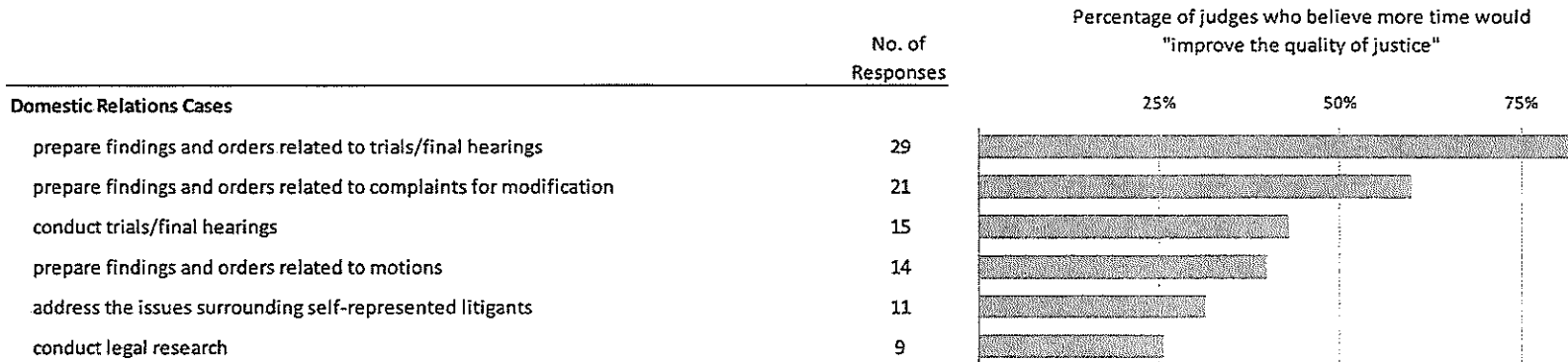
Includes all routine breaks during the working day.

**i. NCSC Time Study**

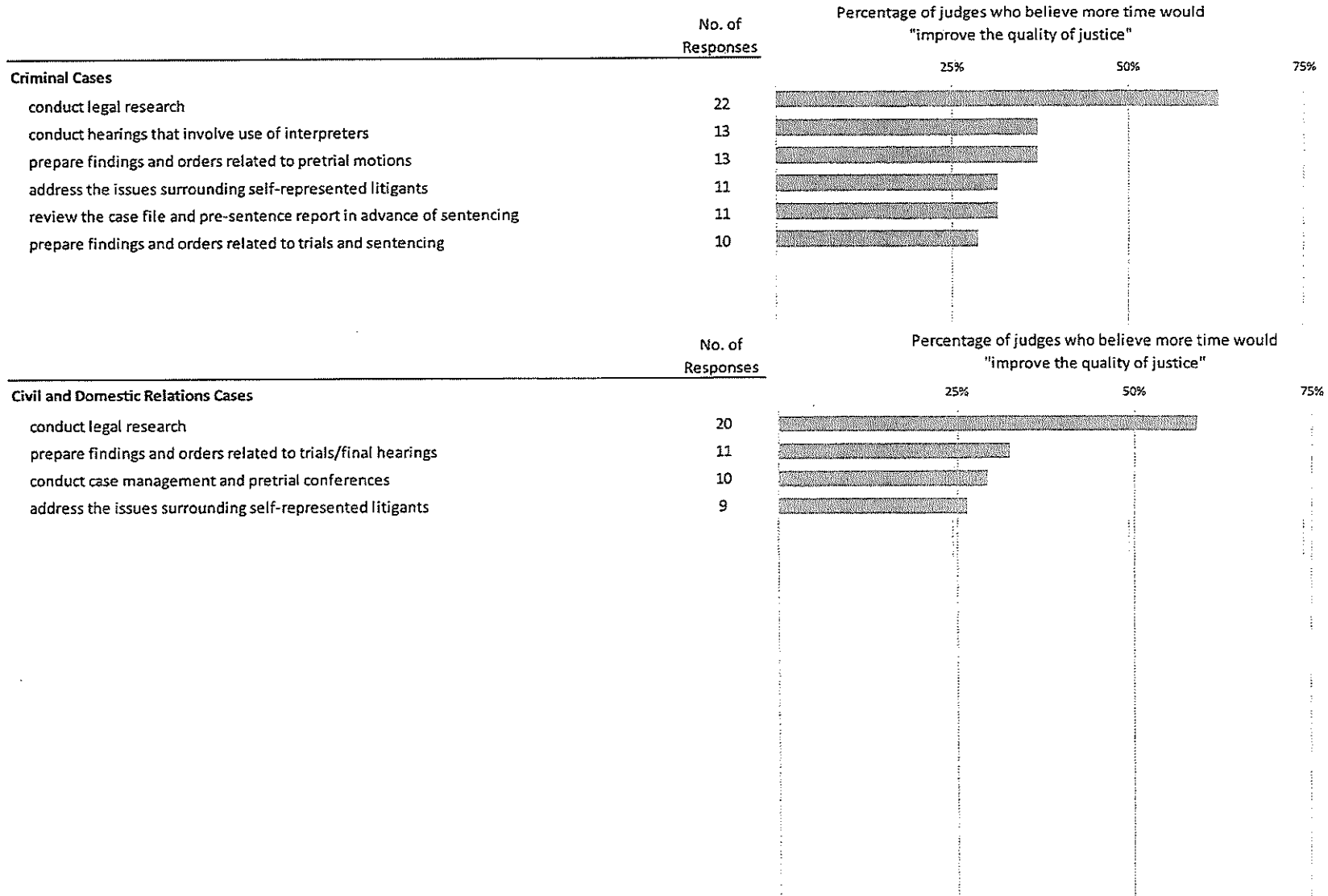
Includes all time spent filling out time study forms and entering time study data using the Web-based form.

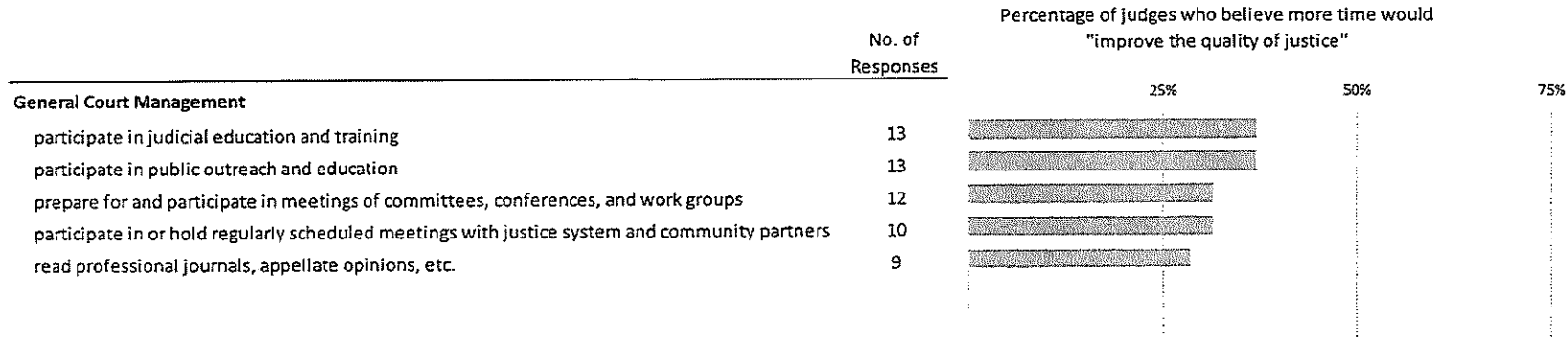
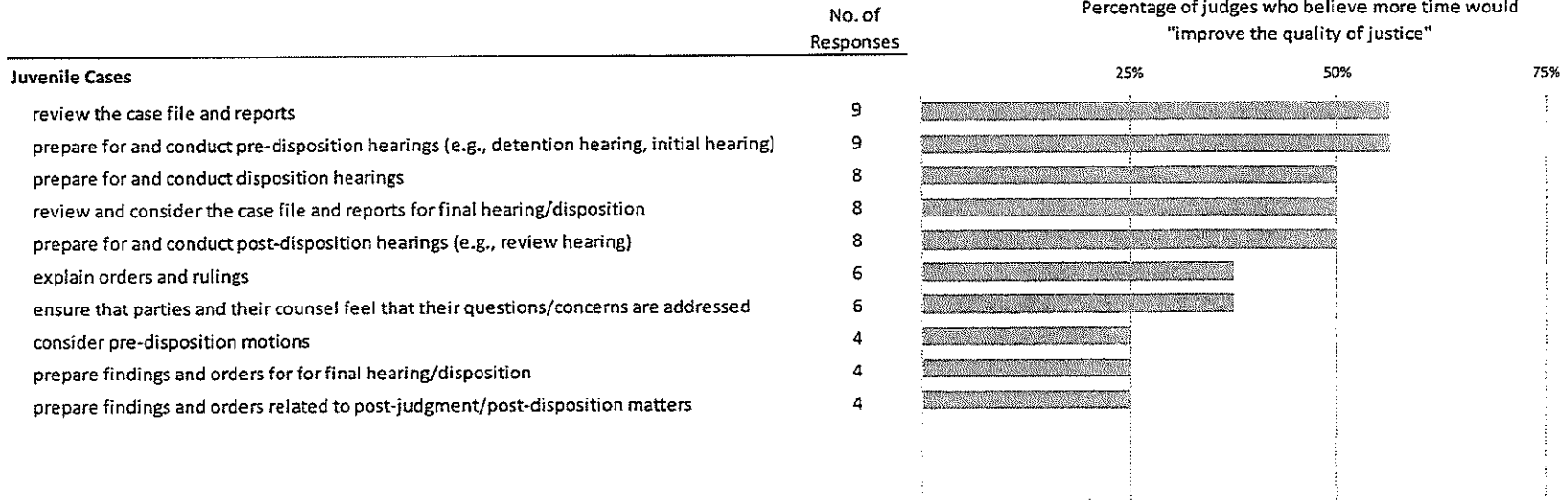
**APPENDIX D. SUFFICIENCY OF TIME SURVEY RESULTS, DISTRICT COURT**



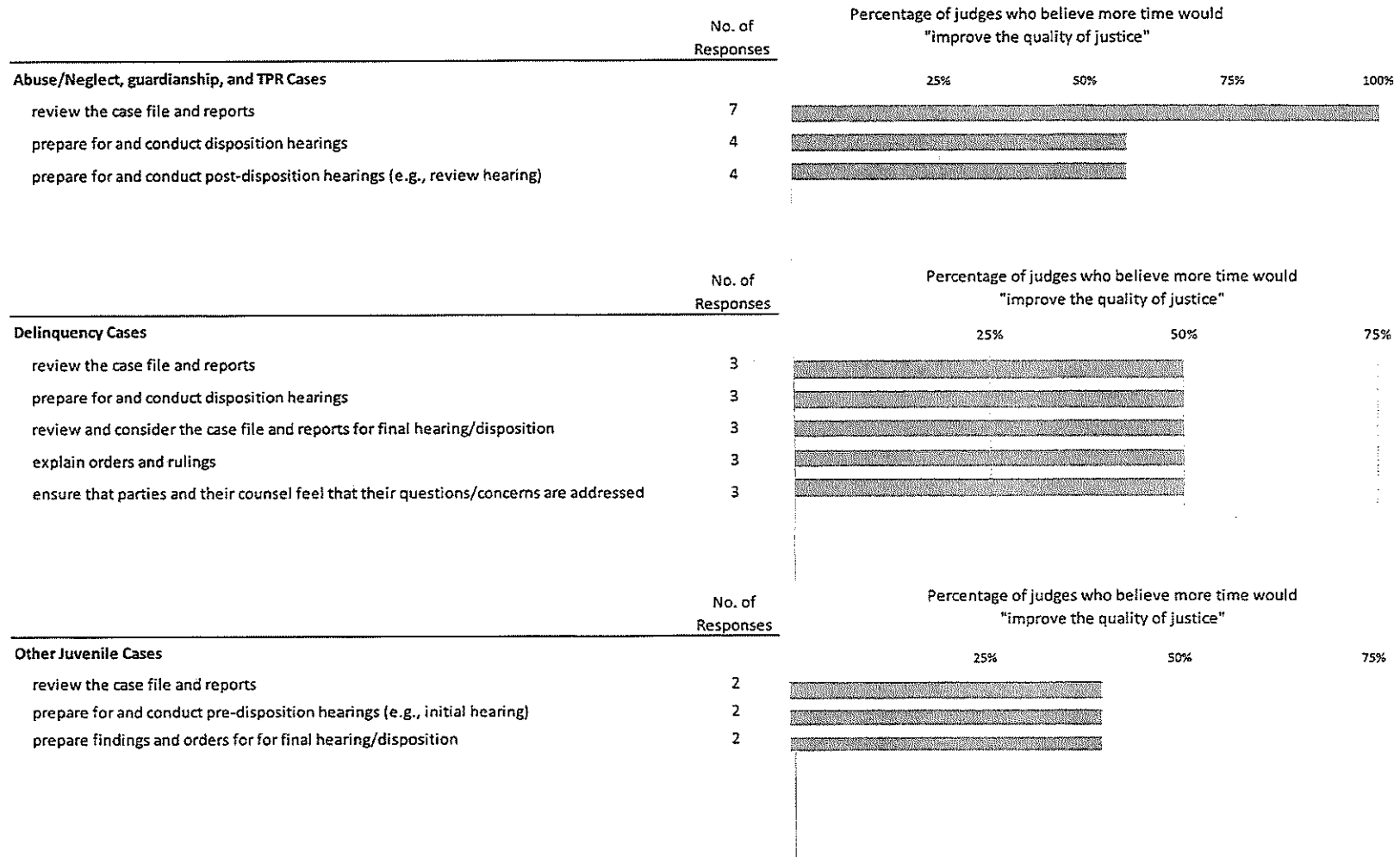


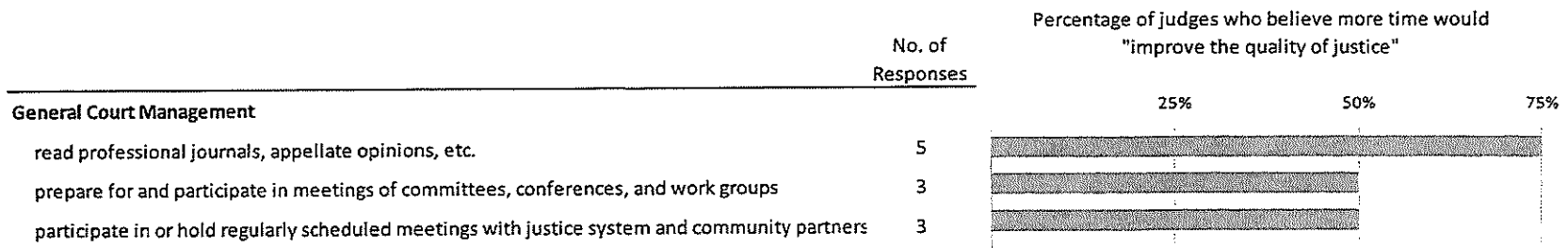
## APPENDIX E. SUFFICIENCY OF TIME SURVEY RESULTS, COUNTY COURT





## APPENDIX F. SUFFICIENCY OF TIME SURVEY RESULTS, SEPARATE JUVENILE COURT







## **APPENDIX G: IMPLICATIONS FOR JUDICIAL NEED USING THREE ALTERNATIVE VERSIONS OF THE 3A CHILDREN & PSC CASE WEIGHT**

The purpose of this Appendix is to present the implications for judicial need in the County Courts and Separate Juvenile Courts using three alternative versions of the case weight for 3A Children & PSC cases. The results on judicial need presented in Exhibits 8 and 9 use the individual weights for 3A Children & PSC based on the time study and shown in Exhibit 3: 272 minutes for County Court and 518 minutes for Separate Juvenile Court. As discussed above in relation to Exhibit 3, JNAC was not able to reach consensus on the case weight(s) for 3A Children & PSC cases for the reasons articulated. To understand the policy implications on judicial need if the weights are adjusted, NCSC considered the following three options suggested by members of the JNAC and other county court judges:

1. Use a combined average of 399 minutes for Juvenile 3A children & PSC in all courts.
2. Use the county court weight of 272 minutes for Juvenile 3A children & PSC in both county court and separate juvenile court .
3. Use the separate juvenile court weight of 518 minutes for Juvenile 3A children & PSC in both the county court and the separate juvenile court.

Results of the three options are presented on the following pages.

*Option 1.* Implied judicial need using the overall average for 3A Children & PSC cases of 399 minutes is shown in **G1a** and **G1b** for County Court and Separate Juvenile Court by district. The primary impact of this option is to increase the implied need in the County Court by about two judicial full-time equivalent (FTE) and to lower the implied need in the Separate Juvenile Court by about two FTE. However, applying the rounding rule using this option would not lead to an immediate suggested change in the number of judges by district for either court type. Over time, however, and assuming no significant change in actual judicial handling practices, this option would generally underestimate the actual judicial need in the separate juvenile courts, and overestimate the actual judicial need in the county courts.

**G1a: County Court Implied Need using County Court & Separate Juvenile Court Average 3A & PSC Case Weight of 399**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Implied Judge Need (from model)	2.96	3.97	7.38	13.49	4.38	3.64	2.75	2.01	4.34	2.93	5.43	4.33	57.61
Actual Judges	3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	0.99	0.99	1.05	1.12	0.88	0.91	0.92	0.67	1.09	0.98	1.09	0.87	0.99
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**G1b: Separate Juvenile Court Implied Need Using County Court & Separate Juvenile Court Average 3A & PSC Case Weight of 399**

	2	3	4	Statewide
	Implied Judge Need (from model)	1.63	3.22	5.80
Actual Judges	2	4	6	12
Workload per judge (implied ÷ actual)	0.82	0.81	0.97	0.89
Judge need rounded (1.15/.6)	2	4	6	12

*Option 2.* Implied need using the County Court time study case weight for 3A Children & PSC cases of 272 minutes for both County Court and Separate Juvenile Court is shown in **G2a** and **G2b**. With this option, there is no change to implied need in the County Court from that shown in Exhibit 8. As this option uses the lower County Court case weight, implied need in the Separate Juvenile Court is also lower, falling by about 3.7 judicial FTE. However, the use of the rounding rule would not lead to an immediate suggested change in the current number of separate juvenile court judges. Over time, however, and assuming no significant change in actual judicial handling practices, this option would accurately estimate the number of county court judges needed, but would generally underestimate the actual judicial need in the separate juvenile courts.

**G2a: County Court Implied Need using County Court 3A & PSC Case Weight of 272**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Implied Judge Need (from model)	2.75	3.89	7.38	13.49	4.16	3.45	2.59	1.88	4.12	2.74	5.06	4.05	55.55
Actual Judges	3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	0.92	0.97	1.05	1.12	0.83	0.86	0.86	0.63	1.03	0.91	1.01	0.81	0.96
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**G2b: Separate Juvenile Court Implied Need Using County Court 3A & PSC Case Weight of 272**

	District			Statewide
	2	3	4	
Implied Judge Need (from model)	1.37	2.68	4.68	8.73
Actual Judges	2	4	6	12
Workload per judge (implied ÷ actual)	0.69	0.67	0.78	0.73
Judge need rounded (1.15/.6)	2	4	6	12

*Option 3.* Implied need using the Separate Juvenile Court time study case weight for 3A Children & PSC cases of 518 minutes for both County Court and Separate Juvenile Court is shown in **G3a** and **G3b**. Use of this option leads to no change in the implied need for Separate Juvenile Court as shown in Exhibit 9. This case weight is higher than the original weight used for County Court, resulting in an increase to implied need in county court of about four judicial FTE. Once again, applying the rounding rule would not lead to an immediate suggested change in the current number of county court judges, although the implied judicial need in two districts (9<sup>th</sup> and 11<sup>th</sup>) increases to the upper threshold of the rounding rule of 1.15. Over time, however, and assuming no significant change in actual judicial handling practices, this option would accurately estimate the number of separate juvenile court judges needed, but would generally overestimate the actual judicial need in the county courts.

**G3a: County Court Implied Need using Separate Juvenile Court 3A & PSC Case Weight of 518**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Implied Judge Need (from model)	3.16	4.04	7.38	13.49	4.59	3.81	2.90	2.12	4.56	3.12	5.78	4.59	59.54
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	1.05	1.01	1.05	1.12	0.92	0.95	0.97	0.71	1.14	1.04	1.16	0.92	1.03
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**G3b: Separate Juvenile Court Implied Need Using Separate Juvenile Court 3A & PSC Case Weight of 518**

	District			Statewide
	2	3	4	
Implied Judge Need (from model)	1.88	3.72	6.85	12.45
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.94	0.93	1.14	1.04
Judge need rounded (1.15/.6)	2	4	6	12

# **ADDENDUM TO FINAL REPORT**

**Including final case weights and implied judicial need for  
District Court, County Court and Separate Juvenile Court**

**December 2020**

After receiving the “Nebraska Judicial Workload Assessment, Final Report, October 2020” the Nebraska Supreme Court put the full report out for public comment. Written comments were received from and on behalf of county court judges, attorneys who handle juvenile cases, and the Nebraska State Bar Association. All comments were carefully considered by the Supreme Court, and copies were shared with the NCSC for its additional consideration and response. **This addendum summarizes the public comments, the NCSC response to those comments, and the final decision of the Nebraska Supreme Court to accept the NCSC report and adopt the proposed case weights as modified.**

#### **Summary of Public Comments:**

The comments were generally supportive of the workload study and the new methodology used to determine judicial need, but expressed concern that different weights were proposed for the same juvenile case types depending on whether the case was heard in the county courts or the separate juvenile courts. Many comments expressed a fundamental belief that all juvenile case types should be weighted the same whether handled in a county court, or in a separate juvenile court. To achieve more uniform case weights, some suggested that an averaged case weight should be developed for all juvenile case types and applied in all courts regardless of judicial handling practices. Others suggested that using the highest recommended case weight in both types of courts would ensure that all areas of the State have sufficient judicial resources to devote appropriate time to handling juvenile cases.

The Nebraska State Bar Association generally rejected the notion that all juvenile case weights must be identical in the county courts and separate juvenile courts, reasoning “there are valid reasons why the time spent on 3A cases in these courts differ which may be related to community demographics, specialization, court culture and the difference in access to services across the state.” The NSBA generally opposed lowering case weights in the separate juvenile courts, but it did support separating the time devoted to problem solving courts, and increasing the county court weight for 3(a) juvenile abuse/neglect cases from 272 minutes to 383 minutes.

#### **Summary of NCSC Response to Public Comments:**

After reviewing the public comments, the NCSC assured the Nebraska Supreme Court that the juvenile case weights proposed in its final report are empirically sound. All case weights were based on the actual time reported by judges during the month-long time study, and different weights were developed because the data show significantly different judicial handling practices in those courts, with judges in the separate juvenile courts reporting considerably more time. This actual difference in judicial handling practices is not a new phenomenon; it was observed in both prior judicial time studies, and explains why those studies also recommended a higher case weight for abuse/neglect cases in the separate juvenile courts.

While expressing confidence in the methodology and accuracy of the weights proposed in the 2020 final report, the NCSC was also supportive of making limited, policy-based adjustments to the proposed weights to address the concerns expressed during the public comment period. In considering such adjustments, the NCSC encouraged the Nebraska Supreme Court to keep in mind that a well-developed set of judicial workload standards should: (1) provide an empirically correct profile of the time actually spent by judges handling the cases; (2) account for all the time judges spend on their work (including time in chambers, travel time, administrative time, continuing education, and judicial

outreach); (3) allow sufficient time for all judges to deliver high-quality justice; and (4) be viewed as objectively credible by the judges, the practicing bar, and the public.

**Nebraska Supreme Court Adopts Final Report with Modifications:**

After careful consideration, the Nebraska Supreme Court voted to accept the NCSC's final report and to adopt the proposed case weights, with the following modifications:

- (1) The court accepted the recommendation to count 3(a) children rather than 3(a) cases for purposes of preparing weighted caseload reports, with the caveat that this approach will be reconsidered if, in the future, uniformity in filing practices can be achieved.
- (2) The Court directed that all time reported for juvenile problem solving courts should be removed from the time reported on abuse/neglect cases, and NCSC should develop a temporary weight for juvenile problem-solving court cases, pending a narrow time study of juvenile problem-solving court cases in the future. The explicit focus on juvenile problem solving court cases produces a case weight of 654 minutes. With the recent adoption of state-wide practice standards for such courts, it is expected that judicial handling practices will be uniform across the state, so the temporary weight of 654 minutes for juvenile problem-solving court cases will be applied in both county courts and separate juvenile courts.
- (3) After the problem-solving court time is removed from the proposed weight for 3(a) children in the separate juvenile court, the adjusted weight is 487 minutes. The Court directs that this adjusted weight of 487 minutes will be applied to 3(a) children in both county courts and separate juvenile courts, with the expectation that all judges handling such cases will work to implement best practices, and with the caveat that this modification will be reconsidered if, in the future, judicial handling practices do not support application of a uniform weight.
- (4) The Court adopts all other proposed case weights as recommended in the final report. For the sake of clarity, the Court directed the NCSC to prepare a Case-Weight Chart for inclusion in the addendum which shows the final adopted case weights for all courts.

The Nebraska Supreme Court concluded that these limited policy-based adjustments to the weighted caseload standards fairly address the important concerns expressed by the county court judges, without reducing resources in the separate juvenile courts or compromising the empirical integrity of the new judicial workload study.

The following four Exhibits show the final results from the study:

- Addendum Exhibit 1: Final Case Weights
- Addendum Exhibit 2: Final Judicial Workload and Need, District Court
- Addendum Exhibit 3: Final Judicial Workload and Need, County Court
- Addendum Exhibit 4: Final Judicial Workload and Need, Separate Juvenile Court

## Addendum Exhibit 1. Final Case Weights

<b>District Court</b>	<b>Final Case Weight (minutes)</b>
Problem Solving Court Cases	683
Protection Orders	32
Civil	219
Class I Felony	367
Other Criminal	149
Domestic Relations	97
Appeals	343
Aministrative Appeals	540

<b>County Court</b>	<b>Final Case Weight (minutes)</b>
Protection Orders	32
Felony	26
Misdemeanor	23
District Court: Adult Problem-Solving Court	683
Traffic	1
Civil	8
Probate	61
Guardianship/Conservatorship	133
Small Claims	30
Adoption	92
Domestic Relations	97
Juvenile: 3A CHILDREN	487
Juvenile: Problem Solving Court (PSC)	654
Juvenile: Delinquency	100
Juvenile: Status Offender 3B	37
Juvenile: Mentally Ill and Dangerous 3C	265
Juvenile: Bridge to Independence (B21)	58
Juvenile: Interstate Compact Hearings/Filings	2

<b>Separate Juvenile Court</b>	<b>Final Case Weight (minutes)</b>
Adoption	49
Domestic Relations	26
Juvenile: 3A CHILDREN	487
Juvenile: Problem Solving Court (PSC)	654
Juvenile: Delinquency	136
Juvenile: Status Offender 3B	54
Juvenile: Mentally Ill and Dangerous 3C	265
Juvenile: Bridge to Independence (B21)	36
Juvenile: Interstate Compact Hearings/Filings	2



**Addendum Exhibit 2. Final Judicial Workload and Need, District Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	244,056	416,957	772,490	1,893,644	275,364	252,543	182,868	120,081	347,305	168,962	348,001	311,290	5,333,561
Judicial Year Value	÷ 78,480	91,560	91,560	91,560	85,020	89,380	81,750	78,480	89,380	76,300	81,750	81,750	
Implied Judge Need (from model)	3.11	4.55	8.44	20.68	3.24	2.83	2.24	1.53	3.89	2.21	4.26	3.81	60.78
Actual Judges	÷ 3	4	8	16	4	3	2	2	4	2	4	4	56
Workload per judge (implied ÷ actual)	1.04	1.14	1.05	1.29	0.81	0.94	1.12	0.77	0.97	1.11	1.06	0.95	1.09
Judge need rounded (1.15/.6)	3	4	8	18	4	3	2	2	4	2	4	4	58

**Addendum Exhibit 3. Final Judicial Workload and Need, County Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	246,003	339,938	671,497	1,229,131	361,236	297,101	226,823	151,369	406,925	243,353	449,496	358,368	4,981,240
Judicial Year Value	÷ 78,480	85,020	91,560	91,560	78,480	78,480	78,480	71,940	89,380	78,480	78,480	78,480	
Implied Judge Need (from model)	3.13	4.00	7.33	13.42	4.60	3.79	2.89	2.10	4.55	3.10	5.73	4.57	59.22
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	1.04	1.00	1.05	1.12	0.92	0.95	0.96	0.70	1.14	1.03	1.15	0.91	1.02
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**Addendum Exhibit 4. Final Judicial Workload and Need, Separate Juvenile Court**

	District			Statewide
	2	3	4	
Total Workload	162,205	366,468	606,676	1,135,733
Judicial Year Value	÷ 89,380	91,560	91,560	
Implied Judge Need (from model)	1.81	4.00	6.63	12.44
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.91	1.00	1.10	1.04
Judge need rounded (1.15/.6)	2	4	6	12



Judicial Edge

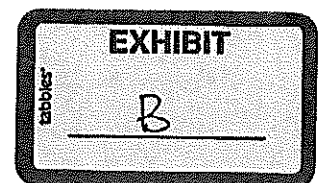
# Guest editorial: Why virtual court is a threat to our justice system

March 21, 2023

By Edward R. Blumberg, Steven K. Deutsch, Cosme Caballero and Robert E. (Beau) Blumberg

The elimination, in various venues, of the in-person courtroom experience is stunting the professional growth of new lawyers and new judges alike. We call for the establishment of hybrid hearings, which provide lawyers the option of virtual/in-person courtroom appearances for all hearings and non-jury trials. Jury trials should be exclusively in person for the lawyers.

The convenience of virtual hearings has rendered in-person hearings lasting less than 30 minutes passé in some jurisdictions. As these represent the majority of hearings, newly minted lawyers are deprived of learning their way around the courtroom, including thinking on their feet, the adept utilization of exhibits, case law, statutes, as well as interaction with court clerks, bailiffs, judicial assistants, opposing counsel and the judge. Moreover, there will soon be young lawyers taking the bench who will not have benefited from an in-person courtroom experience.





with business attire only from the waist up, unwanted activity appearing on camera in the background, the inability of lawyers to discuss the case in person during or after the hearing, and a general dehumanization of the process writ large. As Chief Justice of the United States William H. Taft stated, “those who witness the administration of justice should be properly advised that the function performed is one different from, and higher than, that which one discharges as a citizen in the ordinary walks of life.” A proper balance must be restored so that all proceedings occur in person with an option to appear virtually. Substituting a virtual court experience for in-person court proceedings risks the loss of our beloved system of justice—a risk that the judiciary, lawyers and our democracy cannot afford to take.

As young lawyers, we benefitted by being in court and being able to observe and emulate more experienced lawyers. More than once at the conclusion of a case, an experienced judge gave us pointers and practice tips on how to advocate more effectively and professionally.

We willingly traded the extra travel time and inconvenience of getting to court for the opportunity of the in-person courtroom experience. We saw old friends, made new friends, and learned how to relate to opposing counsel and the court effectively. Just as surgeons need to be in an operating room, litigators and trial lawyers need to be in the courtroom.

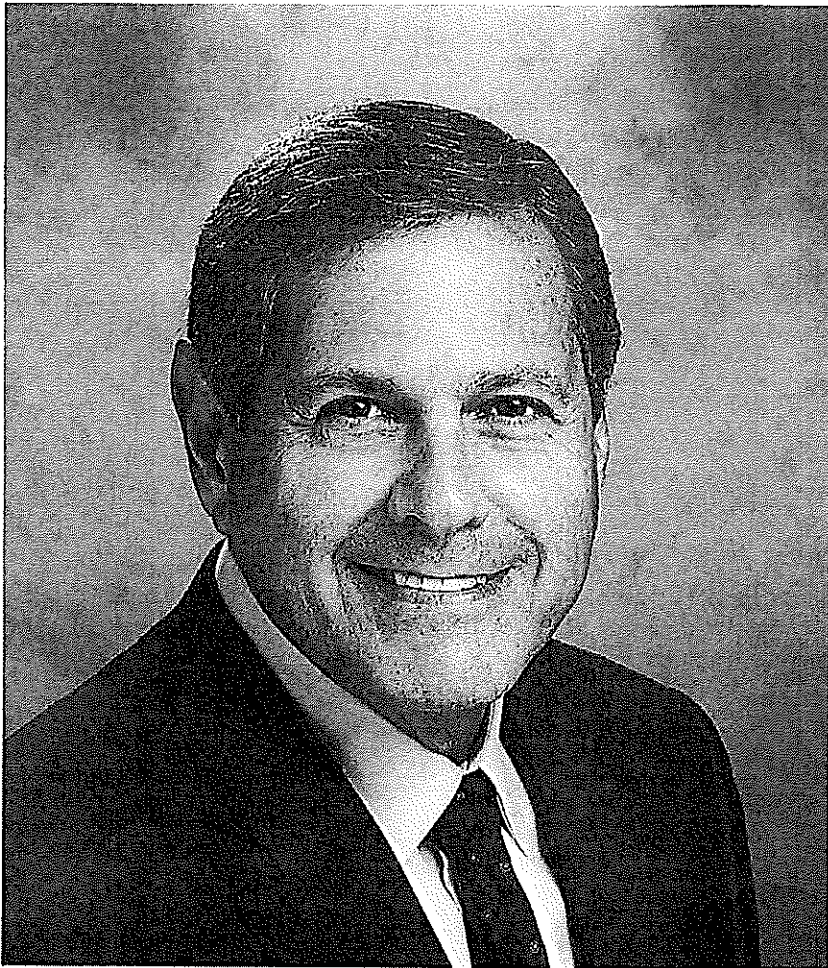
The reality is that new lawyers lack the exposure to the in-person courtroom experience and are unaware of the value of what they are missing. Older lawyers may believe they no longer require the in-person courtroom experience and enjoy the economic benefit and convenience inherent in virtual hearings. However, experienced lawyers, as well as judges, to the extent ethically permissible, have the professional obligation and duty to mentor lawyers. Not to do so harms the profession, the administration of justice, and, ultimately, the confidence of the public in our court system. Further, the notions of professionalism and civility are at risk.

Since the founding of our republic, it has been the dignified courthouse where citizens go for justice. There, on a regular basis, attorneys fulfill their role as officers of the court and appear in the courtroom with attire that reflects the solemnity of the tribunal before a judge likewise dressed with the formality of the robe. The work of the court has always been defined by in-person advocacy before an in-person judge. The citizens of this country have been well served by the tradition of lawyers giving voice, in person, in a real courthouse, to their matters before a judge. Convenience and economic efficiency have never been nor should they be the driving force in the administration of justice. The work of the court in



give way to expediency.

Ultimately, the virtualization of courtroom proceedings will serve to degrade the core values and traditions that have defined our justice system since its founding. If attorneys and judges treat the traditions and core values of our justice system as expendable, then the public will come to see our courtrooms and the work done there likewise, as insignificant and expendable. The sanctity of a free, fair and independent judiciary is so politically fragile that it may not withstand a virtual alteration. Now, as the pandemic winds down, we call for the full restoration of our justice system with the mechanisms to allow – in all instances – for in-person hearings along with the option to appear virtually.



Edward Blumberg is chair of the NJC Board of Trustees and a partner, along with Steven Deutsch, Cosme Caballero and Beau Blumberg, in the Miami law firm of Deutsch, Blumberg

# Nebraska County Judges Association

June 9, 2023

Judicial Resources Commission  
c/o Dawn Mussmann  
Via email to: [dawn.mussmann@nebraska.gov](mailto:dawn.mussmann@nebraska.gov)

RE: Judicial Vacancy in the Office of the County Court, 6th Judicial District

Dear Members of the Judicial Resources Commission,

We write to you on behalf of the Nebraska County Judges Association (NCJA) and its member judges urging you to declare a vacancy in the office of the County Court of the 6th Judicial District. The judicial workload statistics compiled pursuant to Neb. Rev. Stat. § 24-1007 support such an outcome.

The NCJA was recently made aware of a memorandum sent to the current county judges of the 6th and 7th Judicial Districts by the Administrative Office of the Courts and Probation (AOCB). That memo explains the AOCB's plan to ask the Commission to postpone final consideration of the vacancy to study alternative ways to cover the county court dockets in the 6th and 7th Judicial Districts. Such a study is estimated to take 6-12 months. That is an unnecessary delay of resources that are currently justified by the data.

Unfortunately, the AOCB did not share its plan with the NCJA, other judges outside of the 6th and 7th Judicial Districts, or the Nebraska State Bar Association, even though its plan has implications for county courts statewide.<sup>1</sup> The NCJA was made aware of the proposal less than 10 days prior to the Commission hearing and there was no opportunity to provide valuable input from the judges who serve the county courts or the attorneys who practice in the county courts.

There are several concerns with the AOCB's proposal. First, an extensive *Nebraska Judicial Workload Assessment* was recently conducted by the National Center for State Courts and adopted by the Nebraska Supreme Court. The NCJA notes that the calculations of judge need are based upon a three-year average of case filing data.<sup>2</sup> Therefore, when the Commission reviews the latest weighted caseload report for the 2022 calendar year, it should be mindful that the last three years (2020, 2021, and 2022) were greatly impacted by a worldwide pandemic. As a result, case filings were dramatically reduced in two of the three years included in

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<sup>1</sup> AOCB memo, p. 2 (Targets the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, and 12th Judicial Districts as having more judges than needed).

<sup>2</sup> *Nebraska Judicial Workload Assessment, Final Report*, October 2020, p. 3 & p. 19.

the average. Despite the pandemic's effects on case filings, the data still supports declaring a vacancy in the 6th Judicial District.

The Assessment further sets forth a "rounding rule" for calculating the number of judges needed in judicial districts.<sup>3</sup> As explained in the Assessment,

The rounding rule sets an upper and lower threshold by which to determine whether a court has too few or many judicial positions given the typical workload in that district. \*\*\* The lower threshold is set at 0.6 FTE per judge; the upper threshold is 1.15 FTE per judge. If a court's FTE per judge falls outside of that range, they may qualify to have a review of their number of judicial positions. \*\*\* The main purpose of the rounding rule is to provide a uniform way to identify the threshold. In other words, the rounding rule provides a consistent method to guide the decision of when to round up or down to a whole judicial position and thereby determine the appropriate number of authorized judicial positions in each circuit and district. \*\*\* According to the rounding convention, when workload per judge is greater than or equal to 1.15 FTE, there is a need for one or more additional judicial positions; where workload per judge falls below .6 FTE, there is a need for fewer positions.<sup>4</sup>

The NCJA believes it is appropriate to continue to follow the rounding rule in the Assessment and that no reasonable basis for deviating from the rule has been presented. In the latest weighted caseload report, all judicial districts have a workload per judge above the lower threshold of 0.6 FTE.<sup>5</sup> Specifically, the workload per judge in the 6th Judicial District is 0.82 FTE, well above that threshold.<sup>6</sup> Thus, the data does not support changing the number of judges currently allocated to the 6th Judicial District.

Second, the AOC's opinion as to what judicial districts are "over-judged" appears arbitrary. In its memo, the AOC identifies 8 judicial districts as having more judges than needed.<sup>7</sup> However, there are two districts that do not appear on the AOC's list that have, or will have, workloads per judge that are the same or less than some of the "over-judged" districts.

The 1st Judicial District has a workload per judge of 0.84 FTE and has not been identified as having more judges than needed.<sup>8</sup> However, the 12th Judicial District has the same workload per judge and the AOC claims it has too many

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<sup>3</sup> *Id.* at 16.

<sup>4</sup> *Id.*

<sup>5</sup> *Nebraska Judicial Branch Weighted Caseload Report, County Courts, Calendar Year 2022*

<sup>6</sup> *Id.*

<sup>7</sup> AOC memo, pp. 2 & 3.

<sup>8</sup> *Weighted Caseload Report, County Courts, Calendar Year 2022*

judges.<sup>9</sup> The 4th and 7th Judicial Districts are also listed as having too many judges but the workload per judge in those districts is more than the 1st Judicial District (0.85 and 0.88, respectively).<sup>10</sup>

The 9th Judicial District is also absent from the AOC's list of "over-judged" districts. In December, the Commission recommended the addition of a county judge in the 9th Judicial District and the Legislature recently passed a law approving that request. With the addition of that judge, the workload per judge in the 9th Judicial District would be 0.82 FTE using the most recent data. That is the same as the current workload per judge in the 3rd, 5th, and 6th Judicial Districts, and less than the workload per judge in the 4th, 7th, and 12th Judicial Districts.<sup>11</sup> Yet, the AOC lists those 6 districts as having too many judges but not the 9th Judicial District.

We highlight the 1st and 9th Judicial Districts, not to suggest that they are also "over-judged," but to illustrate the fact that there is no rational basis for the AOC's determinations. The NCJA, consistent with the Assessment and data derived therefrom, believes the judicial resources currently allocated to each judicial district are appropriate. It is unclear what formula the AOC is using to determine which judicial districts have sufficient judicial resources and which have more than necessary. As noted above, the AOC has not provided any of this information to the NCJA or other county court stakeholders.

Lastly, we question whether the Judicial Resources Commission has the legal authority to postpone a decision on this vacancy by implementing a "pilot project" as suggested by the AOC. As we are sure the Commission knows, Neb. Rev. Stat. § 24-1204 states in part:

In the event of the death, retirement, resignation, or removal of a district, county, or separate juvenile judge . . . the commission shall, after holding a public hearing, determine whether a judicial vacancy exists in the affected district or any other judicial district or whether a new judgeship or change in number of judicial districts or boundaries is appropriate.

That statute does not authorize a "pilot project" or the delay of a decision after a public hearing is held. After the public hearing, the Commission can: 1. Determine whether a judicial vacancy exists, 2. Determine whether a new judgeship is appropriate, or 3. Determine whether a change in number of judicial districts or boundaries is appropriate.

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

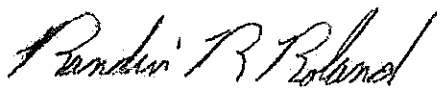
<sup>11</sup> *Id.*

If there is a plan to ignore the Assessment adopted by the Nebraska Supreme Court, to abandon the rounding rule, or to change judicial district boundaries, the NCJA believes input from those affected by such decisions should be sought. The AOCJ's memo acknowledges this "is a systemic issue, and it requires a systemic solution."<sup>12</sup> If that is true, the AOCJ should convene a representative group of judges, attorneys, and lay people from each judicial district to consider these issues, instead of its present plan which encourages a piecemeal approach that pits the stakeholders in one judicial district against those of another each time a judge leaves the bench. The AOCJ's present plan will result in inconsistencies of judicial resources across the State of Nebraska contrary to the interests of justice.

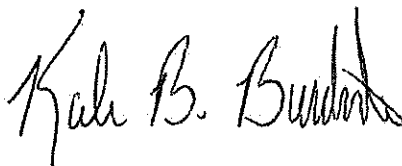
The NCJA acknowledges that former Judge Luebe covered three counties in the 6th Judicial District with a minimal caseload. However, the remaining judges within the district (all with less than 3 years on the bench) have already developed a plan to equalize caseloads if a new judge is appointed.

We urge the Commission to declare a vacancy in the office of the County Court of the 6th Judicial District and allow the judges of that district to equalize their caseloads within the existing district boundaries. Thank you for your consideration.

Sincerely,



Judge Randin R. Roland  
President



Judge Kale B. Burdick  
Chair  
Caseload & Redistricting Committee

Attachments

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<sup>12</sup> AOCJ memo, p. 4.



# Attachment 1

**Corey R. Steel**  
State Court Administrator



**Deborah A. Minardi**  
State Probation Administrator

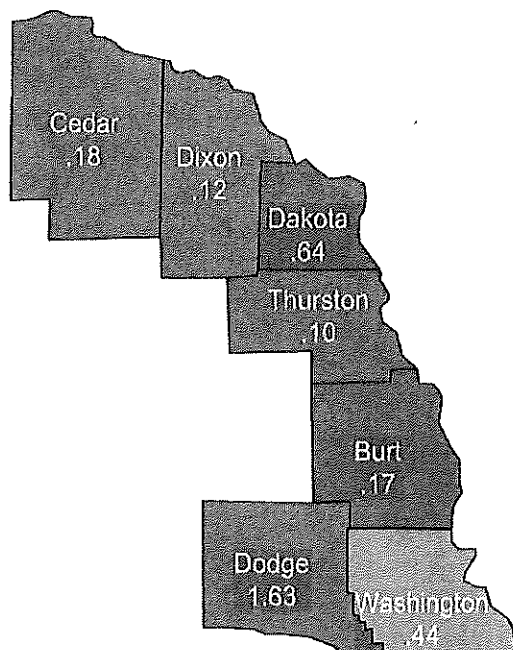
## MEMO

**TO:** County Court Judges in 6th and 7th Judicial Districts  
**FROM:** Corey R. Steel  
**DATE:** May 24, 2023  
**RE:** Proposed pilot project in 6th and 7th judicial districts

The Judicial Resources Commission is meeting on June 16, 2023, and one of the items on the agenda will be to consider whether a vacancy exists due to the resignation of Judge Luebe, effective June 2, 2023. The AOCJ plans to ask the Commission to postpone final consideration of that agenda item, pending the result of a 6-12 month pilot project to study alternative ways to cover the county court dockets historically served by Judge Luebe. Details of the proposed pilot project are described later in this memo. But first, the rationale for the proposal is set out.

The most recent Weighted Caseload Report (reflecting data for the 2022 calendar year) shows a current need for 3.28 fulltime judges, and the district currently has 4 fulltime judgeships. The average workload per judge is .82 but, as the map below shows, the actual distribution of the workload among judges varies due to docket volume in the counties served by each judge. For example, the 3 counties historically served by Judge Luebe (Cedar, Dixon, and Thurston) currently provide a total judicial workload of just .40 FTE.

Predicted judicial resources need by county



Judges Serving the 6th District

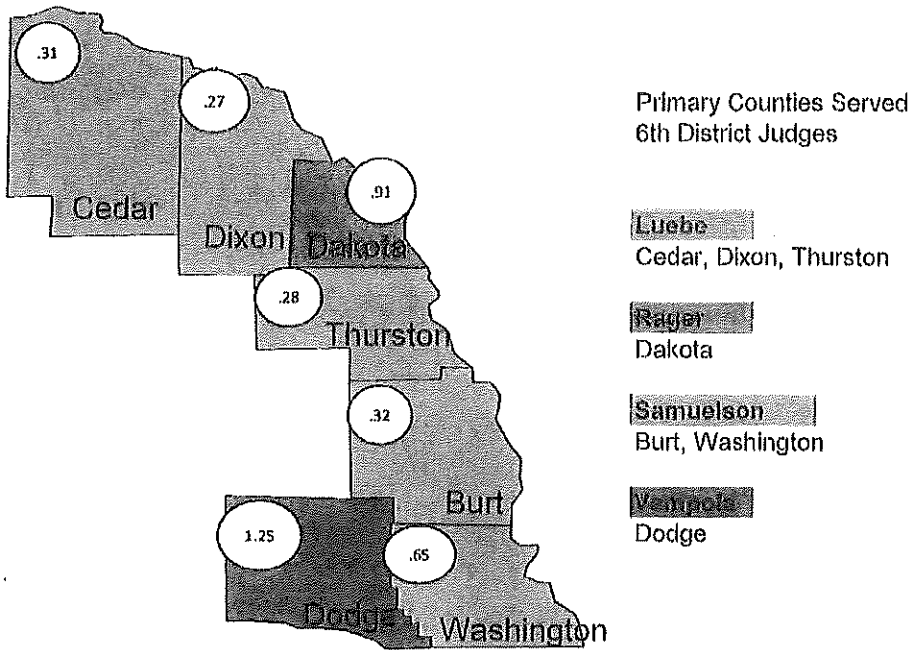
Judge	Counties Served
Barron	Dodge, Washington
Klein (Vampola)	Dodge
Luebe	Cedar, Dixon, Thurston
Matney	Dakota, Burt

Historically, the judicial workload in Cedar, Dixon and Thurston counties was more than double what it is today, as depicted by the 2012 Weighted Caseload map for the 6th judicial district:

**Weighted Caseload Report**  
**6th Judicial District - County Court**

January 1, 2012 - December 31, 2012

Numbers represent total predicted judicial resources need by county  
 The county court need for judges is: 3.99  
 The current number of judges is: 4

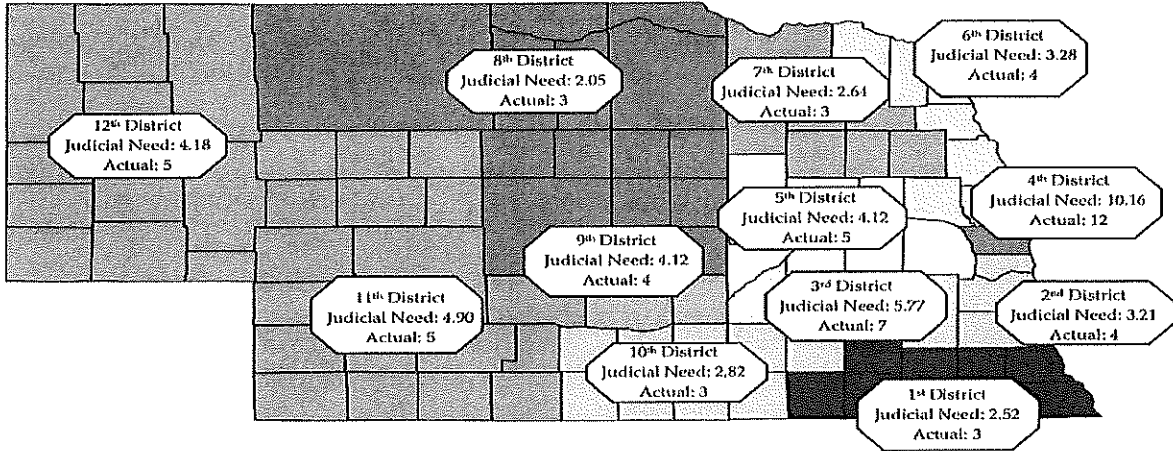


The 6th Judicial District was optimally resourced in 2012 (with a judicial need of 3.99 judges and 4 judges to do the work), but a steady decline in case filings over the past decade has resulted in more judicial resources than the current docket requires. Importantly, this phenomenon is not unique to the 6th judicial district.

The current Weighted Caseload Report shows that county courts in the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, and 12th judicial districts *all* have more judges than they need to address the current judicial need, as depicted on this map reflecting data for the 2022 calendar year:

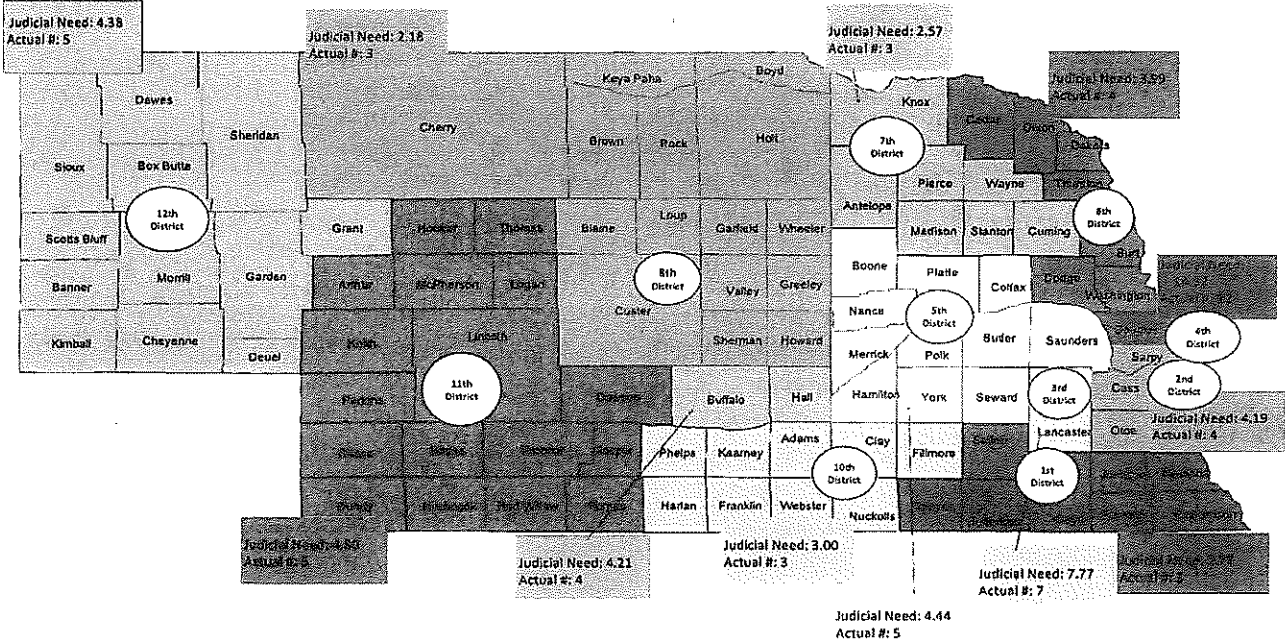
# Nebraska County Court Judicial Needs

Calendar Year 2022 (Jan. 1 2022 – Dec. 31, 2022)



Viewed collectively, there are **43 full time judges** serving the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th and 12th judicial districts. But due to declining case filings, there is a collective judicial need for **35.41 full time judges**. By way of comparison, just 10 years ago, these same judicial districts had a collective judicial need of **44.04**, with **43 full time judges**, as depicted in this 2012 Weighted Caseload Map:

# Nebraska County Courts Judicial Needs



In other words, while the number of county court judges has remained the same for the past 10 years, the judicial workload has been significantly impacted by a consistent decline in case filings. The result is that Nebraska now has more county court judges than the system needs to efficiently process current county court workloads. This is not the result of a temporary dip in case filings, nor is it the result of the COVID-19 pandemic. Nebraska's county courts have been experiencing consistently declining caseloads for more than a decade. In 2012, there were a total of 386,288 new cases filed in Nebraska's county courts; in 2022, the total new cases dropped to 230,549.

Declining judicial caseloads are a national trend, and that sustained trend is not likely to change in Nebraska absent a dramatic expansion in county court jurisdiction. Moreover, the trend of declining cases is occurring in our metro and rural courts alike. This is not a rural/urban issue, it is a systemic issue, and it requires a systemic solution.

At the Judicial Resources Commission hearing on June 16th, the AOCJ plans to propose both a short-term, and a long term, strategy for gradually moving the system toward a more optimal distribution of judicial resources in our county courts.

Short term, the AOCJ will propose a pilot study to consider the impact and feasibility of moving Cedar County from the 6th judicial district, into the 7th judicial district. Precisely how the individual dockets are rearranged to accomplish covering Cedar County is a matter left to the discretion of the participating judges, but it is anticipated that the pilot study will involve:

- Identifying 1 or more county court judges from the 7th judicial district to cover the county court docket in Cedar County, and
- Identifying 1 or more county court judges from the 6th judicial district to cover the dockets in Dixon and Thurston Counties.

Qualitative and quantitative data from this study will assist the AOCJ, the bar, and the bench in evaluating the feasibility of recommending that Cedar County be moved from the 6th into the 7th judicial district, and in turn, the feasibility of recommending a reduction in the number of judges in the 6th judicial district from 4 to 3.

Long term, the AOCJ proposes that as future judicial retirements are announced on the county court bench in the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, or 12th judicial districts, similar pilot studies be considered to assist in identifying effective ways to reconfigure judicial districts, and reapportion judicial dockets, in a way that allows the Judicial Branch to provide swift, fair justice while gradually reducing the number of county court judges to a number that better approximates current judicial need.

# Nebraska Judicial Workload Assessment

*Final Report*

October 2020

Brian J. Ostrom, Ph.D.  
Lydia E. Hamblin, Ph.D.  
John W. Douglas

**Research Division  
National Center for State Courts**



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## **ACKNOWLEDGEMENTS**

The authors gratefully acknowledge the invaluable contributions of the District Court, County Court, and Separate Juvenile Court judges of Nebraska to this workload assessment. An undertaking of this magnitude would not have been possible without these judges' dedicated participation in the time study, sufficiency of time survey, and valuable feedback. We extend a special note of thanks to the members of the Judicial Needs Assessment Committee for their unflagging support of the project.

### *Judicial Needs Assessment Committee (JNAC)*

Hon. Stephanie Stacy, Nebraska Supreme Court (Chair)  
Hon. Matthew Acton, County Court, 3<sup>rd</sup> Judicial District  
Eric Asboe, AOC  
Hon. Chad Brown, Separate Juvenile Court, 4<sup>th</sup> Judicial District  
Hon. Kale Burdick, County Court, 8<sup>th</sup> Judicial District  
Liz Neeley, NSBA  
Hon. Jodi Nelson, District Court, 3<sup>rd</sup> Judicial District  
Hon. Travis O'Gorman, District Court, 12<sup>th</sup> Judicial District  
Hon. Anne Paine, County Court, 11<sup>th</sup> Judicial District  
Hon. C Jo Petersen, County Court, 5<sup>th</sup> Judicial District  
Hon. Linda Porter, Separate Juvenile Court, 3<sup>rd</sup> Judicial District  
Amy Prenda, AOC  
Hon. John Samson, District Court, 6<sup>th</sup> Judicial District  
Hon. Julie Smith, District Court, 1<sup>st</sup> Judicial District  
Corey Steel, AOC  
Hon. Robert Steinke, District Court, 5<sup>th</sup> Judicial District  
Hon. Shelly Stratman, District Court, 4<sup>th</sup> Judicial District  
Jane Sutherland, AOC  
Hon. Donna Taylor, County Court, 7<sup>th</sup> Judicial District  
Hon. Derek Vaughn, County Court, 4<sup>th</sup> Judicial District

We express special thanks to Paula Crouse and Jennifer Rasmussen of AOC for all their help and encouragement throughout the project.

We are also grateful to our colleagues Erika Bailey, Tracey Johnson and Shannon Roth for their assistance and insights with the analysis. Finally, we thank Brian Henry and Aspensoft for developing the web-based data collection tools employed in this study.

## **EXECUTIVE SUMMARY**

At the request of the Nebraska Supreme Court, the Nebraska Administrative Office of the Courts and Probation (AOCP) contracted with the National Center for State Courts (NCSC) to perform a comprehensive update, extension, and improvement of the existing Nebraska judicial weighted caseload system in line with state-of-the-art practices. A clear and objective assessment of court workload is essential to establish the number of judges required to resolve in a timely manner all cases coming before the court. The primary goals of the study were to:

- Develop a valid measure of judicial workload in all District, County and Separate Juvenile Courts, accounting for variations in complexity among different case types, as well as differences in the non-case-related responsibilities of judges;
- Evaluate the current allocation of judicial resources;
- Establish a transparent and empirically driven formula for determining the appropriate level of judicial resources in each judicial district.
- Enable compliance with Nebraska Rev. Stat. §24-1007, which requires the state court administrator to compile accurate judicial workload statistics for each district, county, and separate juvenile court based on caseload numbers weighted by category of case.

### ***Project Design***

To provide oversight and guidance on matters of policy throughout the project, Chief Justice Michael G. Heavican appointed a 19-member Judicial Needs Assessment Committee (JNAC) representing District, County and Separate

Juvenile courts across the state. The workload assessment was conducted in two phases:

1. A quantitative Time Study in which all judges recorded all case-related and non-case-related work over a four-week period. The purpose was to provide an empirical description of the amount of time currently devoted to processing each case type, as well as the division of the workday between case-related and non-case-related activities.
2. A qualitative Sufficiency of Time survey to provide a statewide perspective on areas of concern in relation to current case processing practice and existing judicial resources. All judges were asked to complete the web-based survey. The survey provided important insight into whether judges believe they have sufficient time available to perform all of their various case-related and non-case-related responsibilities.

### ***Project Results***

Applying the final weighted caseload model to current case filings shows that the current number of judges is appropriate to handle the existing judicial workload. The lone exception is the 4<sup>th</sup> Judicial District where the model shows a current need for an additional two judgeships. Viewed statewide, Nebraska currently has a need for a total of 58 District Court judges, 58 County Court judges, and 12 Separate Juvenile Court judges.



## ***Recommendations***

The final weighted caseload model discussed in this report provides an empirically grounded basis for analyzing judicial workload and need in each of Nebraska's District, County, and Separate Juvenile Courts. The following recommendations are intended to ensure the effective use of the weighted caseload model and to preserve the model's integrity and utility over time.

### **Recommendation 1**

The revised weighted caseload model clearly illustrates the changing character of judicial workload in Nebraska. The model is used to determine the number of judges needed in each District, County and Separate Juvenile Court. The model finds the current complement of judges is appropriate in all court locations, with the exception of the 4<sup>th</sup> Judicial District. The model suggests the need for two new judgeships in the 4<sup>th</sup> Judicial District, but does not reflect the additional judgeship to be added in that district effective July 1, 2021.

### **Recommendation 2**

A critical assumption of Nebraska's weighted caseload models is that case filings are entered into JUSTICE uniformly and accurately. NCSC recommends that Nebraska's district and county court clerks continue their efforts to improve the uniformity of data entry and that the trial courts continue efforts to encourage uniformity in case filings. Ideally, for all criminal and civil case types, multi-charge or multi-petition cases should be counted as a single case unless they are unable to be consolidated and must be processed separately. For juvenile 3A cases, NCSC recommends counting 3A children rather than 3A cases due to the disparate filing practices among prosecutors across the state. A case with multiple children should count each child only once, when they are added to the case.

### **Recommendation 3**

The calculations of judge need in this report are based upon a three-year average of case filing data. NCSC recommends that Nebraska AOCPC recalculate judge need on an annual basis using the same methodology set forth in this report and updated with year-end case filing data to produce a 3-year rolling average. The application of the workload formula to the most recent filings will reveal the impact of any caseload changes judicial workload.

### **Recommendation 4**

The availability of support personnel, especially law clerks, bailiffs, court clerks, and child support referees, has a profound impact on judges' ability to perform their work efficiently and effectively. The recommended case weights were calculated based on the actual judge time only, so if support personnel are no longer provided or are reduced in a particular district, the judicial need will be higher than is reflected in the weighted caseload report. JNAC members and results from the Sufficiency of Time survey stressed the importance of strong support staff. NCSC recommends that periodic workload assessments be conducted for law clerks, bailiffs, court clerks, and child support referees.

### **Recommendation 5**

Over time, the integrity of any weighted caseload model may be affected by external factors such as changes in legislation, case law, or court technology. NCSC recommends that the Nebraska Supreme Court and the AOCPC conduct a comprehensive review of the weighted caseload models every five to seven years. Between updates, if a major change in the law appears to have a significant impact on judicial workload, JNAC and/or a representative focus group of judges that handle the case type(s) may be convened to make interim adjustments to the affected case weight(s).

## **I. INTRODUCTION**

The Nebraska Administrative Office of the Courts and Probation (AOCB) contracted with the National Center for State Courts (NCSC) to develop a method to measure judicial workload in Nebraska's District, County, and Separate Juvenile Courts. A clear measure of court workload is central to determining how many judicial officers are needed to resolve all cases coming before the court. Adequate resources are essential if the Nebraska judiciary is to effectively manage and resolve court business without delay while also delivering quality service to the public. Meeting these challenges involves assessing objectively the number of judicial officers required to handle the caseload and whether judicial resources are being allocated and used prudently. In response, judicial leaders around the country are increasingly turning to empirically based workload assessments to provide a strong foundation of judicial resource need in their state trial courts.

The need for financial and resource accountability in government is a strong stimulus to develop a systematic method to assess the need for judges. The state-of-the-art technique for assessing judicial need is a weighted caseload study because population or raw, unadjusted filings offer only minimal guidance regarding the amount of judicial work generated by those case filings. The weighted caseload method explicitly incorporates the differences in judicial workload associated with different types of cases, producing a more accurate and nuanced profile of the need for judges in each court.

The current study represents a comprehensive overhaul of the Nebraska weighted caseload system to update the case weights to reflect developments in the law and court procedures. This effort is timely because Nebraska's judicial weighted caseload system was last reviewed and

updated about fifteen years ago. Since the previous weighted caseload study, developments in statutes, rules, case law, case management practices, new technology, a growing number of self-represented litigants, and increasing complexity of cases have had a significant impact on the work of District, County, and Separate Juvenile Court judges, necessitating an update of the case weights. The current workload assessment incorporates several innovations in comparison with previous studies conducted in Nebraska. Specifically, the current study:

1. Increases time study participation, soliciting statewide participation from all District, County, and Separate Juvenile Court judges, to more accurately estimate the time required to resolve cases.
2. Updates and establishes weights for more granular case types across all court levels, to reflect differences in current practice and case processing.
3. Reassesses the amount of time available for case-related work, adjusting the judge day and year values to reflect current practice, incorporating real-time reported travel by district.
4. Develops a rounding convention that puts courts of all sizes on equal footing and sets threshold standards to gauge the need for a change in judicial positions based on workload per judge.

### **A. The Weighted Caseload Model**

The weighted caseload method of workload analysis is grounded in the understanding that different types of court cases vary in complexity, and consequently in the amount of judicial work they generate. For example, a typical felony case creates a greater need for judicial resources than the average traffic case. The weighted caseload method calculates judicial need based on each court's total workload. The weighted caseload formula consists of three critical elements:

3. *Case filings*, or the number of new cases of each type opened each year;
4. *Case weights*, which represent the average amount of judge time required to handle cases of each type over the life of the case; and
5. The *year value*, or the amount of time each judge has available for case-related work in one year.

Total annual workload is calculated by multiplying the annual filings for each case type by the corresponding case weight, then summing the workload across all case types. Each court's workload is then divided by the year value to determine the total number of full-time equivalent judges and/or judicial officers needed to handle the workload.

Judicial weighted caseload is well established in Nebraska. This methodology is mandated in statute, and for over two decades, the Judicial Resources Commission has used the weighted caseload method to assess judicial resource needs and recommend judgeships to the Nebraska Legislature.

### **B. The Judicial Needs Assessment Committee**

To provide oversight and guidance on policy throughout the project, the Nebraska Supreme Court appointed a 19-member Judicial Needs Assessment Committee (JNAC) consisting of judges from District, County, and Separate Juvenile Courts from all geographical regions and court sizes, as well as AOC representatives and the Nebraska State Bar Association (NSBA). JNAC's role was to advise NCSC on the selection of case types (e.g., criminal, civil, domestic) and the time study design, as well as to recommend policy decisions regarding the amount of time allocated to case-related and non-case-related work (judge day and year values) and review the results of the analysis. Hon. Stephanie Stacy, Supreme Court of Nebraska, served as chair of JNAC. The full Committee met two times over the course of the project, in addition to multiple sub-

committee conference calls held to identify case types and evaluate the data collection strategy. Committee responsibilities included:

- Advising the project team on the definitions of case types and case-related and non-case-related events to be used during the time study;
- Encouraging and facilitating participation by judges statewide in the time study and Sufficiency of Time survey;
- Reviewing and commenting on the results of the time study and the content of the final model.

### **C. Research Design**

The workload assessment was conducted in two phases:

1. A *time study* in which all District, County, and Separate Juvenile Court judges were asked to record all case-related and non-case-related work over a four-week period. The time study provides an empirical description of the amount of time currently devoted to processing each case type, as well as the division of the workday between case-related and non-case-related activities.
2. A Sufficiency of Time survey to provide a statewide perspective on areas of concern in relation to current case processing practice and existing judicial resources. All judges were asked to complete the web-based survey. The survey provided important insight into whether judges believe they have sufficient time available to perform all of their various case-related and non-case-related responsibilities.

## **II. CASE TYPES AND EVENTS**

At JNAC's first meeting on August 22, 2019, one of the committee's primary tasks was to establish the case type and event categories upon which to base the time study. Together, the case types, case-related events, and non-case-related

events describe all the work required and expected of Nebraska's District, County, and Separate Juvenile Court judges.

### **A. Case Type Categories**

JNAC was charged with establishing three sets of case type categories, one set each for District, County, and Separate Juvenile Court, which satisfied the following requirements:

- Categories are legally and logically distinct;
- There are meaningful differences among categories in the amount of judicial work required to process the average case;
- There are a sufficient number of case filings within the category to develop a valid case weight; and
- Filings for the case type category or its component case types are tracked consistently and reliably in JUSTICE.<sup>1</sup>

Using the case type categories currently tracked in JUSTICE as a starting point, JNAC revised and defined 8 case type categories for District Court, 19 case types for County Court, and 10 for Separate Juvenile Court (Exhibit 1). This was an update to the previous workload assessment study done in 2006, which used a condensed set of case type categories for the time study (District: 6 case types; County: 12 case types; Separate Juvenile: 4 case types). JNAC decided to better delineate several case types that were collapsed into larger categories or otherwise excluded in the 2006 study. This was done to account for differences in time spent processing those case types as their processing has changed over the course of 15 years.

Details regarding the specific case types included in each category are available in Appendix A (District Court), Appendix B (County Court), and Appendix C (Separate Juvenile Court).

### **B. Case-Related Event Categories**

To describe case-related work in more detail, JNAC defined three case-related event categories that cover the complete life cycle of each case. Case-related events cover all work related to an individual case before the court, including on-bench work (e.g., hearings) and off-bench work (e.g., reading case files, preparing orders). A uniform set of three case-related event categories applied to all three court levels, with a fourth category specifically for the District Court. Exhibit 2 shows the case-related event categories and their definitions.

### **C. Non-Case-Related Events**

Work that is not related to a particular case before the court, such as court management, committee meetings, travel, and judicial education, is also an essential part of the judicial workday. To compile a detailed profile of judges' non-case-related activities and provide an empirical basis for the construction of the judge day and year values, JNAC defined nine non-case-related event categories (Exhibit 2). To simplify the task of completing the time study forms and aid in validation of the time study data, vacation and other leave, lunch and breaks, and time spent filling out time study forms were included as non-case-related events.

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<sup>1</sup> JUSTICE, (*Judicial User System to Improve Court Efficiency*), is the Supreme Court's case-based data

storage system comprised of clerk entries of information from relevant courts.

### Exhibit 1: Case Type Categories

<u>District Court</u>	<u>County Court</u>	<u>Separate Juvenile Court</u>
Problem Solving Court Cases	Felony	Adoption
Protection Orders	Misdemeanor	Domestic Relations
Civil	District Court:	Juvenile:
Class I Felony	Adult Problem-Solving Court	3A Children & Problem-Solving Court*
Other Criminal	Domestic Relations	3A Cases & Problem-Solving Court
Domestic Relations	Protection Orders	Delinquency
Appeals	Traffic	Status Offender 3B
Aministrative Appeals	Civil	Mentally Ill and Dangerous 3C
	Probate	Bridge to Independence (B21)
	Guardianship/Conservatorship	Interstate Compact
	Small Claims	
	Adoption	
	Juvenile:	
	3A Children* & Problem-Solving Court**	
	3A Cases & Problem Solving-Court	
	Delinquency	
	Status Offender 3B	
	Mentally Ill and Dangerous 3C	
	Bridge to Independence (B21)	
	Interstate Compact	

\*3A Children cases include: Abuse/Neglect/Dependency, and Termination of Parental Rights

\*\*At the time of the study, only separate juvenile courts had problem-solving courts, and all participants were involved in a 3A case. As such, the problem-solving court case category was combined with 3A children to arrive at a single weight. The goal is to determine a separate weight for juvenile problem-solving court cases at a future point.

## Exhibit 2. Non-Case-Related Events

### Non-Case-Related Events

Non-Case-Related Administration  
General Legal Research  
Judicial Education and Training  
Committee Meetings, Other Meetings, and Related Work  
Community Activities and Public Outreach  
Work-Related Travel  
Vacation, Sick Leave, and Holidays  
Lunch and Breaks  
NCSC Time Study

### III. TIME STUDY

The time study phase of the workload assessment measured current practice—the amount of time judges currently spent handling cases of each type, as well as on non-case-related work. For a period of four weeks, all Nebraska District, County, and Separate Juvenile Court judges were asked to track all of their working time by case type and event. Separately, the AOCJ provided counts of filings by case type category and court. NCSC used the time study and filings data to calculate the average number of minutes currently spent by the judges in each court resolving cases within each case type category (preliminary case weights). The time study results also informed JNAC’s selections of day and year values for case-related work.

#### A. Data Collection

##### 1. Time Study

During a four-week period from October 21 – November 17, 2019, all District, County, and Separate Juvenile Court judges were asked to track all working time by case type category and

by case-related or non-case-related event (for non-case-related activities). County Court judges that heard District Court problem-solving court cases were also asked to track their time for that work. Participants were instructed to record all working time, including time spent handling cases on and off the bench, non-case-related work, and any after-hours or weekend work. Judges tracked their time in five-minute increments using a Web-based form.

To maximize data quality, all time study participants were asked to view a live or recorded webinar training module explaining how to categorize and record their time. In addition to the training webinars, NCSC staff presented a live training at their judicial education conference, judges were provided with Web-based reference materials, and NCSC staff were available to answer questions by telephone and e-mail. The Web-based method of data collection allowed time study participants to verify that their own data were accurately entered and permitted real-time monitoring of participation rates.

Across the state, the vast majority of District Court judges (96%), County Court judges

(98%), and Separate Juvenile Court judges (100%) participated in the time study. This level of statewide participation ensured sufficient data to develop an accurate and reliable profile of current practice in Nebraska's District, County, and Separate Juvenile Courts.

## **2. Caseload Data**

To translate the time study data into the average amount of time expended on each type of case (preliminary case weights), it was first necessary to determine how many individual cases of each type are filed on an annual basis. The AOCF provided filings data for 2017, 2018, and 2019. The caseload data for all three years were then averaged to provide an annual count of filings within each case type category and court, shown in Exhibit 3. The use of an 3-year annual average rather than the caseload data for a single year minimizes the potential for any temporary fluctuations in caseloads to influence the case weights.

### **B. Preliminary Case Weights**

Following the four-week data collection period, the time study and caseload data were used to calculate preliminary case weights as shown in Exhibit 3. A preliminary case weight represents the average amount of time judges currently spend to process a case of a particular type, from pre-filing activity to all post-judgment matters. The use of separate case weights for each case type category accounts for the fact that cases of varying levels of complexity require different amounts of judicial time for effective resolution.

To calculate the preliminary case weights, the time recorded for each case type category was weighted to the equivalent of one year's worth of time for all judges statewide. The total annual time for each case type was then divided by the average annual filings to yield the average amount of hands-on time judges currently spend

on each case. The preliminary case weights proposed by NCSC are set out in Exhibit 3.

The standard approach for calculating preliminary case weights works well as long as new cases are filed and counted consistently across the state. This was the case in most, but not all, of the case types in Nebraska.

Juvenile Problem-Solving Court cases are currently offered only in the separate juvenile courts and such cases are not consistently tracked and coded in JUSTICE. Consequently, JNAC determined that the time recorded under Problem-Solving Court cases during the time study should be combined with time recorded in Juvenile 3A to form a single "Juvenile 3A & PSC" category. A goal for AOCF is to produce a separate Juvenile PSC case weight at a future point.

Additionally, the counting of Juvenile 3A cases proved problematic in both the county courts and the separate juvenile courts, due to disparate filing practices. Prosecutors in some judicial districts routinely file a separate case for each child, while prosecutors in other districts will file a single case to address multiple children and parents. This creates an equity problem if some courts are getting workload credit for each child and others are getting the same workload credit per case that may involve multiple children. As a consequence, NCSC calculated two versions of the Juvenile 3A & PSC case weight: one version counted 3A cases as has been done historically, and the other version counted 3A children instead. NCSC recommends counting 3A children (using the 3A Children & PSC case weight in Exhibit 3) rather than counting 3A cases, as this approach better addresses the disparate filing practices across the state and puts all courts on a more equal footing.

JNAC reviewed the preliminary case weights developed by NCSC (see Exhibit 3) and with one exception discussed later, generally

considered the weights to be an accurate representation of current judicial practice in the district, county, and separate juvenile courts. JNAC also agreed with NCSC's recommendation to count 3A Children rather than 3A Cases. However, as discussed in the next section, JNAC could not reach consensus on whether to accept or reject the different case weights proposed by NCSC for 3A Children & PSC in County and Separate Juvenile Courts.

### 1. *Different Weights in Different Courts*

Based on the actual time reported by judges during the time study, NCSC developed different case weights for several case types of juvenile case types depending on whether the case was being handled in a county court or a separate juvenile court. In county courts, adoption cases, domestic relations cases, and bridge to independence cases were all weighted higher than the same cases in a separate juvenile court. And in separate juvenile courts, 3A & PSC, status offense cases, and delinquency cases were all weighted higher than the same cases in county court. Of the different proposed case weights, only one prompted concern from members of the JNAC: the case weight for 3A children and PSC. Members of the JNAC devoted considerable discussion to this issue, and NSCS accepted additional input on the issue after the meeting. The time study data showed that judges spend different amounts of time handling 3A cases in the county and separate

juvenile courts. Some members of JNAC observed that the separate juvenile courts were established to specialize in these cases and given resources to handle them in ways different from traditional county court processes. These members suggested the different weights shown in Exhibit 3 reflect the actual variation in judicial practice among Nebraska courts and the higher weights in separate juvenile acknowledge investment in "better" practices. On the other hand, it was suggested that all 3A cases are governed by the same law whether they are handled in county court or separate juvenile court, and the goal should be that the quality of justice is the same for all citizens of Nebraska regardless of whether they live in a district with a separate juvenile court.

NSCS recognizes that, at this point in time, it may not be statutorily possible to create Separate Juvenile Courts in all Nebraska districts. The proposed weights in Exhibit 3 accurately reflect the actual judicial handling practices in each courts, but it is a separate policy question whether the 3A weights should be adjusted to obtain a judicial consensus that the weights are perceived as fair to both county court judges and separate juvenile court judges. NSCS was provided with several policy-based suggestions for adjusting the recommended case weights, and in Appendix G, the impact of the various policy-based adjustments to the case weights is discussed in more detail.



### Exhibit 3. Filings and Preliminary Case Weights

<b>District Court</b>	Annual Filings (average 2017-2019)	Preliminary Case Weight (minutes)
Problem Solving Court Cases	441	683
Protection Orders	6,102	32
Civil	5,904	219
Class I Felony	1,044	367
Other Criminal	11,368	149
Domestic Relations	13,502	97
Appeals	262	343
Aministrative Appeals	125	540
<b>Total</b>	<b>38,748</b>	

<b>County Court</b>	Filings (average 2017-2019)	Preliminary Case Weight (minutes)
Protection Orders	3,298	32
Felony	17,074	26
Misdemeanor	79,124	23
District Court: Adult Problem-Solving Court	14	683
Traffic	119,853	1
Civil	85,675	8
Probate	6,066	61
Guardianship/Conservatorship	2,049	133
Small Claims	3,709	30
Adoption	696	92
Domestic Relations	4	97
Juvenile: 3A CHILDREN & PSC	1,290	272
Juvenile: 3A CASES & PSC	1,138	308
Juvenile: Delinquency	3,090	100
Juvenile: Status Offender 3B	533	37
Juvenile: Mentally Ill and Dangerous 3C	21	265
Juvenile: Bridge to Independence (B21)	51	58
Juvenile: Interstate Compact Hearings/Filings	141	2
<b>Total</b>	<b>323,834</b>	

<b>Separate Juvenile Court</b>	<b>Annual Filings (average 2017-2019)</b>	<b>Preliminary Case Weight (minutes)</b>
Adoption	289	49
Domestic Relations	89	26
Juvenile: 3A CHILDREN & PSC	1,381	518
Juvenile: 3A CASES & PSC	713	1,003
Juvenile: Delinquency	2,634	136
Juvenile: Status Offender 3B	762	54
Juvenile: Mentally Ill and Dangerous 3C	1	265
Juvenile: Bridge to Independence (B21)	119	36
Juvenile: Interstate Compact Hearings/Filings	122	2
<b>Total</b>	<b>6,133</b>	

#### IV. SUFFICIENCY OF TIME SURVEY

To provide a statewide perspective on any areas of concern related to current practice, all District, County, and Separate Juvenile Court judges were asked to complete a Web-based Sufficiency of Time survey in February/March 2020.

For each case type, judges were asked to rate the extent to which they had sufficient time in the average day to handle case-related activities on a scale from 1 (almost never) to 5 (almost always). Judges were then asked to identify and rank-order specific case-related tasks, if any, where additional time would improve the quality of justice. The survey also included questions about the sufficiency of time for general court management (e.g., participation in court planning and administration), as well as space for judges to comment freely on their workload. The majority of District Court judges (85%), County Court judges (67%), and Separate Juvenile Court judges (77%) completed the survey. Appendix D (District Court), Appendix E (County Court), and Appendix F (Separate Juvenile Court) present the survey results in detail.

#### V. JUDICIAL NEED

In the weighted caseload model, three factors contribute to the calculation of judicial need: caseload data (filings), case weights, and the year value. The year value is equal to the amount of time each full-time judge has available for case-related work on an annual basis. The relationship among the filings, case weights, and year value is expressed as follows:

$$\frac{\text{Filings x Case Weights (minutes)}}{\text{Year Value (minutes)}} = \text{Resource Need (FTE)}$$

Multiplying the filings by the corresponding case weights calculates the total annual workload in minutes. Dividing the workload by the year value yields the total number of full-time equivalent (FTE) judges needed to handle the workload.

##### A. Judge Year Values

To develop the year values for District, County, and Separate Juvenile Court judges, it was necessary to determine the number of days each judge has available for case-related work in each year (judge year), as well as how to divide the work day between case-related and non-case-related work (judge day value)

### ***1. Judge Year***

As shown in Exhibit 5, the judge year value was constructed by beginning with 365 days per year, then subtracting weekends, holidays, vacation and sick leave, and full-day participation in judicial education and training. The 2006 JNAC from the previous NCSC judicial workload studies adopted a judge year of 218 case-related days for all levels of court. The current JNAC reviewed and decided to keep that value as it is still reflective of typical working days in a year.

#### **Exhibit 5. Judge Year**

Total days per year	365
Weekends	– 104
Holidays	– 12
Vacation	– 20
Sick Leave	– 8
Education/Training	– 3
<hr/> Total working days per year	<hr/> 218

### ***2. Judge Day***

The judge day value represents the amount of time each judge has available for case-related work each day. This value is calculated by subtracting time for lunch, breaks, travel, and non-case-related work (e.g., administration, education) from the total working day.

Travel time is an important distinction between courts based on their geographical location. To measure the amount of time some judges spend driving between courts in their district, real-time reporting was used to capture actual travel time during the 4-week time study. Actual travel time was averaged within judicial districts for each court type, then travel time was factored out of the amount of available case-related time in the year value. This results in a different judge year value in each judicial district based on the reported travel time in that district.

### ***3. Judge Year Values***

To calculate the final year values for case-related work, the number of days in the working year was multiplied by the day value for case-related work. This figure was then expressed in terms of minutes per year. Exhibit 6 shows the calculation of the year values for District, County, and Separate Juvenile Court.

### Exhibit 6. Judge Year Values

#### District Court Judge Year Value

	District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	District 11	District 12
Day (hours)	8	8	8	8	8	8	8	8	8	8	8	8
Minutes per hour ×	60	60	60	60	60	60	60	60	60	60	60	60
Total minutes per day	480	480	480	480	480	480	480	480	480	480	480	480
Non-case related −	60	60	60	60	60	60	60	60	60	60	60	60
Travel time −	60	0	0	0	30	10	45	60	10	70	45	45
Case related time	360	420	420	420	390	410	375	360	410	350	375	375
Judge year (days) ×	218	218	218	218	218	218	218	218	218	218	218	218
Year value (minutes)	78,480	91,560	91,560	91,560	85,020	89,380	81,750	78,480	89,380	76,300	81,750	81,750

#### County Court Judge Year Value

	District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	District 11	District 12
Day (hours)	8	8	8	8	8	8	8	8	8	8	8	8
Minutes per hour ×	60	60	60	60	60	60	60	60	60	60	60	60
Total minutes per day	480	480	480	480	480	480	480	480	480	480	480	480
Non-case related −	60	60	60	60	60	60	60	60	60	60	60	60
Travel time −	60	30	0	0	60	60	60	90	10	60	60	60
Case related time	360	390	420	420	360	360	360	330	410	360	360	360
Judge year (days) ×	218	218	218	218	218	218	218	218	218	218	218	218
Year value (minutes)	78,480	85,020	91,560	91,560	78,480	78,480	78,480	71,940	89,380	78,480	78,480	78,480

#### Separate Juvenile Court Judge Year Value

	District 2	District 3	District 4
Day (hours)	8	8	8
Minutes per hour ×	60	60	60
Total minutes per day	480	480	480
Non-case related −	60	60	60
Travel time −	10	0	0
Case related time	410	420	420
Judge year (days) ×	218	218	218
Year value (minutes)	89,380	91,560	91,560

## B. Judicial Need

To calculate the number of judges needed in District, County, and Separate Juvenile Court, the annual average filings count for each case type was multiplied by the corresponding case weight to calculate the annual judicial workload associated with that case type, in minutes. In each court type, judicial workload was calculated, then divided by the judge year value, or the amount of time each full-time judge has available for case-related work in one year. This yielded the total number of judges required to handle the court's case-related workload, as well as judges' ordinary non-case-related responsibilities, in full-time equivalent (FTE) terms.

Exhibit 7 (District Court), Exhibit 8 (County Court), and Exhibit 9 (Separate Juvenile Court) present the final calculation of judicial workload and need, by district. Overall, the model suggests a need for 58 District Court judges, 58 County Court judges, and 12 Separate Juvenile Court judges.

In some courts, workload-based judicial need may exceed or fall below the number of currently allocated judicial positions. To determine if a change to the number of judicial positions is merited, the FTE workload per judge is examined relative to a rounding rule.

### 1. Rounding Rule

The rounding rule sets an upper and lower threshold by which to determine whether a court has too few or many judicial positions given the typical workload in that district. A standard rule is applied to all districts, court levels, and court sizes. The lower threshold is set at 0.6 FTE per judge; the upper threshold is 1.15 FTE per judge. If a court's FTE per judge falls outside of

that range, they may qualify to have a review of their number of judicial positions.

Weighted caseload calculations typically result in estimates of judicial need that contain fractional judgeships. In some instances when implied need exceeds the number of sitting judges, the current complement of judges in a given court can organize to handle the additional workload, perhaps with the periodic assistance of a retired or substitute judge. However, at some point, the additional workload crosses a threshold that means the court needs another full-time judicial position to effectively resolve the cases entering the court. The main purpose of the rounding rule is to provide a uniform way to identify the threshold. In other words, the rounding rule provides a consistent method to guide the decision of when to round up or down to a whole judicial position and thereby determine the appropriate number of authorized judicial positions in each circuit and district.

Workload per judge is calculated by dividing the total judge need in each circuit/district by the number of funded judicial positions. According to the rounding convention, when workload per judge is greater than or equal to 1.15 FTE, there is a need for one or more additional judicial positions; where workload per judge falls below .6 FTE, there is a need for fewer positions.<sup>2</sup> For example, in the 3<sup>rd</sup> Judicial District there are currently 8 FTE district court judges. Dividing the *Implied Need* by the *Actual Judges* ( $8.44 \text{ FTE} \div 8 \text{ FTE}$ ) results in a *Current Workload per Judge* of 1.05 FTE. Since workload per judge is below the upper threshold of 1.15 FTE, no additional judgeships are recommended.

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<sup>2</sup> A position should not be subtracted, however, when this would result in a per-judge workload greater than 1.15

FTE. For this reason, final workload per judge may be lower than .9 FTE in some counties.

The rounding convention using workload per judge was designed to provide empirical guidance as to which courts are over- or under-resourced. It also provides a means to rank jurisdictions regarding their relative need. The higher the workload per judge, the greater the need for additional resources (e.g., a court with a workload per judge of 1.29 would have a greater need for an additional judge than a court with a workload per judge of 1.12). The upper and lower thresholds are guidelines for an initial identification of courts that may need additional (or fewer) resources.

Courts that are near the threshold (e.g., courts with a workload per judge between 1.10 and 1.20) may benefit from a secondary analysis that

examines additional contextual factors affecting the need for judges. For courts falling slightly below the threshold (e.g., workload per judge of 1.14), these extra factors should be considered when determining whether additional judicial resources are needed.

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The rounding convention can be summarized as:

Rule 1: If workload per judge  $\geq 1.15$ , add judges until workload per judge  $< 1.15$

Rule 2: If workload per judge  $< 0.60$ , subtract a judge ONLY if resulting workload per judge  $< 1.15$

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**Exhibit 7. Judicial Workload and Need, District Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	244,056	416,957	772,490	1,893,644	275,364	252,543	182,868	120,081	347,305	168,962	348,001	311,290	5,333,561
Judicial Year Value	÷ 78,480	91,560	91,560	91,560	85,020	89,380	81,750	78,480	89,380	76,300	81,750	81,750	
Implied Judge Need (from model)	3.11	4.55	8.44	20.68	3.24	2.83	2.24	1.53	3.89	2.21	4.26	3.81	60.78
Actual Judges	÷ 3	4	8	16	4	3	2	2	4	2	4	4	56
Workload per judge (implied ÷ actual)	1.04	1.14	1.05	1.29	0.81	0.94	1.12	0.77	0.97	1.11	1.06	0.95	1.09
<b>Judge need rounded (1.15/.6)</b>	<b>3</b>	<b>4</b>	<b>8</b>	<b>18</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>4</b>	<b>2</b>	<b>4</b>	<b>4</b>	<b>58</b>

**Exhibit 8. Judicial Workload and Need, County Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	215,683	330,412	676,087	1,235,494	326,377	270,590	203,234	135,406	367,949	214,682	396,941	317,911	4,690,766
Judicial Year Value	÷ 78,480	85,020	91,560	91,560	78,480	78,480	78,480	71,940	89,380	78,480	78,480	78,480	
Implied Judge Need (from model)	2.75	3.89	7.38	13.49	4.16	3.45	2.59	1.88	4.12	2.74	5.06	4.05	55.55
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	0.92	0.97	1.05	1.12	0.83	0.86	0.86	0.63	1.03	0.91	1.01	0.81	0.96
<b>Judge need rounded (1.15/.6)</b>	<b>3</b>	<b>4</b>	<b>7</b>	<b>12</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>3</b>	<b>4</b>	<b>3</b>	<b>5</b>	<b>5</b>	<b>58</b>

**Exhibit 9. Judicial Workload and Need, Separate Juvenile Court**

	District			Statewide
	2	3	4	
Total Workload	167,764	340,828	627,150	1,135,733
Judicial Year Value	÷ 89,380	91,560	91,560	
Implied Judge Need (from model)	1.88	3.72	6.85	12.45
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.94	0.93	1.14	1.04
<b>Judge need rounded (1.15/.6)</b>	<b>2</b>	<b>4</b>	<b>6</b>	<b>12</b>



## **VI. RECOMMENDATIONS**

The final weighted caseload model provides an empirically grounded basis for analyzing judicial workload and need in each of Nebraska's District, County, and Separate Juvenile Courts. NSCS recommendations are intended to ensure the effective use of the weighted caseload model and to preserve the model's integrity and utility over time.

### **Recommendation 1**

The revised weighted caseload model clearly illustrates the changing character of judicial workload in Nebraska. The model is used to determine the number of judges needed in each District, County and Separate Juvenile Court. The model finds the current complement of judges is appropriate in all court locations, with the exception of the 4<sup>th</sup> Judicial District. The model suggests the need for two new judgeships in the 4<sup>th</sup> Judicial District, but does not reflect the additional judgeship to be added in that district effective July 1, 2021.

### **Recommendation 2**

A critical assumption of Nebraska's weighted caseload models is that case filings are entered into JUSTICE uniformly and accurately. NCSC recommends that Nebraska's district and county court clerks continue their efforts to improve the uniformity of data entry and that the trial courts continue efforts to encourage uniformity in case filings. Ideally, for all criminal and civil case types, multi-charge or multi-petition cases should be counted as a single case unless they are unable to be consolidated and must be processed separately. For juvenile 3A cases, NCSC recommends counting children rather than total cases due to the disparate filing practices across the state. A case with multiple children should count each child only once, when they are added to the case.

### **Recommendation 3**

The calculations of judge need in this report are based upon a three-year average of case filing data. NCSC recommends that Nebraska AOCPC recalculate judge need on an annual basis using the same methodology set forth in this report and updated with year-end case filing data to produce a 3-year rolling average. The application of the workload formula to the most recent filings will reveal the impact of any caseload changes judicial workload.

### **Recommendation 4**

The availability of support personnel, especially law clerks, court clerks, bailiffs and child support referees, has a profound impact on judges' ability to perform their work efficiently and effectively. The recommended case weights were calculated based on the actual judge time only, so if support personnel are no longer provided or are reduced in a particular district, the judicial need will be higher than is reflected in the weighted caseload report. JNAC members and results from the Sufficiency of Time survey stressed the importance of strong support staff. NCSC recommends that periodic workload assessments be conducted for law clerks, court clerks, bailiffs and child support referees.

### **Recommendation 5**

Over time, the integrity of any weighted caseload model may be affected by external factors such as changes in legislation, case law, or court technology. NCSC recommends that the Nebraska Supreme Court and the AOCPC conduct a comprehensive review of the weighted caseload models every five to seven years. Between updates, if a major change in the law appears to have a significant impact on judicial workload, JNAC and/or a representative focus group of judges that handle the case type(s) may be convened to make interim adjustments to the affected case weight(s).

## **APPENDIX A. GLOSSARY OF TERMS, DISTRICT COURT**

### ***Case Types***

#### **A. Problem-Solving Court Cases**

Young Adult, Adult Drug, Adult DUI, Veterans , Mental Health, Reentry

#### **B. Protection Orders**

Domestic Abuse, Harassment, and Sexual Assault

#### **C. Civil**

Everything that is not a Protection Order or Domestic Relations case

#### **D. Class I Felony**

Murder 1 & 2, 1<sup>st</sup> deg. Sex. Asslt, 1<sup>st</sup> deg. Sex. Asslt on a child

#### **E. Other Criminal**

All other criminal cases that are not Class I Felonies

#### **F. Domestic Relations**

Divorce, Paternity, Court Ordered Support, Grandparent Visitation, Interstate Child Support, etc.

#### **G. Appeals**

Civil, Criminal or Traffic Appeals

#### **H. Administrative Appeals**

### ***Case-Related Activities***

#### **1. Pre-Disposition/Non-Trial Disposition**

Includes all on-bench and off-bench activity related to pretrial proceedings and non-trial dispositions. In probate cases, includes uncontested proceedings to appoint a fiduciary or to order supervision of a trust. Includes all off-bench research and preparation related to pre-disposition and non-trial disposition activities. Some examples of pre-disposition/non-trial disposition activities include:

- Arraignment
- Pretrial motion that does not fully dispose of the case (e.g., motion in limine)
- Scheduling conference
- Issuance of warrant
- Entry of guilty plea and sentencing
- Motion to Dismiss
- Motion for default judgment
- Motion for summary judgment
- Uncontested disposition hearing in domestic/paternity case
- Bond reviews
- 404 & 414 motions
- Determine competency
- Daubert Motion, Trammel Motion

- Discovery motions
- Temporary injunctions

## 2. Trial

Includes all on-bench and off-bench activity related to a bench or jury trial or another contested proceeding that disposes of the original petition in the case.. Includes all off-bench research and preparation related to trials. Includes sentencing following a bench or jury trial. Some examples of trial activities include:

- Bench trial
- Jury trial
- Sentencing after conviction at trial
- Trial de novo
- Contested divorce/paternity/support hearing

## 3. Post-Disposition

Includes all on-bench and off-bench activity that occurs after the entry of judgment on the original complaint in the case. Includes all off-bench research and preparation related to post-disposition activity. Does not include trials de novo. Some examples of post-disposition activity include:

- Post-trial motion
- Motion to Revoke Probation
- Sentencing after revocation of probation
- Complaint to change of custody, support, parenting time, or domicile
- Child support enforcement
- Motion for installment judgment
- Custodial sanction hearing
- Post-conviction/habeas/DNA testing
- Motion for New Trial
- Motion to Alter/Amend, Motion to Set Aside Conviction/Judgment
- 
- Renewal on Protection Orders

## 4. Post-Release Supervision (PRS)

*For District Court only.*

- PRS hearing
- Custodial sanction hearing
- PRS status check
- Motion to revoke PRS
- Sentencing after revocation of PRS

## *Non-Case-Related Activities*

### a. Non-Case-Related Administration

Includes all non-case-related administrative work such as:

- Staff meetings
- Judges' meetings
- Personnel matters
- Staff supervision and mentoring
- Court management

**b. General Legal Research**

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

- Reading journals
- Reading professional newsletters
- Reviewing appellate court decisions

**c. Judicial Education and Training**

Includes all educational and training activities such as:

- Judicial education
- Conferences

*Includes travel related to judicial education and training.*

**d. Committee Meetings, Other Meetings, and Related Work**

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

- Community criminal justice board meetings
- Bench book committee meetings
- Other court-related committee meetings

*Includes travel related to meetings.*

**e. Community Activities and Public Outreach**

Includes all public outreach and community service that is performed in a judge's official capacity. This category does not include work for which judges are compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in your official capacity. Examples of work-related community activities and public outreach include:

- Speaking at schools about legal careers
- Judging moot court competitions

*Includes travel related to community activities and public outreach.*

**f. Work-Related Travel**

Work-Related Travel includes only travel between courts during the business day. Time is calculated from the primary office location as determined by the Nebraska Supreme Court to the visited court.

Do not include commuting time from your home to your primary office location. Record travel time from your primary office location to judicial education and training, committee meetings, or community activities and public outreach in the applicable category. This is an account of minutes spent on travel only.

**g. Vacation, Sick Leave, and Holidays**

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

**h. Lunch and Breaks**

Includes all routine breaks during the working day.

**i. NCSC Time Study**

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

## **APPENDIX B. GLOSSARY OF TERMS, COUNTY COURT**

### ***Case Types***

- A. Domestic Relations**  
Divorce, Paternity
- B. Protection Orders**  
Domestic Abuse, Harassment, and Sexual Assault
- C. Felony**  
Bond Settings, Bond Reviews, Preliminary Hearings
- D. Misdemeanor**
- E. District Court: Adult Problem-Solving Court**
- F. Traffic**
- G. Civil**
- H. Probate**  
Estates
- I. Guardianship/Conservatorship**  
Adult, Incompetent, Minor
- J. Small Claims**
- K. Adoption**
- L. Juvenile: Abuse/Neglect/Dependency, Guardianship, and TPR**
- M. Juvenile: Delinquency**
- N. Juvenile: Status Offender 3B**
- O. Juvenile: Mentally Ill and Dangerous 3C**
- P. Juvenile: Bridge to Independence (B2I)**
- Q. Juvenile: Interstate Compact Hearings/Filings**  
Transfer of Youth Under Supervision; Runaways, Escapees, and Absconders
- R. Juvenile: Problem-Solving Court Cases** (currently this time is included in 3A weight)

## *Case-Related Activities*

### **1. Pre-Disposition/Non-Trial Disposition**

Includes all on-bench and off-bench activity related to pretrial proceedings and non-trial dispositions. In probate cases, includes uncontested proceedings to appoint a fiduciary or to order supervision of a trust. Includes all off-bench research and preparation related to pre-disposition and non-trial disposition activities. Some examples of pre-disposition/non-trial disposition activities include:

- Arraignment
- Pretrial motion that does not fully dispose of the case (e.g., motion in limine, motion to suppress)
- Proceeding to appoint a temporary guardian/conservator
- Scheduling conference
- Issuance of warrant (e.g., review probable cause affidavits and set bond; issue search warrant)
- Pre-Adjudication juvenile delinquency review
- Entry of guilty plea and sentencing
- Informal traffic hearing
- Motion for summary judgment
- Hearing on appointment of permanent guardian/conservator
- Uncontested disposition hearing
- Motions for judgment on the pleadings
- Motions for default judgment
- Motions to dismiss
- Motion to Suppress
- Competency hearings
- Bond Reviews
- Competency Motions
- Cancel Warrants
- Motions for Default Judgment
- Motions for Debtor Exams
- Signing and Reviewing Search Warrants during and after work hours
- Signing and Reviewing Arrest Warrants during and after work hours
- SIGNDESK
- Motions for Substitute Service
- Seal Orders (Juvenile and Adult)
- Gun Appeals
- Juvenile (3a)-ex parte finding for removal; appt counsel, etc.

### **2. Trial**

Includes all on-bench and off-bench activity related to a bench or jury trial or another contested proceeding that disposes of the original petition in the case. In probate cases, includes contested proceedings to appoint a fiduciary or to order supervision of a trust. Includes all off-bench research and preparation related to trials. Includes sentencing following a bench or jury trial. Some examples of trial activities include:

- Bench trial
- Jury trial
- Sentencing after conviction at trial
- Trial de novo
- Trial on appointment of a permanent guardian/conservator
- Contested divorce hearing

- Juvenile adjudicatory hearing
- Contested disposition hearing
- Will Contest
- Trial to Remove POA, Trustee, Guardian/Conservator, Termination of Guardianship/Conservatorship
- Expedited Visitation Hearings in Guardianships
- Contested Fee Application Hearings
- Conducted All Legal Research
- Draft all Orders (Motions, Trial, Scheduling, etc.)
- Drug court termination hearings by county judge for district court drug court cases
- Sentencing hearings to determine financial ability to pay
- Drug court termination hearings by county judge for district court drug court cases

### 3. Post-Disposition

Includes all on-bench and off-bench activity that occurs after the entry of judgment on the original petition in the case. In probate cases, includes all activity after a fiduciary is appointed or trust supervision is ordered. Includes all off-bench research and preparation related to post-disposition activity. Does not include trials de novo. Some examples of post-disposition activity include:

- Post-trial motion
- Sentencing after revocation of probation
- Guardianship/conservatorship review
- Guardianship/conservatorship modification/termination proceeding
- Account review (probate)
- Motion for installment judgment
- Permanency hearing
- Termination of parental rights
- 90-day review hearing (child protective proceedings)
- Post-adjudication juvenile delinquency review
- Custodial sanction hearing
- Post-conviction/habeas/DNA testing
- Time to Pay Requests
- Motions to Set Aside
- Motion for Debtor Exams
- Revivor Hearings
- Application for Continuing Lien
- Release Garnishee
- Motions to Determine Garnishee Liability
- Release of Non Exempt Funds
- Motions to Seal
- Garnishments
- Debtor exams
- Contempt/orders to show cause hearings
- Hearings on failures to pay fines/costs

## *Non-Case-Related Activities*

### **a. Non-Case-Related Administration**

Includes all non-case-related administrative work such as:

Staff meetings  
Judges' meetings  
Personnel matters  
Staff supervision and mentoring  
Court management

### **b. General Legal Research**

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

Reading journals  
Reading professional newsletters  
Reviewing appellate court decisions

### **c. Judicial Education and Training**

Includes all educational and training activities such as:

Judicial education  
Conferences  
*Includes travel related to judicial education and training.*

### **d. Committee Meetings, Other Meetings, and Related Work**

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

Community criminal justice board meetings  
Bench book committee meetings  
Other court-related committee meetings  
*Includes travel related to meetings.*

### **e. Community Activities and Public Outreach**

Includes all public outreach and community service that is performed in a judge's official capacity. This category does not include work for which a judge is compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in their official capacity. Examples of work-related community activities and public outreach include:

Speaking at schools about legal careers  
Judging moot court competitions  
*Includes travel related to community activities and public outreach.*

### **f. Work-Related Travel**

Work-Related Travel includes only travel between courts during the business day. Time is calculated from the primary office location as determined by the Nebraska Supreme Court to the visited court.

Does not include commuting time from a judge's home to their primary office location. Does include travel time from a judge's primary office location to judicial education and training, committee meetings, or community activities and public outreach in the applicable category. This is an account of minutes spent on travel only.



**g. Vacation, Sick Leave, and Holidays**

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

**h. Lunch and Breaks**

Includes all routine breaks during the working day.

**i. NCSC Time Study**

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

## APPENDIX C. GLOSSARY OF TERMS, SEPARATE JUVENILE COURT

### *Case Types*

- A. Abuse/Neglect/Dependency, Guardianship, and TPR
- B. Delinquency
- C. Status Offender 3B
- D. Mentally Ill and Dangerous 3C
- E. Problem-Solving Court Cases (currently this time is included in the 3A weight)
- F. Adoption
- G. Domestic Relations  
Paternity and Custody Determinations
- H. Bridge to Independence (B2I)
- I. Interstate Compact Hearings/Filings  
Transfer of Youth Under Supervision; Runaways, Escapees, and Absconders

### *Case-Related Activities*

- 4. **Pre-Disposition/Non-Trial Disposition**  
Includes all on-bench and off-bench activity related to pretrial proceedings and non-trial dispositions. Includes all off-bench research and preparation related to pre-disposition and non-trial disposition activities. Some examples of pre-disposition/non-trial disposition activities include:
  - Initial appearance-both 3a and delinq.
  - Docket call-
  - Pretrial motion hearing (both types of cases)
  - Plea hearing/informal adjudication(both types of cases)
  - Formal adjudication/trial (both types of cases)
  - Disposition hearing (both types of cases)
- 5. **Trial**  
Includes all on-bench and off-bench activity related to a bench trial or another contested proceeding that disposes of the original petition in the case. Includes all off-bench research and preparation related to trials. Some examples of trial activities include:
  - Continued disposition hearing (both types of cases)
  - Review hearing (3a and probation)
  - Permanency hearing (3a only)
  - Exception hearing (3a only)
  - Detention hearing (delinquency only)

## **6. Post-Disposition**

Includes all on-bench and off-bench activity that occurs after the entry of judgment on the original petition in the case. Includes all off-bench research and preparation related to post-disposition activity. Does not include trials de novo. Some examples of post-disposition activity include:

- Revocation of probation hearing docket call or plea (delinquency only)
- Revocation of probation hearing-contested hearing (delinquency only)
- Motion for commitment to yrhc hearings (delinquency only)
- Motion for termination of parental rights hearings (3a only) initial appearance, docket call and plea or formal hearing(trial)
- Guardianship review hearings (3a only)
- Placement check hearings (both delinquency and 3a)
- Placement change hearings (primarily 3a but occasionally probation review)
- Interstate compact hearings on runaways and absconders

### ***Non-Case-Related Activities***

#### **a. Non-Case-Related Administration**

Includes all non-case-related administrative work such as:

- Staff meetings
- Judges' meetings
- Personnel matters
- Staff supervision and mentoring
- Court management

#### **b. General Legal Research**

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

- Reading journals
- Reading professional newsletters
- Reviewing appellate court decisions

#### **c. Judicial Education and Training**

Includes all educational and training activities such as:

- Judicial education
- Conferences

*Includes travel related to judicial education and training.*

#### **d. Committee Meetings, Other Meetings, and Related Work**

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

- Community criminal justice board meetings
- Bench book committee meetings
- Other court-related committee meetings

*Includes travel related to meetings.*

#### **e. Community Activities and Public Outreach**

Includes all public outreach and community service that is performed in a judge's official capacity. This category does not include work for which a judge is compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in

their official capacity as a judge. Examples of work-related community activities and public outreach include:

- Speaking at schools about legal careers
- Judging moot court competitions

*Includes travel related to community activities and public outreach.*

**f. Work-Related Travel**

Work-Related Travel includes only travel between courts during the business day. Time is calculated from the primary office location as determined by the Nebraska Supreme Court to the visited court.

Does not include commuting time from a judge's home to their primary office location. Does include travel time from a judge's primary office location to judicial education and training, committee meetings, or community activities and public outreach in the applicable category. This is an account of minutes spent on travel only.

**g. Vacation, Sick Leave, and Holidays**

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

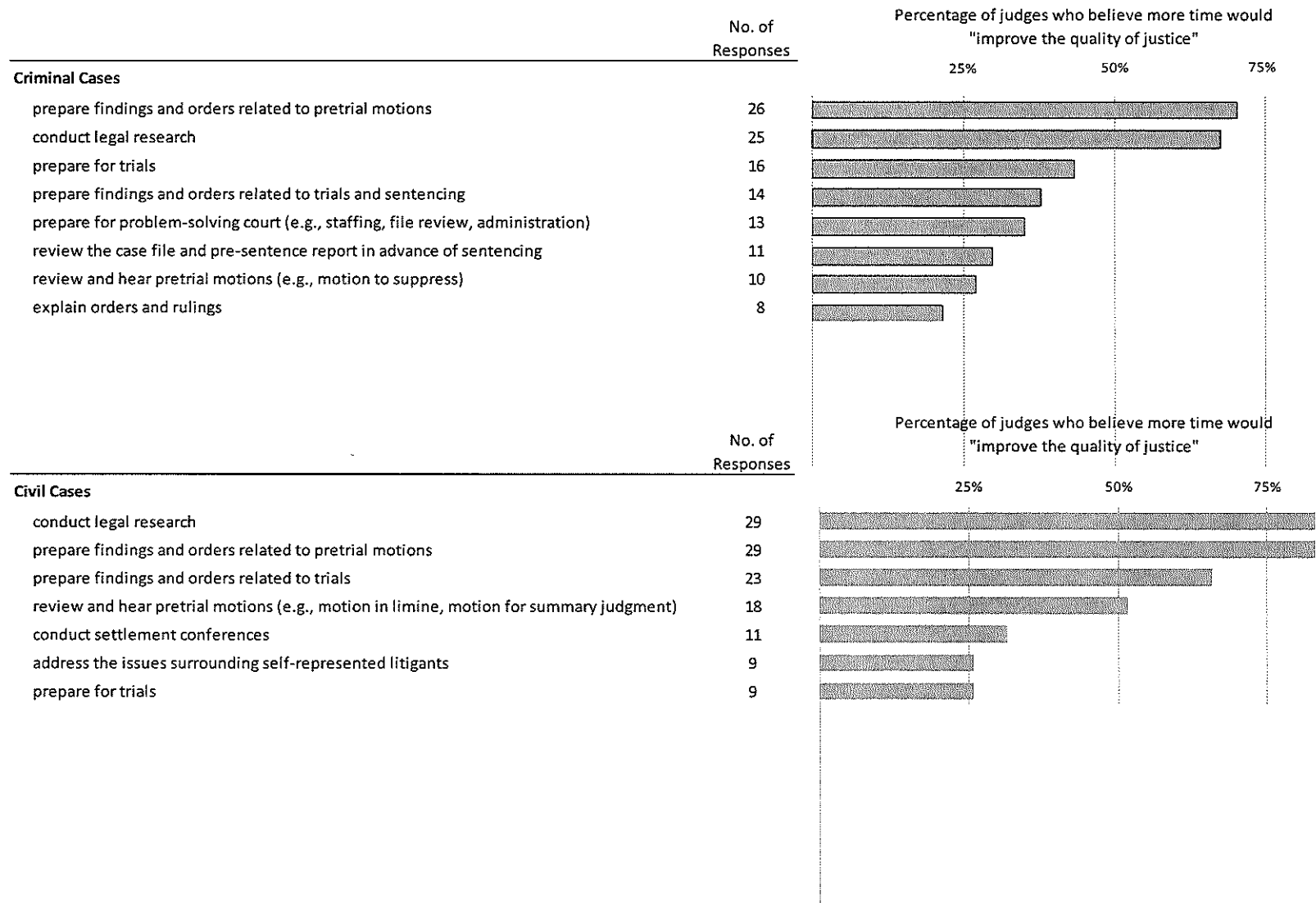
**h. Lunch and Breaks**

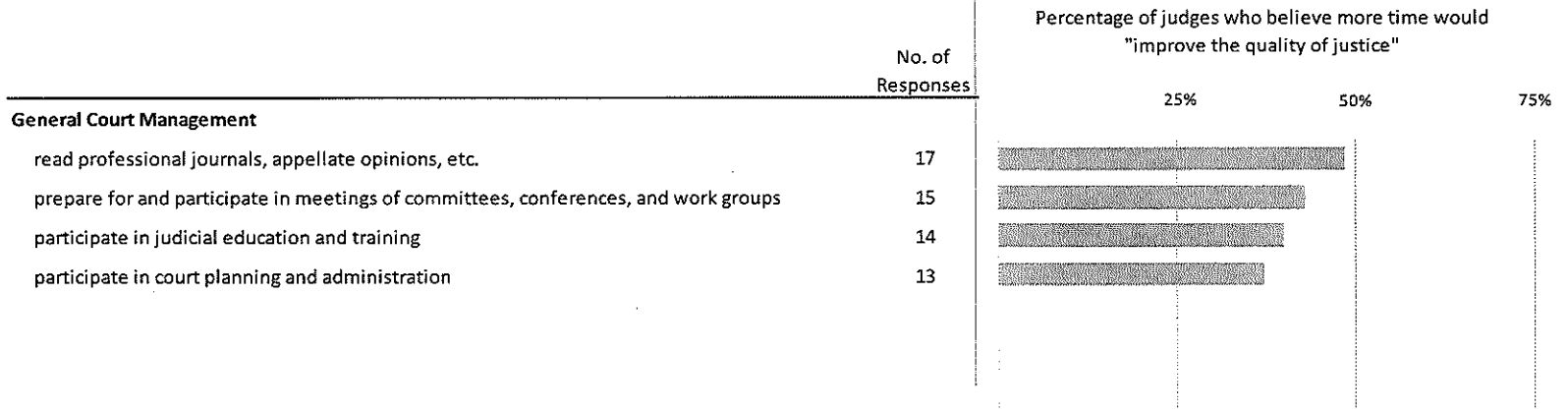
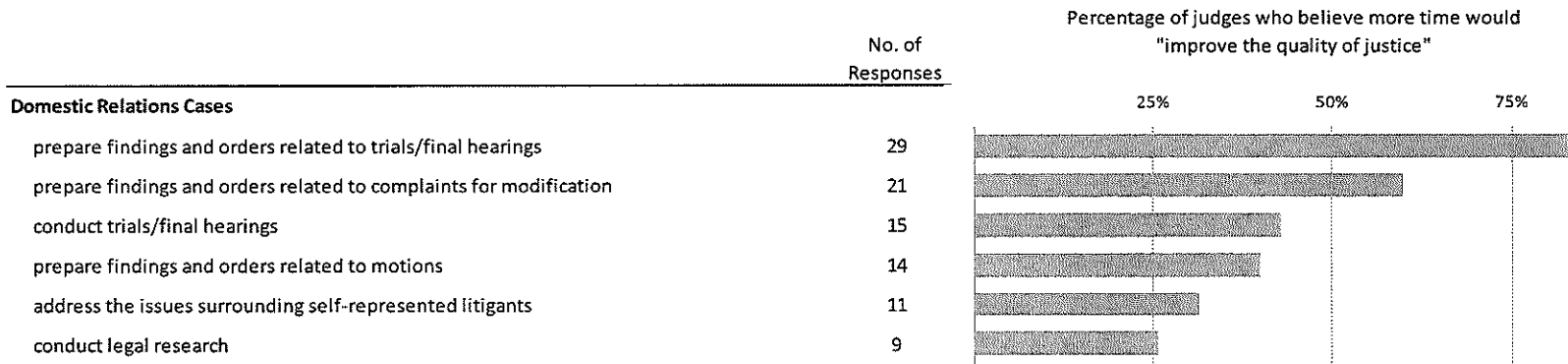
Includes all routine breaks during the working day.

**i. NCSC Time Study**

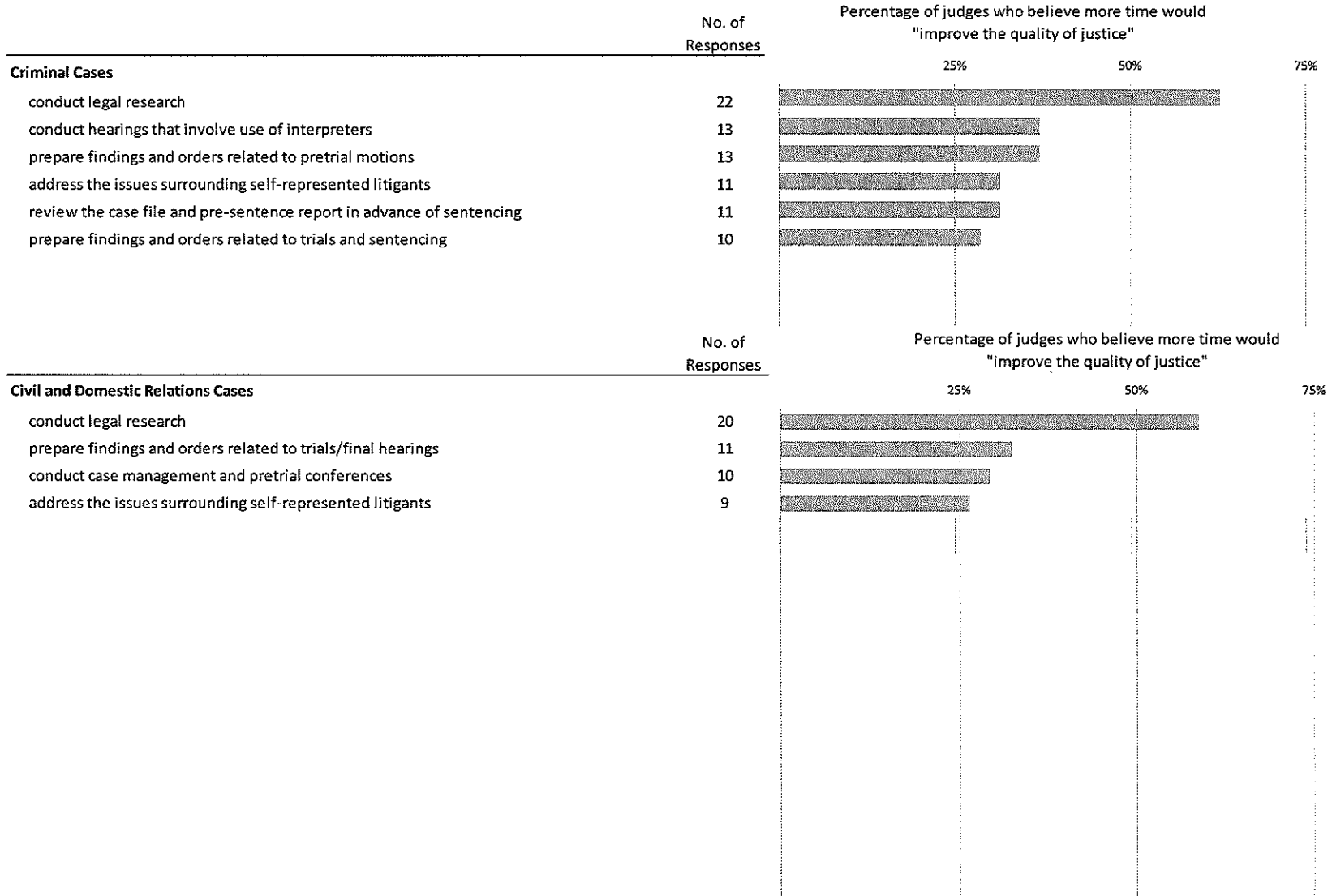
Includes all time spent filling out time study forms and entering time study data using the Web-based form.

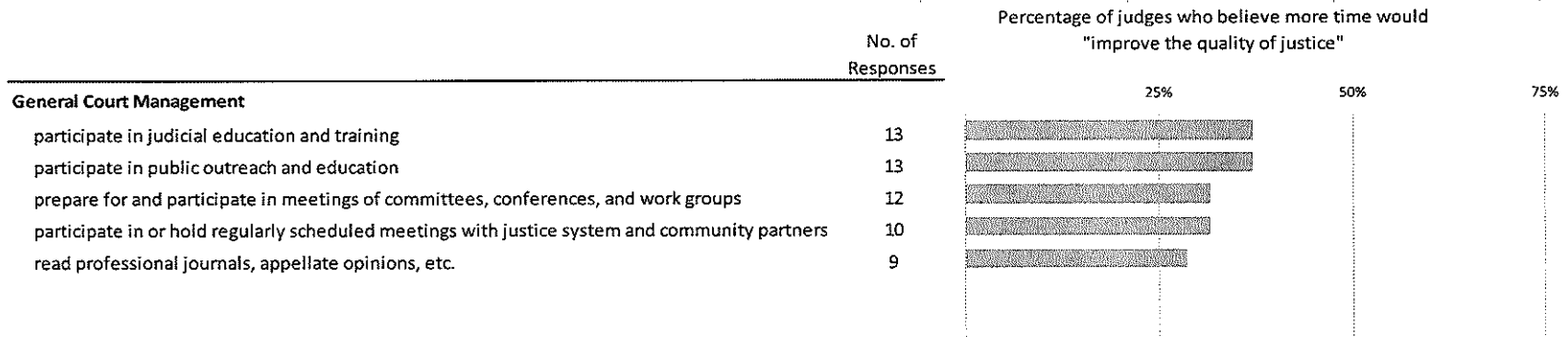
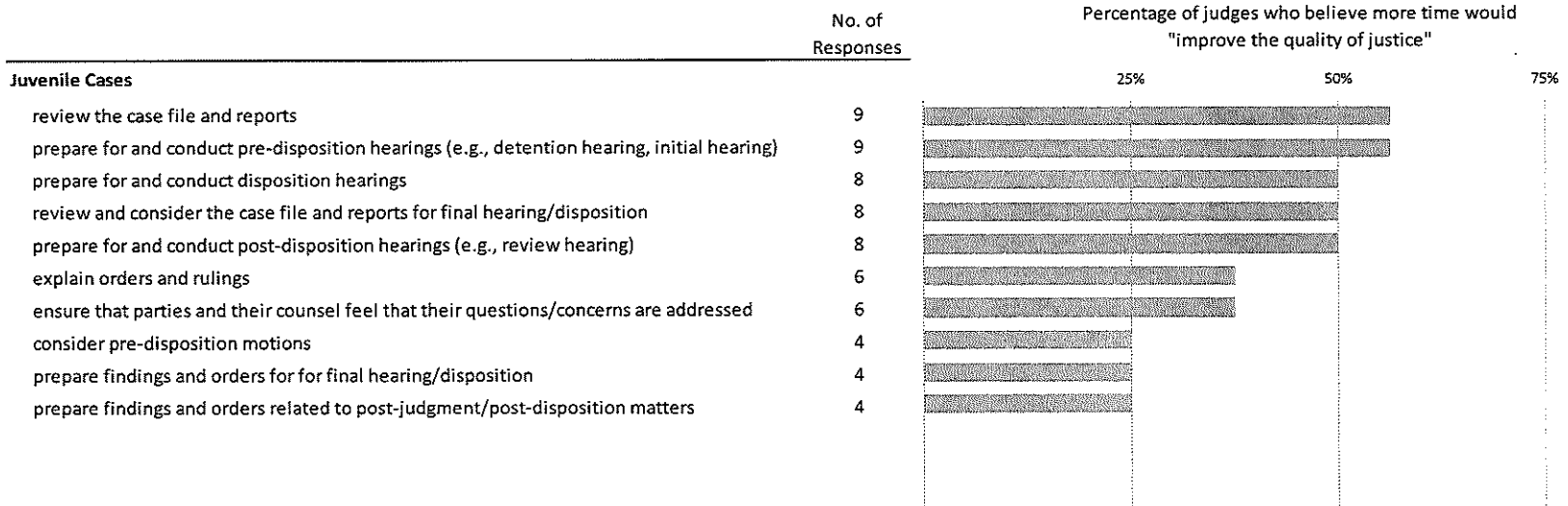
## APPENDIX D. SUFFICIENCY OF TIME SURVEY RESULTS, DISTRICT COURT





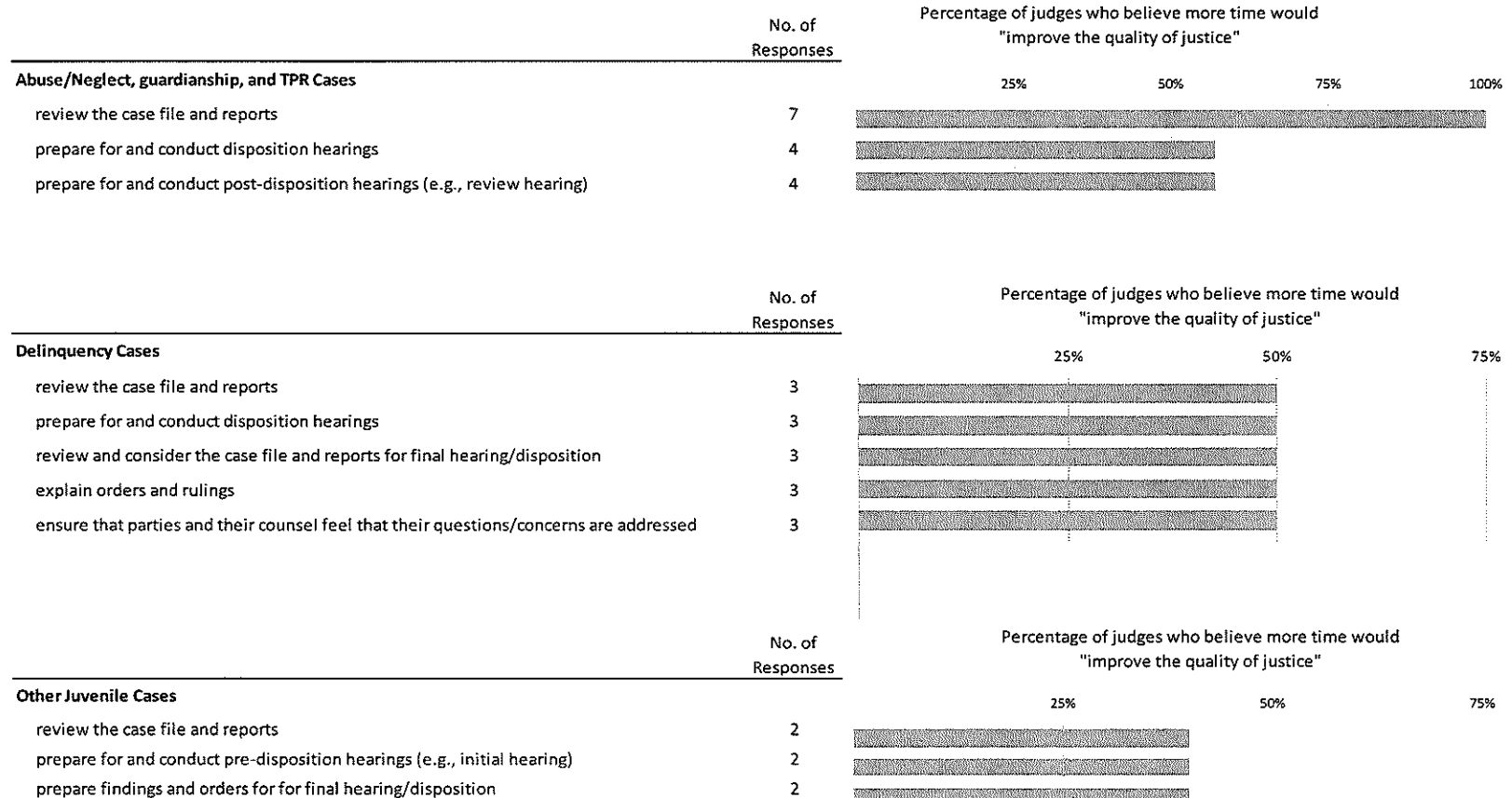
## APPENDIX E. SUFFICIENCY OF TIME SURVEY RESULTS, COUNTY COURT

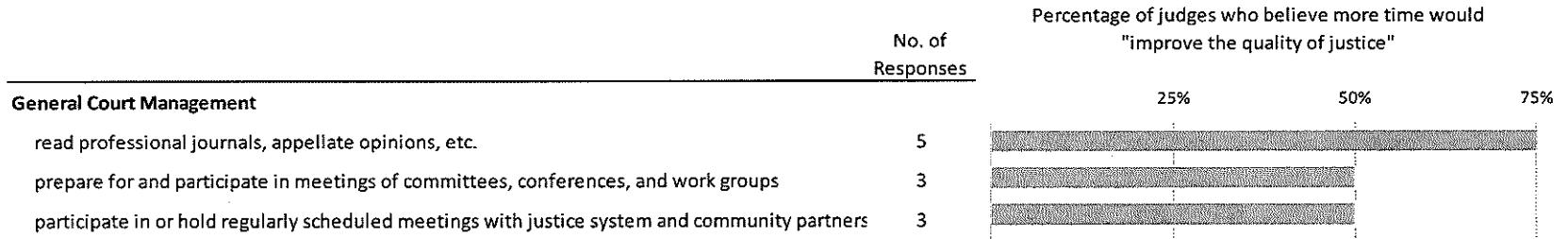






## APPENDIX F. SUFFICIENCY OF TIME SURVEY RESULTS, SEPARATE JUVENILE COURT





## **APPENDIX G: IMPLICATIONS FOR JUDICIAL NEED USING THREE ALTERNATIVE VERSIONS OF THE 3A CHILDREN & PSC CASE WEIGHT**

The purpose of this Appendix is to present the implications for judicial need in the County Courts and Separate Juvenile Courts using three alternative versions of the case weight for 3A Children & PSC cases. The results on judicial need presented in Exhibits 8 and 9 use the individual weights for 3A Children & PSC based on the time study and shown in Exhibit 3: 272 minutes for County Court and 518 minutes for Separate Juvenile Court. As discussed above in relation to Exhibit 3, JNAC was not able to reach consensus on the case weight(s) for 3A Children & PSC cases for the reasons articulated. To understand the policy implications on judicial need if the weights are adjusted, NCSC considered the following three options suggested by members of the JNAC and other county court judges:

1. Use a combined average of 399 minutes for Juvenile 3A children & PSC in all courts.
2. Use the county court weight of 272 minutes for Juvenile 3A children & PSC in both county court and separate juvenile court .
3. Use the separate juvenile court weight of 518 minutes for Juvenile 3A children & PSC in both the county court and the separate juvenile court.

Results of the three options are presented on the following pages.

*Option 1.* Implied judicial need using the overall average for 3A Children & PSC cases of 399 minutes is shown in **G1a** and **G1b** for County Court and Separate Juvenile Court by district. The primary impact of this option is to increase the implied need in the County Court by about two judicial full-time equivalent (FTE) and to lower the implied need in the Separate Juvenile Court by about two FTE. However, applying the rounding rule using this option would not lead to an immediate suggested change in the number of judges by district for either court type. Over time, however, and assuming no significant change in actual judicial handling practices, this option would generally underestimate the actual judicial need in the separate juvenile courts, and overestimate the actual judicial need in the county courts.

**G1a: County Court Implied Need using County Court & Separate Juvenile Court Average 3A & PSC Case Weight of 399**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Implied Judge Need (from model)	2.96	3.97	7.38	13.49	4.38	3.64	2.75	2.01	4.34	2.93	5.43	4.33	57.61
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	0.99	0.99	1.05	1.12	0.88	0.91	0.92	0.67	1.09	0.98	1.09	0.87	0.99
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**G1b: Separate Juvenile Court Implied Need Using County Court & Separate Juvenile Court Average 3A & PSC Case Weight of 399**

	2	3	4	Statewide
	Implied Judge Need (from model)	1.63	3.22	5.80
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.82	0.81	0.97	0.89
Judge need rounded (1.15/.6)	2	4	6	12

*Option 2.* Implied need using the County Court time study case weight for 3A Children & PSC cases of 272 minutes for both County Court and Separate Juvenile Court is shown in **G2a** and **G2b**. With this option, there is no change to implied need in the County Court from that shown in Exhibit 8. As this option uses the lower County Court case weight, implied need in the Separate Juvenile Court is also lower, falling by about 3.7 judicial FTE. However, the use of the rounding rule would not lead to an immediate suggested change in the current number of separate juvenile court judges. Over time, however, and assuming no significant change in actual judicial handling practices, this option would accurately estimate the number of county court judges needed, but would generally underestimate the actual judicial need in the separate juvenile courts.

**G2a: County Court Implied Need using County Court 3A & PSC Case Weight of 272**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Implied Judge Need (from model)	2.75	3.89	7.38	13.49	4.16	3.45	2.59	1.88	4.12	2.74	5.06	4.05	55.55
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	0.92	0.97	1.05	1.12	0.83	0.86	0.86	0.63	1.03	0.91	1.01	0.81	0.96
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**G2b: Separate Juvenile Court Implied Need Using County Court 3A & PSC Case Weight of 272**

	District			Statewide
	2	3	4	
Implied Judge Need (from model)	1.37	2.68	4.68	8.73
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.69	0.67	0.78	0.73
Judge need rounded (1.15/.6)	2	4	6	12

*Option 3.* Implied need using the Separate Juvenile Court time study case weight for 3A Children & PSC cases of 518 minutes for both County Court and Separate Juvenile Court is shown in **G3a** and **G3b**. Use of this option leads to no change in the implied need for Separate Juvenile Court as shown in Exhibit 9. This case weight is higher than the original weight used for County Court, resulting in an increase to implied need in county court of about four judicial FTE. Once again, applying the rounding rule would not lead to an immediate suggested change in the current number of county court judges, although the implied judicial need in two districts (9<sup>th</sup> and 11<sup>th</sup>) increases to the upper threshold of the rounding rule of 1.15. Over time, however, and assuming no significant change in actual judicial handling practices, this option would accurately estimate the number of separate juvenile court judges needed, but would generally overestimate the actual judicial need in the county courts.

**G3a: County Court Implied Need using Separate Juvenile Court 3A & PSC Case Weight of 518**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Implied Judge Need (from model)	3.16	4.04	7.38	13.49	4.59	3.81	2.90	2.12	4.56	3.12	5.78	4.59	59.54
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	1.05	1.01	1.05	1.12	0.92	0.95	0.97	0.71	1.14	1.04	1.16	0.92	1.03
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**G3b: Separate Juvenile Court Implied Need Using Separate Juvenile Court 3A & PSC Case Weight of 518**

	District			Statewide
	2	3	4	
Implied Judge Need (from model)	1.88	3.72	6.85	12.45
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.94	0.93	1.14	1.04
Judge need rounded (1.15/.6)	2	4	6	12

# **ADDENDUM TO FINAL REPORT**

Including final case weights and implied judicial need for  
District Court, County Court and Separate Juvenile Court

December 2020

After receiving the “Nebraska Judicial Workload Assessment, Final Report, October 2020” the Nebraska Supreme Court put the full report out for public comment. Written comments were received from and on behalf of county court judges, attorneys who handle juvenile cases, and the Nebraska State Bar Association. All comments were carefully considered by the Supreme Court, and copies were shared with the NCSC for its additional consideration and response. **This addendum summarizes the public comments, the NCSC response to those comments, and the final decision of the Nebraska Supreme Court to accept the NCSC report and adopt the proposed case weights as modified.**

### **Summary of Public Comments:**

The comments were generally supportive of the workload study and the new methodology used to determine judicial need, but expressed concern that different weights were proposed for the same juvenile case types depending on whether the case was heard in the county courts or the separate juvenile courts. Many comments expressed a fundamental belief that all juvenile case types should be weighted the same whether handled in a county court, or in a separate juvenile court. To achieve more uniform case weights, some suggested that an averaged case weight should be developed for all juvenile case types and applied in all courts regardless of judicial handling practices. Others suggested that using the highest recommended case weight in both types of courts would ensure that all areas of the State have sufficient judicial resources to devote appropriate time to handling juvenile cases.

The Nebraska State Bar Association generally rejected the notion that all juvenile case weights must be identical in the county courts and separate juvenile courts, reasoning “there are valid reasons why the time spent on 3A cases in these courts differ which may be related to community demographics, specialization, court culture and the difference in access to services across the state.” The NSBA generally opposed lowering case weights in the separate juvenile courts, but it did support separating the time devoted to problem solving courts, and increasing the county court weight for 3(a) juvenile abuse/neglect cases from 272 minutes to 383 minutes.

### **Summary of NCSC Response to Public Comments:**

After reviewing the public comments, the NCSC assured the Nebraska Supreme Court that the juvenile case weights proposed in its final report are empirically sound. All case weights were based on the actual time reported by judges during the month-long time study, and different weights were developed because the data show significantly different judicial handling practices in those courts, with judges in the separate juvenile courts reporting considerably more time. This actual difference in judicial handling practices is not a new phenomenon; it was observed in both prior judicial time studies, and explains why those studies also recommended a higher case weight for abuse/neglect cases in the separate juvenile courts.

While expressing confidence in the methodology and accuracy of the weights proposed in the 2020 final report, the NCSC was also supportive of making limited, policy-based adjustments to the proposed weights to address the concerns expressed during the public comment period. In considering such adjustments, the NCSC encouraged the Nebraska Supreme Court to keep in mind that a well-developed set of judicial workload standards should: (1) provide an empirically correct profile of the time actually spent by judges handling the cases; (2) account for all the time judges spend on their work (including time in chambers, travel time, administrative time, continuing education, and judicial



outreach); (3) allow sufficient time for all judges to deliver high-quality justice; and (4) be viewed as objectively credible by the judges, the practicing bar, and the public.

**Nebraska Supreme Court Adopts Final Report with Modifications:**

After careful consideration, the Nebraska Supreme Court voted to accept the NCSC's final report and to adopt the proposed case weights, with the following modifications:

- (1) The court accepted the recommendation to count 3(a) children rather than 3(a) cases for purposes of preparing weighted caseload reports, with the caveat that this approach will be reconsidered if, in the future, uniformity in filing practices can be achieved.
- (2) The Court directed that all time reported for juvenile problem solving courts should be removed from the time reported on abuse/neglect cases, and NCSC should develop a temporary weight for juvenile problem-solving court cases, pending a narrow time study of juvenile problem-solving court cases in the future. The explicit focus on juvenile problem solving court cases produces a case weight of 654 minutes. With the recent adoption of state-wide practice standards for such courts, it is expected that judicial handling practices will be uniform across the state, so the temporary weight of 654 minutes for juvenile problem-solving court cases will be applied in both county courts and separate juvenile courts.
- (3) After the problem-solving court time is removed from the proposed weight for 3(a) children in the separate juvenile court, the adjusted weight is 487 minutes. The Court directs that this adjusted weight of 487 minutes will be applied to 3(a) children in both county courts and separate juvenile courts, with the expectation that all judges handling such cases will work to implement best practices, and with the caveat that this modification will be reconsidered if, in the future, judicial handling practices do not support application of a uniform weight.
- (4) The Court adopts all other proposed case weights as recommended in the final report. For the sake of clarity, the Court directed the NCSC to prepare a Case-Weight Chart for inclusion in the addendum which shows the final adopted case weights for all courts.

The Nebraska Supreme Court concluded that these limited policy-based adjustments to the weighted caseload standards fairly address the important concerns expressed by the county court judges, without reducing resources in the separate juvenile courts or compromising the empirical integrity of the new judicial workload study.

The following four Exhibits show the final results from the study:

- Addendum Exhibit 1: Final Case Weights
- Addendum Exhibit 2: Final Judicial Workload and Need, District Court
- Addendum Exhibit 3: Final Judicial Workload and Need, County Court
- Addendum Exhibit 4: Final Judicial Workload and Need, Separate Juvenile Court

**Addendum Exhibit 1. Final Case Weights**

<b>District Court</b>	<b>Final Case Weight (minutes)</b>
Problem Solving Court Cases	683
Protection Orders	32
Civil	219
Class I Felony	367
Other Criminal	149
Domestic Relations	97
Appeals	343
Aministrative Appeals	540

<b>County Court</b>	<b>Final Case Weight (minutes)</b>
Protection Orders	32
Felony	26
Misdemeanor	23
District Court: Adult Problem-Solving Court	683
Traffic	1
Civil	8
Probate	61
Guardianship/Conservatorship	133
Small Claims	30
Adoption	92
Domestic Relations	97
Juvenile: 3A CHILDREN	487
Juvenile: Problem Solving Court (PSC)	654
Juvenile: Delinquency	100
Juvenile: Status Offender 3B	37
Juvenile: Mentally Ill and Dangerous 3C	265
Juvenile: Bridge to Independence (B21)	58
Juvenile: Interstate Compact Hearings/Filings	2

<b>Separate Juvenile Court</b>	<b>Final Case Weight (minutes)</b>
Adoption	49
Domestic Relations	26
Juvenile: 3A CHILDREN	487
Juvenile: Problem Solving Court (PSC)	654
Juvenile: Delinquency	136
Juvenile: Status Offender 3B	54
Juvenile: Mentally Ill and Dangerous 3C	265
Juvenile: Bridge to Independence (B21)	36
Juvenile: Interstate Compact Hearings/Filings	2

**Addendum Exhibit 2. Final Judicial Workload and Need, District Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	244,056	416,957	772,490	1,893,644	275,364	252,543	182,868	120,081	347,305	168,962	348,001	311,290	5,333,561
Judicial Year Value	÷ 78,480	91,560	91,560	91,560	85,020	89,380	81,750	78,480	89,380	76,300	81,750	81,750	
Implied Judge Need (from model)	3.11	4.55	8.44	20.68	3.24	2.83	2.24	1.53	3.89	2.21	4.26	3.81	60.78
Actual Judges	÷ 3	4	8	16	4	3	2	2	4	2	4	4	56
Workload per judge (implied ÷ actual)	1.04	1.14	1.05	1.29	0.81	0.94	1.12	0.77	0.97	1.11	1.06	0.95	1.09
Judge need rounded (1.15/.6)	3	4	8	18	4	3	2	2	4	2	4	4	58

**Addendum Exhibit 3. Final Judicial Workload and Need, County Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	246,003	339,938	671,497	1,229,131	361,236	297,101	226,823	151,369	406,925	243,353	449,496	358,368	4,981,240
Judicial Year Value	÷ 78,480	85,020	91,560	91,560	78,480	78,480	78,480	71,940	89,380	78,480	78,480	78,480	
Implied Judge Need (from model)	3.13	4.00	7.33	13.42	4.60	3.79	2.89	2.10	4.55	3.10	5.73	4.57	59.22
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	1.04	1.00	1.05	1.12	0.92	0.95	0.96	0.70	1.14	1.03	1.15	0.91	1.02
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

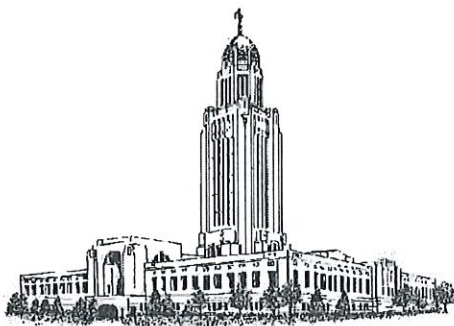
**Addendum Exhibit 4. Final Judicial Workload and Need, Separate Juvenile Court**

	District			Statewide
	2	3	4	
Total Workload	162,205	366,468	606,676	1,135,733
Judicial Year Value	÷ 89,380	91,560	91,560	
Implied Judge Need (from model)	1.81	4.00	6.63	12.44
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.91	1.00	1.10	1.04
Judge need rounded (1.15/.6)	2	4	6	12

# Nebraska State Legislature

**SENATOR BARRY DEKAY**

District 40  
State Capitol  
PO Box 94604  
Lincoln, Nebraska 68509-4604  
(402) 471-2801  
bdekay@leg.ne.gov



## COMMITTEES

Vice Chairperson – State-Tribal Relations  
Judiciary  
Transportation and Telecommunications  
Justice Reinvestment Oversight

June 8, 2023

Nebraska Judicial Resources Commission  
C/O: Dawn Mussmann  
State Capitol Building  
P.O. Box 98910  
Lincoln, NE 68509  
[dawn.mussmann@nebraska.gov](mailto:dawn.mussmann@nebraska.gov)

Dear Justice Stacy and members of the Judicial Resources Commission:

An agenda item for your upcoming June 16 meeting involves consideration of whether a judicial vacancy exists in the office of the County Court, 6th Judicial District, due to the retirement of Judge Douglas Luebe. I am writing today to urge the Commission to determine that a judicial vacancy exists in the 6th Judicial District.

It has come to my attention that there is a proposal for the current judicial vacancy to not be filled. This would mean the three existing county judges in the 6th Judicial District would have to bear the extra caseload alone or potentially pool resources with another judicial district. This proposal would be tested for a period of time and then be reevaluated. This proposal would be very detrimental to the residents in the 6th Judicial District as it would limit access to judicial services due to longer travel distances.

I have reviewed the 2022 Nebraska Judicial Branch Weighted Caseload Report for County Courts which shows that there is a need for 3.28 judges in the office of the County Court, 6th Judicial District. The current number of existing judges is 3.0. This data indicates that the State's judiciary system will not have adequate judicial resources available in the 6th Judicial District unless the current vacancy is filled expeditiously.

I currently serve as a member on the Judiciary Committee in the Legislature where the topic of judicial resources has been a concern. This year, the Committee voted to advance LB81 by Senator Aguilar to add an additional judge in the 9th Judicial District. LB81 was later amended into LB799 and passed. I supported this measure as I believe it is important to ensure the State's judiciary system has adequate judicial resources, especially in rural parts of the state. All residents regardless of ZIP code should have access to adequate judicial resources in their

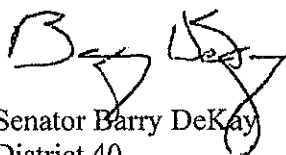


immediate area wherever possible. This would include the opportunity to partake in in-person court proceedings in front of a judge and have decisions rendered in a timely manner.

I respectfully request that the Judicial Resources Commission determine that a judicial vacancy exists in the office of the County Court, 6th Judicial District, with the principal office in Hartington, Nebraska.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry DeKay". The signature is stylized with a large "B" and "D".

Senator Barry DeKay  
District 40

# CEDAR COUNTY ATTORNEY

NICHOLAS S. MATNEY

June 9, 2023

Hon. Stephanie F. Stacy  
Chairwoman  
Judicial Resources Commission  
P.O. Box 98910  
Lincoln, NE 68509-8910

RE: Judicial Vacancy in the County Court of the 6<sup>th</sup> Judicial District

Dear Justice Stacy and Commissioners:

I serve as the County Attorney for Cedar County, Nebraska, which is in the 6<sup>th</sup> Judicial District of Nebraska. I am writing to express my support for filling the vacancy in the County Court of the 6<sup>th</sup> Judicial District, and to ask the Judicial Resources Commission to declare a vacancy and recommend that such judgeship be filled without delay. The courts are an essential function of our government and judges are essential personnel. The number of judges in the 6<sup>th</sup> District should not be reduced as part of any cost-saving measures.

My experience as a County Attorney in the 6<sup>th</sup> District provides insight into the complexity of cases presented in rural Nebraska. Courts in the 6<sup>th</sup> District routinely deal with violent crime and juvenile cases that require a significant amount of time. I have concerns that if a Judicial Vacancy is not declared that the citizens of the 6<sup>th</sup> District will be the ones who pay the price.

As a result of the retirement of Judge Luebe, I recently had a juvenile case set for pre-adjudication hearing that had to be set 90 days out. Typically, that hearing would have been set 30 days from the most recent hearing. This is one example of how everyone within the district will have to adjust if a judicial vacancy is not declared. Further, if a vacancy is not declared, the judges within the district will face additional burdens, the attorneys practicing within the district will face additional hurdles and the citizens of the district will be denied adequate access to the court system.

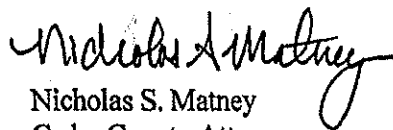
This is but one example of how children, arguably the most vulnerable individuals in the Nebraska Judicial System, will have to deal with less access to the courts, and they will be forced to face a reality of delayed justice if a vacancy is not declared. I believe children should not have to languish in foster care if their parents are unable to make the changes necessary for reunification. Similarly, I believe that the most vulnerable in our society should not have to languish as a result of a judicial system that does not provide access to the court.

101 S. BROADWAY, 1<sup>ST</sup> FLOOR, P.O. BOX 135, HARTINGTON, NE 68739-0135  
TELEPHONE (402) 254-7229 FACSIMILE (402) 254-7233 [cedarcoatty@cedarcountyne.gov](mailto:cedarcoatty@cedarcountyne.gov)



The most important factor, and the one that should be the Commission's primary focus, is "adequate access to the courts." To fulfill this goal and to ensure "adequate access to the courts," the 6<sup>th</sup> District needs four county court judges. Anything less would be detrimental to the justice system in the area and would be a disservice to the citizens of the 6<sup>th</sup> District. I appreciate your consideration of this letter, and I urge you to declare a vacancy in the County Court of the 6<sup>th</sup> Judicial District without delay.

Respectfully,



Nicholas S. Matney  
Cedar County Attorney

# Nebraska County Judges Association

June 9, 2023

Judicial Resources Commission  
c/o Dawn Mussmann  
Via email to: [dawn.mussmann@nebraska.gov](mailto:dawn.mussmann@nebraska.gov)

RE: Judicial Vacancy in the Office of the County Court, 6th Judicial District

Dear Members of the Judicial Resources Commission,

We write to you on behalf of the Nebraska County Judges Association (NCJA) and its member judges urging you to declare a vacancy in the office of the County Court of the 6th Judicial District. The judicial workload statistics compiled pursuant to Neb. Rev. Stat. § 24-1007 support such an outcome.

The NCJA was recently made aware of a memorandum sent to the current county judges of the 6th and 7th Judicial Districts by the Administrative Office of the Courts and Probation (AOCP). That memo explains the AOCP's plan to ask the Commission to postpone final consideration of the vacancy to study alternative ways to cover the county court dockets in the 6th and 7th Judicial Districts. Such a study is estimated to take 6-12 months. That is an unnecessary delay of resources that are currently justified by the data.

Unfortunately, the AOCP did not share its plan with the NCJA, other judges outside of the 6th and 7th Judicial Districts, or the Nebraska State Bar Association, even though its plan has implications for county courts statewide.<sup>1</sup> The NCJA was made aware of the proposal less than 10 days prior to the Commission hearing and there was no opportunity to provide valuable input from the judges who serve the county courts or the attorneys who practice in the county courts.

There are several concerns with the AOCP's proposal. First, an extensive *Nebraska Judicial Workload Assessment* was recently conducted by the National Center for State Courts and adopted by the Nebraska Supreme Court. The NCJA notes that the calculations of judge need are based upon a three-year average of case filing data.<sup>2</sup> Therefore, when the Commission reviews the latest weighted caseload report for the 2022 calendar year, it should be mindful that the last three years (2020, 2021, and 2022) were greatly impacted by a worldwide pandemic. As a result, case filings were dramatically reduced in two of the three years included in

<sup>1</sup> AOCP memo, p. 2 (Targets the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, and 12th Judicial Districts as having more judges than needed).

<sup>2</sup> *Nebraska Judicial Workload Assessment, Final Report*, October 2020, p. 3 & p. 19.





the average. Despite the pandemic's effects on case filings, the data still supports declaring a vacancy in the 6th Judicial District.

The Assessment further sets forth a "rounding rule" for calculating the number of judges needed in judicial districts.<sup>3</sup> As explained in the Assessment,

The rounding rule sets an upper and lower threshold by which to determine whether a court has too few or many judicial positions given the typical workload in that district. \*\*\* The lower threshold is set at 0.6 FTE per judge; the upper threshold is 1.15 FTE per judge. If a court's FTE per judge falls outside of that range, they may qualify to have a review of their number of judicial positions. \*\*\* The main purpose of the rounding rule is to provide a uniform way to identify the threshold. In other words, the rounding rule provides a consistent method to guide the decision of when to round up or down to a whole judicial position and thereby determine the appropriate number of authorized judicial positions in each circuit and district. \*\*\* According to the rounding convention, when workload per judge is greater than or equal to 1.15 FTE, there is a need for one or more additional judicial positions; where workload per judge falls below .6 FTE, there is a need for fewer positions.<sup>4</sup>

The NCJA believes it is appropriate to continue to follow the rounding rule in the Assessment and that no reasonable basis for deviating from the rule has been presented. In the latest weighted caseload report, all judicial districts have a workload per judge above the lower threshold of 0.6 FTE.<sup>5</sup> Specifically, the workload per judge in the 6th Judicial District is 0.82 FTE, well above that threshold.<sup>6</sup> Thus, the data does not support changing the number of judges currently allocated to the 6th Judicial District.

Second, the AOC's opinion as to what judicial districts are "over-judged" appears arbitrary. In its memo, the AOC identifies 8 judicial districts as having more judges than needed.<sup>7</sup> However, there are two districts that do not appear on the AOC's list that have, or will have, workloads per judge that are the same or less than some of the "over-judged" districts.

The 1st Judicial District has a workload per judge of 0.84 FTE and has not been identified as having more judges than needed.<sup>8</sup> However, the 12th Judicial District has the same workload per judge and the AOC claims it has too many

---

<sup>3</sup> *Id.* at 16.

<sup>4</sup> *Id.*

<sup>5</sup> *Nebraska Judicial Branch Weighted Caseload Report, County Courts, Calendar Year 2022*

<sup>6</sup> *Id.*

<sup>7</sup> AOC memo, pp. 2 & 3.

<sup>8</sup> *Weighted Caseload Report, County Courts, Calendar Year 2022*

judges.<sup>9</sup> The 4th and 7th Judicial Districts are also listed as having too many judges but the workload per judge in those districts is more than the 1st Judicial District (0.85 and 0.88, respectively).<sup>10</sup>

The 9th Judicial District is also absent from the AOC's list of "over-judged" districts. In December, the Commission recommended the addition of a county judge in the 9th Judicial District and the Legislature recently passed a law approving that request. With the addition of that judge, the workload per judge in the 9th Judicial District would be 0.82 FTE using the most recent data. That is the same as the current workload per judge in the 3rd, 5th, and 6th Judicial Districts, and less than the workload per judge in the 4th, 7th, and 12th Judicial Districts.<sup>11</sup> Yet, the AOC lists those 6 districts as having too many judges but not the 9th Judicial District.

We highlight the 1st and 9th Judicial Districts, not to suggest that they are also "over-judged," but to illustrate the fact that there is no rational basis for the AOC's determinations. The NCJA, consistent with the Assessment and data derived therefrom, believes the judicial resources currently allocated to each judicial district are appropriate. It is unclear what formula the AOC is using to determine which judicial districts have sufficient judicial resources and which have more than necessary. As noted above, the AOC has not provided any of this information to the NCJA or other county court stakeholders.

Lastly, we question whether the Judicial Resources Commission has the legal authority to postpone a decision on this vacancy by implementing a "pilot project" as suggested by the AOC. As we are sure the Commission knows, Neb. Rev. Stat. § 24-1204 states in part:

In the event of the death, retirement, resignation, or removal of a district, county, or separate juvenile judge . . . the commission shall, after holding a public hearing, determine whether a judicial vacancy exists in the affected district or any other judicial district or whether a new judgeship or change in number of judicial districts or boundaries is appropriate.

That statute does not authorize a "pilot project" or the delay of a decision after a public hearing is held. After the public hearing, the Commission can: 1. Determine whether a judicial vacancy exists, 2. Determine whether a new judgeship is appropriate, or 3. Determine whether a change in number of judicial districts or boundaries is appropriate.

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

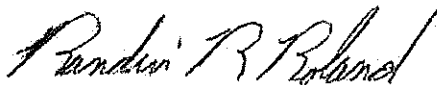
<sup>11</sup> *Id.*

If there is a plan to ignore the Assessment adopted by the Nebraska Supreme Court, to abandon the rounding rule, or to change judicial district boundaries, the NCJA believes input from those affected by such decisions should be sought. The AOC's memo acknowledges this "is a systemic issue, and it requires a systemic solution."<sup>12</sup> If that is true, the AOC should convene a representative group of judges, attorneys, and lay people from each judicial district to consider these issues, instead of its present plan which encourages a piecemeal approach that pits the stakeholders in one judicial district against those of another each time a judge leaves the bench. The AOC's present plan will result in inconsistencies of judicial resources across the State of Nebraska contrary to the interests of justice.

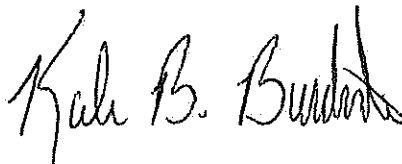
The NCJA acknowledges that former Judge Luebe covered three counties in the 6th Judicial District with a minimal caseload. However, the remaining judges within the district (all with less than 3 years on the bench) have already developed a plan to equalize caseloads if a new judge is appointed.

We urge the Commission to declare a vacancy in the office of the County Court of the 6th Judicial District and allow the judges of that district to equalize their caseloads within the existing district boundaries. Thank you for your consideration.

Sincerely,



Judge Randin R. Roland  
President



Judge Kale B. Burdick  
Chair  
Caseload & Redistricting Committee

Attachments

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<sup>12</sup> AOC memo, p. 4.

# Attachment 1

**Corey R. Steel**  
State Court Administrator



**Deborah A. Minardi**  
State Probation Administrator

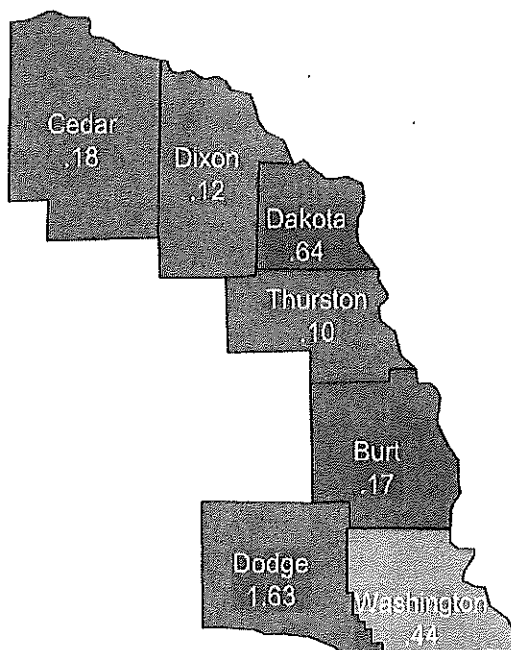
## MEMO

**TO:** County Court Judges in 6th and 7th Judicial Districts  
**FROM:** Corey R. Steel  
**DATE:** May 24, 2023  
**RE:** Proposed pilot project in 6th and 7th judicial districts

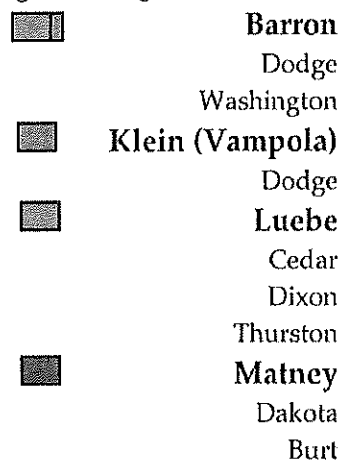
The Judicial Resources Commission is meeting on June 16, 2023, and one of the items on the agenda will be to consider whether a vacancy exists due to the resignation of Judge Luebe, effective June 2, 2023. The AOCJ plans to ask the Commission to postpone final consideration of that agenda item, pending the result of a 6-12 month pilot project to study alternative ways to cover the county court dockets historically served by Judge Luebe. Details of the proposed pilot project are described later in this memo. But first, the rationale for the proposal is set out.

The most recent Weighted Caseload Report (reflecting data for the 2022 calendar year) shows a current need for 3.28 fulltime judges, and the district currently has 4 fulltime judgeships. The average workload per judge is .82 but, as the map below shows, the actual distribution of the workload among judges varies due to docket volume in the counties served by each judge. For example, the 3 counties historically served by Judge Luebe (Cedar, Dixon, and Thurston) currently provide a total judicial workload of just .40 FTE.

Predicted judicial resources need by county



Judges Serving the 6th District



Historically, the judicial workload in Cedar, Dixon and Thurston counties was more than double what it is today, as depicted by the 2012 Weighted Caseload map for the 6th judicial district:

## Weighted Caseload Report

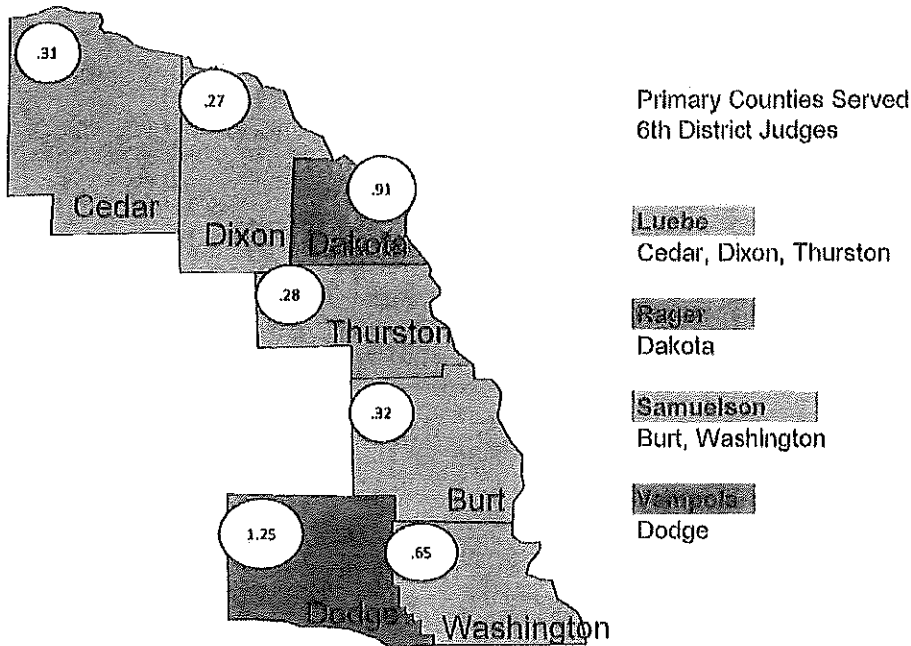
6th Judicial District - County Court

January 1, 2012 - December 31, 2012

Numbers represent total predicted judicial resources need by county

The county court need for judges is: 3.99

The current number of judges is: 4

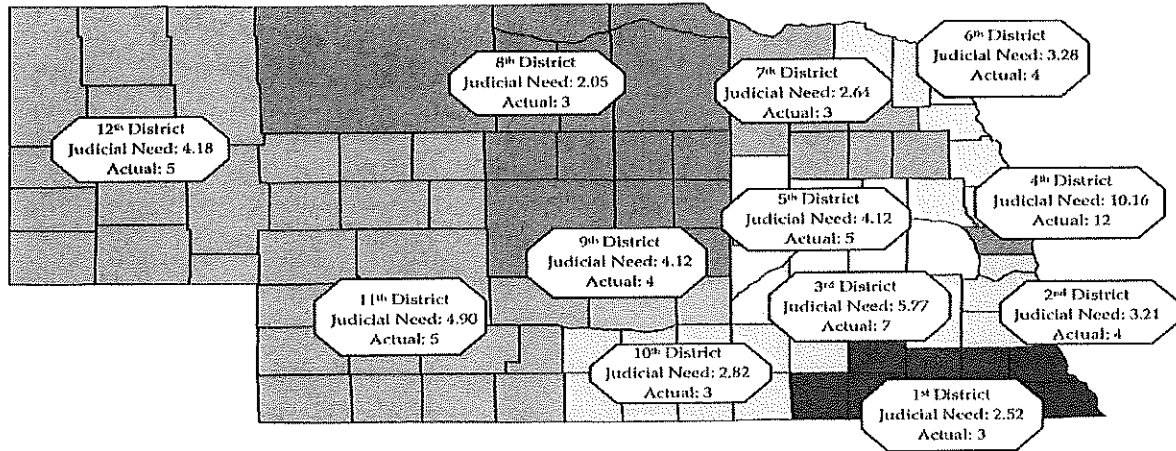


The 6th Judicial District was optimally resourced in 2012 (with a judicial need of 3.99 judges and 4 judges to do the work), but a steady decline in case filings over the past decade has resulted in more judicial resources than the current docket requires. Importantly, this phenomenon is not unique to the 6th judicial district.

The current Weighted Caseload Report shows that county courts in the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, and 12th judicial districts *all* have more judges than they need to address the current judicial need, as depicted on this map reflecting data for the 2022 calendar year:

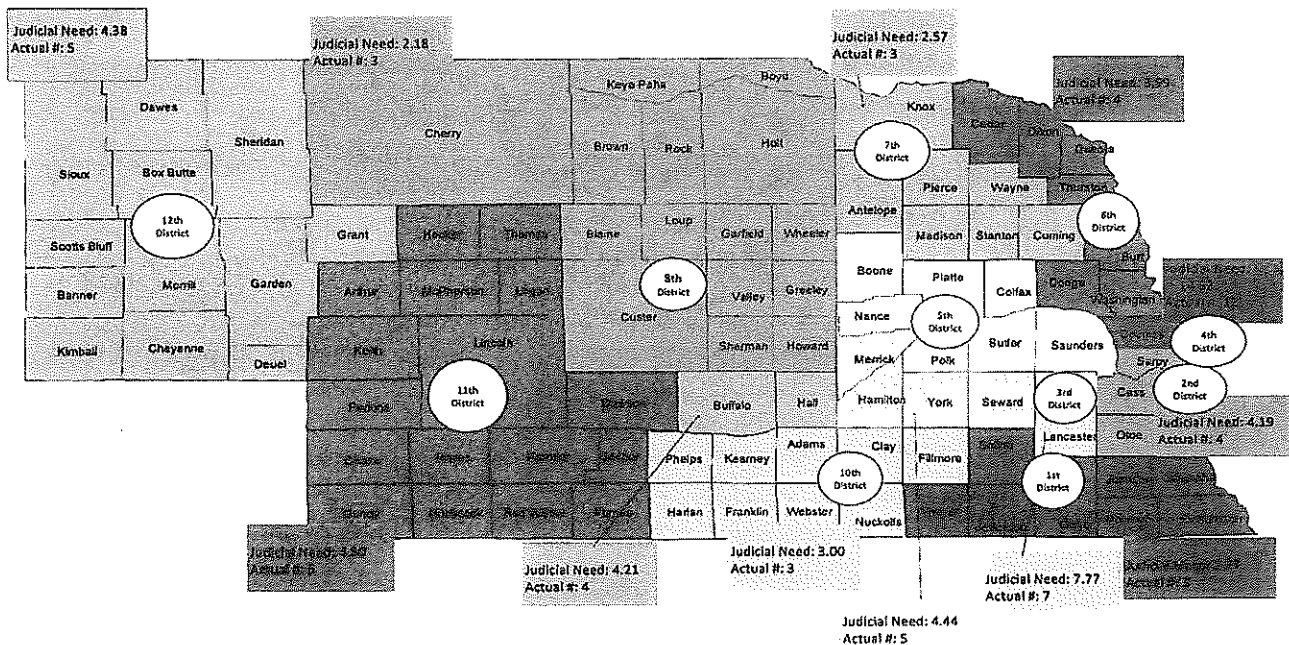
# Nebraska County Court Judicial Needs

## Calendar Year 2022 (Jan. 1 2022 – Dec. 31, 2022)



Viewed collectively, there are **43 full time judges** serving the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th and 12th judicial districts. But due to declining case filings, there is a collective judicial need for **35.41 full time judges**. By way of comparison, just 10 years ago, these same judicial districts had a collective judicial need of **44.04**, with **43 full time judges**, as depicted in this 2012 Weighted Caseload Map:

# Nebraska County Courts Judicial Needs



In other words, while the number of county court judges has remained the same for the past 10 years, the judicial workload has been significantly impacted by a consistent decline in case filings. The result is that Nebraska now has more county court judges than the system needs to efficiently process current county court workloads. This is not the result of a temporary dip in case filings, nor is it the result of the COVID-19 pandemic. Nebraska's county courts have been experiencing consistently declining caseloads for more than a decade. In 2012, there were a total of 386,288 new cases filed in Nebraska's county courts; in 2022, the total new cases dropped to 230,549.

Declining judicial caseloads are a national trend, and that sustained trend is not likely to change in Nebraska absent a dramatic expansion in county court jurisdiction. Moreover, the trend of declining cases is occurring in our metro and rural courts alike. This is not a rural/urban issue, it is a systemic issue, and it requires a systemic solution.

At the Judicial Resources Commission hearing on June 16th, the AOCB plans to propose both a short-term, and a long term, strategy for gradually moving the system toward a more optimal distribution of judicial resources in our county courts.

Short term, the AOCB will propose a pilot study to consider the impact and feasibility of moving Cedar County from the 6th judicial district, into the 7th judicial district. Precisely how the individual dockets are rearranged to accomplish covering Cedar County is a matter left to the discretion of the participating judges, but it is anticipated that the pilot study will involve:

- Identifying 1 or more county court judges from the 7th judicial district to cover the county court docket in Cedar County, and
- Identifying 1 or more county court judges from the 6th judicial district to cover the dockets in Dixon and Thurston Counties.

Qualitative and quantitative data from this study will assist the AOCB, the bar, and the bench in evaluating the feasibility of recommending that Cedar County be moved from the 6th into the 7th judicial district, and in turn, the feasibility of recommending a reduction in the number of judges in the 6th judicial district from 4 to 3.

Long term, the AOCB proposes that as future judicial retirements are announced on the county court bench in the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, or 12th judicial districts, similar pilot studies be considered to assist in identifying effective ways to reconfigure judicial districts, and reapportion judicial dockets, in a way that allows the Judicial Branch to provide swift, fair justice while gradually reducing the number of county court judges to a number that better approximates current judicial need.

# Nebraska Judicial Workload Assessment

*Final Report*

October 2020

Brian J. Ostrom, Ph.D.  
Lydia E. Hamblin, Ph.D.  
John W. Douglas

**Research Division  
National Center for State Courts**





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## ACKNOWLEDGEMENTS

The authors gratefully acknowledge the invaluable contributions of the District Court, County Court, and Separate Juvenile Court judges of Nebraska to this workload assessment. An undertaking of this magnitude would not have been possible without these judges' dedicated participation in the time study, sufficiency of time survey, and valuable feedback. We extend a special note of thanks to the members of the Judicial Needs Assessment Committee for their unflagging support of the project.

### *Judicial Needs Assessment Committee (JNAC)*

Hon. Stephanie Stacy, Nebraska Supreme Court (Chair)  
Hon. Matthew Acton, County Court, 3<sup>rd</sup> Judicial District  
Eric Asboe, AOC  
Hon. Chad Brown, Separate Juvenile Court, 4<sup>th</sup> Judicial District  
Hon. Kale Burdick, County Court, 8<sup>th</sup> Judicial District  
Liz Neeley, NSBA  
Hon. Jodi Nelson, District Court, 3<sup>rd</sup> Judicial District  
Hon. Travis O'Gorman, District Court, 12<sup>th</sup> Judicial District  
Hon. Anne Paine, County Court, 11<sup>th</sup> Judicial District  
Hon. C Jo Petersen, County Court, 5<sup>th</sup> Judicial District  
Hon. Linda Porter, Separate Juvenile Court, 3<sup>rd</sup> Judicial District  
Amy Prenda, AOC  
Hon. John Samson, District Court, 6<sup>th</sup> Judicial District  
Hon. Julie Smith, District Court, 1<sup>st</sup> Judicial District  
Corey Steel, AOC  
Hon. Robert Steinke, District Court, 5<sup>th</sup> Judicial District  
Hon. Shelly Stratman, District Court, 4<sup>th</sup> Judicial District  
Jane Sutherland, AOC  
Hon. Donna Taylor, County Court, 7<sup>th</sup> Judicial District  
Hon. Derek Vaughn, County Court, 4<sup>th</sup> Judicial District

We express special thanks to Paula Crouse and Jennifer Rasmussen of AOC for all their help and encouragement throughout the project.

We are also grateful to our colleagues Erika Bailey, Tracey Johnson and Shannon Roth for their assistance and insights with the analysis. Finally, we thank Brian Henry and Aspensoft for developing the web-based data collection tools employed in this study.

## **EXECUTIVE SUMMARY**

At the request of the Nebraska Supreme Court, the Nebraska Administrative Office of the Courts and Probation (AOCP) contracted with the National Center for State Courts (NCSC) to perform a comprehensive update, extension, and improvement of the existing Nebraska judicial weighted caseload system in line with state-of-the-art practices. A clear and objective assessment of court workload is essential to establish the number of judges required to resolve in a timely manner all cases coming before the court. The primary goals of the study were to:

- Develop a valid measure of judicial workload in all District, County and Separate Juvenile Courts, accounting for variations in complexity among different case types, as well as differences in the non-case-related responsibilities of judges;
- Evaluate the current allocation of judicial resources;
- Establish a transparent and empirically driven formula for determining the appropriate level of judicial resources in each judicial district.
- Enable compliance with Nebraska Rev. Stat. §24-1007, which requires the state court administrator to compile accurate judicial workload statistics for each district, county, and separate juvenile court based on caseload numbers weighted by category of case.

### ***Project Design***

To provide oversight and guidance on matters of policy throughout the project, Chief Justice Michael G. Heavican appointed a 19-member Judicial Needs Assessment Committee (JNAC) representing District, County and Separate

Juvenile courts across the state. The workload assessment was conducted in two phases:

1. A quantitative Time Study in which all judges recorded all case-related and non-case-related work over a four-week period. The purpose was to provide an empirical description of the amount of time currently devoted to processing each case type, as well as the division of the workday between case-related and non-case-related activities.
2. A qualitative Sufficiency of Time survey to provide a statewide perspective on areas of concern in relation to current case processing practice and existing judicial resources. All judges were asked to complete the web-based survey. The survey provided important insight into whether judges believe they have sufficient time available to perform all of their various case-related and non-case-related responsibilities.

### ***Project Results***

Applying the final weighted caseload model to current case filings shows that the current number of judges is appropriate to handle the existing judicial workload. The lone exception is the 4<sup>th</sup> Judicial District where the model shows a current need for an additional two judgeships. Viewed statewide, Nebraska currently has a need for a total of 58 District Court judges, 58 County Court judges, and 12 Separate Juvenile Court judges.

## ***Recommendations***

The final weighted caseload model discussed in this report provides an empirically grounded basis for analyzing judicial workload and need in each of Nebraska's District, County, and Separate Juvenile Courts. The following recommendations are intended to ensure the effective use of the weighted caseload model and to preserve the model's integrity and utility over time.

### **Recommendation 1**

The revised weighted caseload model clearly illustrates the changing character of judicial workload in Nebraska. The model is used to determine the number of judges needed in each District, County and Separate Juvenile Court. The model finds the current complement of judges is appropriate in all court locations, with the exception of the 4<sup>th</sup> Judicial District. The model suggests the need for two new judgeships in the 4<sup>th</sup> Judicial District, but does not reflect the additional judgeship to be added in that district effective July 1, 2021.

### **Recommendation 2**

A critical assumption of Nebraska's weighted caseload models is that case filings are entered into JUSTICE uniformly and accurately. NCSC recommends that Nebraska's district and county court clerks continue their efforts to improve the uniformity of data entry and that the trial courts continue efforts to encourage uniformity in case filings. Ideally, for all criminal and civil case types, multi-charge or multi-petition cases should be counted as a single case unless they are unable to be consolidated and must be processed separately. For juvenile 3A cases, NCSC recommends counting 3A children rather than 3A cases due to the disparate filing practices among prosecutors across the state. A case with multiple children should count each child only once, when they are added to the case.

### **Recommendation 3**

The calculations of judge need in this report are based upon a three-year average of case filing data. NCSC recommends that Nebraska AOCF recalculate judge need on an annual basis using the same methodology set forth in this report and updated with year-end case filing data to produce a 3-year rolling average. The application of the workload formula to the most recent filings will reveal the impact of any caseload changes judicial workload.

### **Recommendation 4**

The availability of support personnel, especially law clerks, bailiffs, court clerks, and child support referees, has a profound impact on judges' ability to perform their work efficiently and effectively. The recommended case weights were calculated based on the actual judge time only, so if support personnel are no longer provided or are reduced in a particular district, the judicial need will be higher than is reflected in the weighted caseload report. JNAC members and results from the Sufficiency of Time survey stressed the importance of strong support staff. NCSC recommends that periodic workload assessments be conducted for law clerks, bailiffs, court clerks, and child support referees.

### **Recommendation 5**

Over time, the integrity of any weighted caseload model may be affected by external factors such as changes in legislation, case law, or court technology. NCSC recommends that the Nebraska Supreme Court and the AOCF conduct a comprehensive review of the weighted caseload models every five to seven years. Between updates, if a major change in the law appears to have a significant impact on judicial workload, JNAC and/or a representative focus group of judges that handle the case type(s) may be convened to make interim adjustments to the affected case weight(s).

## **I. INTRODUCTION**

The Nebraska Administrative Office of the Courts and Probation (AOCP) contracted with the National Center for State Courts (NCSC) to develop a method to measure judicial workload in Nebraska's District, County, and Separate Juvenile Courts. A clear measure of court workload is central to determining how many judicial officers are needed to resolve all cases coming before the court. Adequate resources are essential if the Nebraska judiciary is to effectively manage and resolve court business without delay while also delivering quality service to the public. Meeting these challenges involves assessing objectively the number of judicial officers required to handle the caseload and whether judicial resources are being allocated and used prudently. In response, judicial leaders around the country are increasingly turning to empirically based workload assessments to provide a strong foundation of judicial resource need in their state trial courts.

The need for financial and resource accountability in government is a strong stimulus to develop a systematic method to assess the need for judges. The state-of-the-art technique for assessing judicial need is a weighted caseload study because population or raw, unadjusted filings offer only minimal guidance regarding the amount of judicial work generated by those case filings. The weighted caseload method explicitly incorporates the differences in judicial workload associated with different types of cases, producing a more accurate and nuanced profile of the need for judges in each court.

The current study represents a comprehensive overhaul of the Nebraska weighted caseload system to update the case weights to reflect developments in the law and court procedures. This effort is timely because Nebraska's judicial weighted caseload system was last reviewed and

updated about fifteen years ago. Since the previous weighted caseload study, developments in statutes, rules, case law, case management practices, new technology, a growing number of self-represented litigants, and increasing complexity of cases have had a significant impact on the work of District, County, and Separate Juvenile Court judges, necessitating an update of the case weights. The current workload assessment incorporates several innovations in comparison with previous studies conducted in Nebraska. Specifically, the current study:

1. Increases time study participation, soliciting statewide participation from all District, County, and Separate Juvenile Court judges, to more accurately estimate the time required to resolve cases.
2. Updates and establishes weights for more granular case types across all court levels, to reflect differences in current practice and case processing.
3. Reassesses the amount of time available for case-related work, adjusting the judge day and year values to reflect current practice, incorporating real-time reported travel by district.
4. Develops a rounding convention that puts courts of all sizes on equal footing and sets threshold standards to gauge the need for a change in judicial positions based on workload per judge.

### **A. The Weighted Caseload Model**

The weighted caseload method of workload analysis is grounded in the understanding that different types of court cases vary in complexity, and consequently in the amount of judicial work they generate. For example, a typical felony case creates a greater need for judicial resources than the average traffic case. The weighted caseload method calculates judicial need based on each court's total workload. The weighted caseload formula consists of three critical elements:

3. *Case filings*, or the number of new cases of each type opened each year;
4. *Case weights*, which represent the average amount of judge time required to handle cases of each type over the life of the case; and
5. The *year value*, or the amount of time each judge has available for case-related work in one year.

Total annual workload is calculated by multiplying the annual filings for each case type by the corresponding case weight, then summing the workload across all case types. Each court's workload is then divided by the year value to determine the total number of full-time equivalent judges and/or judicial officers needed to handle the workload.

Judicial weighted caseload is well established in Nebraska. This methodology is mandated in statute, and for over two decades, the Judicial Resources Commission has used the weighted caseload method to assess judicial resource needs and recommend judgeships to the Nebraska Legislature.

#### **B. The Judicial Needs Assessment Committee**

To provide oversight and guidance on policy throughout the project, the Nebraska Supreme Court appointed a 19-member Judicial Needs Assessment Committee (JNAC) consisting of judges from District, County, and Separate Juvenile Courts from all geographical regions and court sizes, as well as AOC representatives and the Nebraska State Bar Association (NSBA). JNAC's role was to advise NCSC on the selection of case types (e.g., criminal, civil, domestic) and the time study design, as well as to recommend policy decisions regarding the amount of time allocated to case-related and non-case-related work (judge day and year values) and review the results of the analysis. Hon. Stephanie Stacy, Supreme Court of Nebraska, served as chair of JNAC. The full Committee met two times over the course of the project, in addition to multiple sub-

committee conference calls held to identify case types and evaluate the data collection strategy. Committee responsibilities included:

- Advising the project team on the definitions of case types and case-related and non-case-related events to be used during the time study;
- Encouraging and facilitating participation by judges statewide in the time study and Sufficiency of Time survey;
- Reviewing and commenting on the results of the time study and the content of the final model.

#### **C. Research Design**

The workload assessment was conducted in two phases:

1. A *time study* in which all District, County, and Separate Juvenile Court judges were asked to record all case-related and non-case-related work over a four-week period. The time study provides an empirical description of the amount of time currently devoted to processing each case type, as well as the division of the workday between case-related and non-case-related activities.
2. A Sufficiency of Time survey to provide a statewide perspective on areas of concern in relation to current case processing practice and existing judicial resources. All judges were asked to complete the web-based survey. The survey provided important insight into whether judges believe they have sufficient time available to perform all of their various case-related and non-case-related responsibilities.

## **II. CASE TYPES AND EVENTS**

At JNAC's first meeting on August 22, 2019, one of the committee's primary tasks was to establish the case type and event categories upon which to base the time study. Together, the case types, case-related events, and non-case-related

events describe all the work required and expected of Nebraska's District, County, and Separate Juvenile Court judges.

### **A. Case Type Categories**

JNAC was charged with establishing three sets of case type categories, one set each for District, County, and Separate Juvenile Court, which satisfied the following requirements:

- Categories are legally and logically distinct;
- There are meaningful differences among categories in the amount of judicial work required to process the average case;
- There are a sufficient number of case filings within the category to develop a valid case weight; and
- Filings for the case type category or its component case types are tracked consistently and reliably in JUSTICE.<sup>1</sup>

Using the case type categories currently tracked in JUSTICE as a starting point, JNAC revised and defined 8 case type categories for District Court, 19 case types for County Court, and 10 for Separate Juvenile Court (Exhibit 1). This was an update to the previous workload assessment study done in 2006, which used a condensed set of case type categories for the time study (District: 6 case types; County: 12 case types; Separate Juvenile: 4 case types). JNAC decided to better delineate several case types that were collapsed into larger categories or otherwise excluded in the 2006 study. This was done to account for differences in time spent processing those case types as their processing has changed over the course of 15 years.

Details regarding the specific case types included in each category are available in Appendix A (District Court), Appendix B (County Court), and Appendix C (Separate Juvenile Court).

### **B. Case-Related Event Categories**

To describe case-related work in more detail, JNAC defined three case-related event categories that cover the complete life cycle of each case. Case-related events cover all work related to an individual case before the court, including on-bench work (e.g., hearings) and off-bench work (e.g., reading case files, preparing orders). A uniform set of three case-related event categories applied to all three court levels, with a fourth category specifically for the District Court. Exhibit 2 shows the case-related event categories and their definitions.

### **C. Non-Case-Related Events**

Work that is not related to a particular case before the court, such as court management, committee meetings, travel, and judicial education, is also an essential part of the judicial workday. To compile a detailed profile of judges' non-case-related activities and provide an empirical basis for the construction of the judge day and year values, JNAC defined nine non-case-related event categories (Exhibit 2). To simplify the task of completing the time study forms and aid in validation of the time study data, vacation and other leave, lunch and breaks, and time spent filling out time study forms were included as non-case-related events.

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<sup>11</sup> JUSTICE, (*Judicial User System to Improve Court Efficiency*), is the Supreme Court's case-based data

storage system comprised of clerk entries of information from relevant courts.

### Exhibit 1: Case Type Categories

<u>District Court</u>	<u>County Court</u>	<u>Separate Juvenile Court</u>
Problem Solving Court Cases	Felony	Adoption
Protection Orders	Misdemeanor	Domestic Relations
Civil	District Court:	Juvenile:
Class I Felony	Adult Problem-Solving Court	3A Children & Problem-Solving Court*
Other Criminal	Domestic Relations	3A Cases & Problem-Solving Court
Domestic Relations	Protection Orders	Delinquency
Appeals	Traffic	Status Offender 3B
Aministrative Appeals	Civil	Mentally Ill and Dangerous 3C
	Probate	Bridge to Independence (B21)
	Guardianship/Conservatorship	Interstate Compact
	Small Claims	
	Adoption	
	Juvenile:	
	3A Children* & Problem-Solving Court**	
	3A Cases & Problem Solving-Court	
	Delinquency	
	Status Offender 3B	
	Mentally Ill and Dangerous 3C	
	Bridge to Independence (B21)	
	Interstate Compact	

\*3A Children cases include: Abuse/Neglect/Dependency, and Termination of Parental Rights

\*\*At the time of the study, only separate juvenile courts had problem-solving courts, and all participants were involved in a 3A case. As such, the problem-solving court case category was combined with 3A children to arrive at a single weight. The goal is to determine a separate weight for juvenile problem-solving court cases at a future point.



## Exhibit 2. Non-Case-Related Events

### Non-Case-Related Events

Non-Case-Related Administration

General Legal Research

Judicial Education and Training

Committee Meetings, Other Meetings, and Related Work

Community Activities and Public Outreach

Work-Related Travel

Vacation, Sick Leave, and Holidays

Lunch and Breaks

NCSC Time Study

### III. TIME STUDY

The time study phase of the workload assessment measured current practice—the amount of time judges currently spent handling cases of each type, as well as on non-case-related work. For a period of four weeks, all Nebraska District, County, and Separate Juvenile Court judges were asked to track all of their working time by case type and event. Separately, the AOCJ provided counts of filings by case type category and court. NCSC used the time study and filings data to calculate the average number of minutes currently spent by the judges in each court resolving cases within each case type category (preliminary case weights). The time study results also informed JNAC's selections of day and year values for case-related work.

#### A. Data Collection

##### 1. Time Study

During a four-week period from October 21 – November 17, 2019, all District, County, and Separate Juvenile Court judges were asked to track all working time by case type category and

by case-related or non-case-related event (for non-case-related activities). County Court judges that heard District Court problem-solving court cases were also asked to track their time for that work. Participants were instructed to record all working time, including time spent handling cases on and off the bench, non-case-related work, and any after-hours or weekend work. Judges tracked their time in five-minute increments using a Web-based form.

To maximize data quality, all time study participants were asked to view a live or recorded webinar training module explaining how to categorize and record their time. In addition to the training webinars, NCSC staff presented a live training at their judicial education conference, judges were provided with Web-based reference materials, and NCSC staff were available to answer questions by telephone and e-mail. The Web-based method of data collection allowed time study participants to verify that their own data were accurately entered and permitted real-time monitoring of participation rates.

Across the state, the vast majority of District Court judges (96%), County Court judges

(98%), and Separate Juvenile Court judges (100%) participated in the time study. This level of statewide participation ensured sufficient data to develop an accurate and reliable profile of current practice in Nebraska's District, County, and Separate Juvenile Courts.

## **2. Caseload Data**

To translate the time study data into the average amount of time expended on each type of case (preliminary case weights), it was first necessary to determine how many individual cases of each type are filed on an annual basis. The AOCF provided filings data for 2017, 2018, and 2019. The caseload data for all three years were then averaged to provide an annual count of filings within each case type category and court, shown in Exhibit 3. The use of an 3-year annual average rather than the caseload data for a single year minimizes the potential for any temporary fluctuations in caseloads to influence the case weights.

### **B. Preliminary Case Weights**

Following the four-week data collection period, the time study and caseload data were used to calculate preliminary case weights as shown in Exhibit 3. A preliminary case weight represents the average amount of time judges currently spend to process a case of a particular type, from pre-filing activity to all post-judgment matters. The use of separate case weights for each case type category accounts for the fact that cases of varying levels of complexity require different amounts of judicial time for effective resolution.

To calculate the preliminary case weights, the time recorded for each case type category was weighted to the equivalent of one year's worth of time for all judges statewide. The total annual time for each case type was then divided by the average annual filings to yield the average amount of hands-on time judges currently spend

on each case. The preliminary case weights proposed by NCSC are set out in Exhibit 3.

The standard approach for calculating preliminary case weights works well as long as new cases are filed and counted consistently across the state. This was the case in most, but not all, of the case types in Nebraska.

Juvenile Problem-Solving Court cases are currently offered only in the separate juvenile courts and such cases are not consistently tracked and coded in JUSTICE. Consequently, JNAC determined that the time recorded under Problem-Solving Court cases during the time study should be combined with time recorded in Juvenile 3A to form a single "Juvenile 3A & PSC" category. A goal for AOCF is to produce a separate Juvenile PSC case weight at a future point.

Additionally, the counting of Juvenile 3A cases proved problematic in both the county courts and the separate juvenile courts, due to disparate filing practices. Prosecutors in some judicial districts routinely file a separate case for each child, while prosecutors in other districts will file a single case to address multiple children and parents. This creates an equity problem if some courts are getting workload credit for each child and others are getting the same workload credit per case that may involve multiple children. As a consequence, NCSC calculated two versions of the Juvenile 3A & PSC case weight: one version counted 3A cases as has been done historically, and the other version counted 3A children instead. NCSC recommends counting 3A children (using the 3A Children & PSC case weight in Exhibit 3) rather than counting 3A cases, as this approach better addresses the disparate filing practices across the state and puts all courts on a more equal footing.

JNAC reviewed the preliminary case weights developed by NCSC (see Exhibit 3) and with one exception discussed later, generally

considered the weights to be an accurate representation of current judicial practice in the district, county, and separate juvenile courts. JNAC also agreed with NCSC's recommendation to count 3A Children rather than 3A Cases. However, as discussed in the next section, JNAC could not reach consensus on whether to accept or reject the different case weights proposed by NCSC for 3A Children & PSC in County and Separate Juvenile Courts.

#### *1. Different Weights in Different Courts*

Based on the actual time reported by judges during the time study, NCSC developed different case weights for several case types of juvenile case types depending on whether the case was being handled in a county court or a separate juvenile court. In county courts, adoption cases, domestic relations cases, and bridge to independence cases were all weighted higher than the same cases in a separate juvenile court. And in separate juvenile courts, 3A & PSC, status offense cases, and delinquency cases were all weighted higher than the same cases in county court. Of the different proposed case weights, only one prompted concern from members of the JNAC: the case weight for 3A children and PSC. Members of the JNAC devoted considerable discussion to this issue, and NSCS accepted additional input on the issue after the meeting. The time study data showed that judges spend different amounts of time handling 3A cases in the county and separate

juvenile courts. Some members of JNAC observed that the separate juvenile courts were established to specialize in these cases and given resources to handle them in ways different from traditional county court processes. These members suggested the different weights shown in Exhibit 3 reflect the actual variation in judicial practice among Nebraska courts and the higher weights in separate juvenile acknowledge investment in "better" practices. On the other hand, it was suggested that all 3A cases are governed by the same law whether they are handled in county court or separate juvenile court, and the goal should be that the quality of justice is the same for all citizens of Nebraska regardless of whether they live in a district with a separate juvenile court.

NSCS recognizes that, at this point in time, it may not be statutorily possible to create Separate Juvenile Courts in all Nebraska districts. The proposed weights in Exhibit 3 accurately reflect the actual judicial handling practices in each courts, but it is a separate policy question whether the 3A weights should be adjusted to obtain a judicial consensus that the weights are perceived as fair to both county court judges and separate juvenile court judges. NSCS was provided with several policy-based suggestions for adjusting the recommended case weights, and in Appendix G, the impact of the various policy-based adjustments to the case weights is discussed in more detail.

### Exhibit 3. Filings and Preliminary Case Weights

<b>District Court</b>	Annual Filings (average 2017-2019)	Preliminary Case Weight (minutes)
Problem Solving Court Cases	441	683
Protection Orders	6,102	32
Civil	5,904	219
Class I Felony	1,044	367
Other Criminal	11,368	149
Domestic Relations	13,502	97
Appeals	262	343
Aministrative Appeals	125	540
<b>Total</b>	<b>38,748</b>	

<b>County Court</b>	Filings (average 2017-2019)	Preliminary Case Weight (minutes)
Protection Orders	3,298	32
Felony	17,074	26
Misdemeanor	79,124	23
District Court: Adult Problem-Solving Court	14	683
Traffic	119,853	1
Civil	85,675	8
Probate	6,066	61
Guardianship/Conservatorship	2,049	133
Small Claims	3,709	30
Adoption	696	92
Domestic Relations	4	97
Juvenile: 3A CHILDREN & PSC	1,290	272
Juvenile: 3A CASES & PSC	1,138	308
Juvenile: Delinquency	3,090	100
Juvenile: Status Offender 3B	533	37
Juvenile: Mentally Ill and Dangerous 3C	21	265
Juvenile: Bridge to Independence (B21)	51	58
Juvenile: Interstate Compact Hearings/Filings	141	2
<b>Total</b>	<b>323,834</b>	

<b>Separate Juvenile Court</b>	<b>Annual Filings (average 2017-2019)</b>	<b>Preliminary Case Weight (minutes)</b>
Adoption	289	49
Domestic Relations	89	26
Juvenile: 3A CHILDREN & PSC	1,381	518
Juvenile: 3A CASES & PSC	713	1,003
Juvenile: Delinquency	2,634	136
Juvenile: Status Offender 3B	762	54
Juvenile: Mentally Ill and Dangerous 3C	1	265
Juvenile: Bridge to Independence (B21)	119	36
Juvenile: Interstate Compact Hearings/Filings	122	2
<b>Total</b>	<b>6,133</b>	

#### IV. SUFFICIENCY OF TIME SURVEY

To provide a statewide perspective on any areas of concern related to current practice, all District, County, and Separate Juvenile Court judges were asked to complete a Web-based Sufficiency of Time survey in February/March 2020.

For each case type, judges were asked to rate the extent to which they had sufficient time in the average day to handle case-related activities on a scale from 1 (almost never) to 5 (almost always). Judges were then asked to identify and rank-order specific case-related tasks, if any, where additional time would improve the quality of justice. The survey also included questions about the sufficiency of time for general court management (e.g., participation in court planning and administration), as well as space for judges to comment freely on their workload. The majority of District Court judges (85%), County Court judges (67%), and Separate Juvenile Court judges (77%) completed the survey. Appendix D (District Court), Appendix E (County Court), and Appendix F (Separate Juvenile Court) present the survey results in detail.

#### V. JUDICIAL NEED

In the weighted caseload model, three factors contribute to the calculation of judicial need: caseload data (filings), case weights, and the year value. The year value is equal to the amount of time each full-time judge has available for case-related work on an annual basis. The relationship among the filings, case weights, and year value is expressed as follows:

$$\frac{\text{Filings x Case Weights (minutes)}}{\text{Year Value (minutes)}} = \text{Resource Need (FTE)}$$

Multiplying the filings by the corresponding case weights calculates the total annual workload in minutes. Dividing the workload by the year value yields the total number of full-time equivalent (FTE) judges needed to handle the workload.

##### A. Judge Year Values

To develop the year values for District, County, and Separate Juvenile Court judges, it was necessary to determine the number of days each judge has available for case-related work in each year (judge year), as well as how to divide the work day between case-related and non-case-related work (judge day value)

### **1. Judge Year**

As shown in Exhibit 5, the judge year value was constructed by beginning with 365 days per year, then subtracting weekends, holidays, vacation and sick leave, and full-day participation in judicial education and training. The 2006 JNAC from the previous NCSC judicial workload studies adopted a judge year of 218 case-related days for all levels of court. The current JNAC reviewed and decided to keep that value as it is still reflective of typical working days in a year.

#### **Exhibit 5. Judge Year**

Total days per year	365
Weekends	- 104
Holidays	- 12
Vacation	- 20
Sick Leave	- 8
Education/Training	- 3
<hr/> Total working days per year	218

### **2. Judge Day**

The judge day value represents the amount of time each judge has available for case-related work each day. This value is calculated by subtracting time for lunch, breaks, travel, and non-case-related work (e.g., administration, education) from the total working day.

Travel time is an important distinction between courts based on their geographical location. To measure the amount of time some judges spend driving between courts in their district, real-time reporting was used to capture actual travel time during the 4-week time study. Actual travel time was averaged within judicial districts for each court type, then travel time was factored out of the amount of available case-related time in the year value. This results in a different judge year value in each judicial district based on the reported travel time in that district.

### **3. Judge Year Values**

To calculate the final year values for case-related work, the number of days in the working year was multiplied by the day value for case-related work. This figure was then expressed in terms of minutes per year. Exhibit 6 shows the calculation of the year values for District, County, and Separate Juvenile Court.

### Exhibit 6. Judge Year Values

#### District Court Judge Year Value

	District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	District 11	District 12
Day (hours)	8	8	8	8	8	8	8	8	8	8	8	8
Minutes per hour	× 60	60	60	60	60	60	60	60	60	60	60	60
Total minutes per day	480	480	480	480	480	480	480	480	480	480	480	480
Non-case related	– 60	60	60	60	60	60	60	60	60	60	60	60
Travel time	– 60	0	0	0	30	10	45	60	10	70	45	45
Case related time	360	420	420	420	390	410	375	360	410	350	375	375
Judge year (days)	× 218	218	218	218	218	218	218	218	218	218	218	218
Year value (minutes)	78,480	91,560	91,560	91,560	85,020	89,380	81,750	78,480	89,380	76,300	81,750	81,750

#### County Court Judge Year Value

	District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	District 11	District 12
Day (hours)	8	8	8	8	8	8	8	8	8	8	8	8
Minutes per hour	× 60	60	60	60	60	60	60	60	60	60	60	60
Total minutes per day	480	480	480	480	480	480	480	480	480	480	480	480
Non-case related	– 60	60	60	60	60	60	60	60	60	60	60	60
Travel time	– 60	30	0	0	60	60	60	90	10	60	60	60
Case related time	360	390	420	420	360	360	360	330	410	360	360	360
Judge year (days)	× 218	218	218	218	218	218	218	218	218	218	218	218
Year value (minutes)	78,480	85,020	91,560	91,560	78,480	78,480	78,480	71,940	89,380	78,480	78,480	78,480

#### Separate Juvenile Court Judge Year Value

	District 2	District 3	District 4
Day (hours)	8	8	8
Minutes per hour	× 60	60	60
Total minutes per day	480	480	480
Non-case related	– 60	60	60
Travel time	– 10	0	0
Case related time	410	420	420
Judge year (days)	× 218	218	218
Year value (minutes)	89,380	91,560	91,560



## B. Judicial Need

To calculate the number of judges needed in District, County, and Separate Juvenile Court, the annual average filings count for each case type was multiplied by the corresponding case weight to calculate the annual judicial workload associated with that case type, in minutes. In each court type, judicial workload was calculated, then divided by the judge year value, or the amount of time each full-time judge has available for case-related work in one year. This yielded the total number of judges required to handle the court's case-related workload, as well as judges' ordinary non-case-related responsibilities, in full-time equivalent (FTE) terms.

Exhibit 7 (District Court), Exhibit 8 (County Court), and Exhibit 9 (Separate Juvenile Court) present the final calculation of judicial workload and need, by district. Overall, the model suggests a need for 58 District Court judges, 58 County Court judges, and 12 Separate Juvenile Court judges.

In some courts, workload-based judicial need may exceed or fall below the number of currently allocated judicial positions. To determine if a change to the number of judicial positions is merited, the FTE workload per judge is examined relative to a rounding rule.

### 1. Rounding Rule

The rounding rule sets an upper and lower threshold by which to determine whether a court has too few or many judicial positions given the typical workload in that district. A standard rule is applied to all districts, court levels, and court sizes. The lower threshold is set at 0.6 FTE per judge; the upper threshold is 1.15 FTE per judge. If a court's FTE per judge falls outside of

that range, they may qualify to have a review of their number of judicial positions.

Weighted caseload calculations typically result in estimates of judicial need that contain fractional judgeships. In some instances when implied need exceeds the number of sitting judges, the current complement of judges in a given court can organize to handle the additional workload, perhaps with the periodic assistance of a retired or substitute judge. However, at some point, the additional workload crosses a threshold that means the court needs another full-time judicial position to effectively resolve the cases entering the court. The main purpose of the rounding rule is to provide a uniform way to identify the threshold. In other words, the rounding rule provides a consistent method to guide the decision of when to round up or down to a whole judicial position and thereby determine the appropriate number of authorized judicial positions in each circuit and district.

Workload per judge is calculated by dividing the total judge need in each circuit/district by the number of funded judicial positions. According to the rounding convention, when workload per judge is greater than or equal to 1.15 FTE, there is a need for one or more additional judicial positions; where workload per judge falls below .6 FTE, there is a need for fewer positions.<sup>2</sup> For example, in the 3<sup>rd</sup> Judicial District there are currently 8 FTE district court judges. Dividing the *Implied Need* by the *Actual Judges* ( $8.44 \text{ FTE} \div 8 \text{ FTE}$ ) results in a *Current Workload per Judge* of 1.05 FTE. Since workload per judge is below the upper threshold of 1.15 FTE, no additional judgeships are recommended.

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<sup>2</sup> A position should not be subtracted, however, when this would result in a per-judge workload greater than 1.15

FTE. For this reason, final workload per judge may be lower than .9 FTE in some counties.

The rounding convention using workload per judge was designed to provide empirical guidance as to which courts are over- or under-resourced. It also provides a means to rank jurisdictions regarding their relative need. The higher the workload per judge, the greater the need for additional resources (e.g., a court with a workload per judge of 1.29 would have a greater need for an additional judge than a court with a workload per judge of 1.12). The upper and lower thresholds are guidelines for an initial identification of courts that may need additional (or fewer) resources.

Courts that are near the threshold (e.g., courts with a workload per judge between 1.10 and 1.20) may benefit from a secondary analysis that

examines additional contextual factors affecting the need for judges. For courts falling slightly below the threshold (e.g., workload per judge of 1.14), these extra factors should be considered when determining whether additional judicial resources are needed.

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The rounding convention can be summarized as:

Rule 1: If workload per judge  $\geq 1.15$ , add judges until workload per judge  $< 1.15$

Rule 2: If workload per judge  $< 0.60$ , subtract a judge **ONLY** if resulting workload per judge  $< 1.15$

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**Exhibit 7. Judicial Workload and Need, District Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	244,056	416,957	772,490	1,893,644	275,364	252,543	182,868	120,081	347,305	168,962	348,001	311,290	5,333,561
Judicial Year Value	÷ 78,480	91,560	91,560	91,560	85,020	89,380	81,750	78,480	89,380	76,300	81,750	81,750	
Implied Judge Need (from model)	3.11	4.55	8.44	20.68	3.24	2.83	2.24	1.53	3.89	2.21	4.26	3.81	60.78
Actual Judges	÷ 3	4	8	16	4	3	2	2	4	2	4	4	56
Workload per judge (implied ÷ actual)	1.04	1.14	1.05	1.29	0.81	0.94	1.12	0.77	0.97	1.11	1.06	0.95	1.09
Judge need rounded (1.15/.6)	3	4	8	18	4	3	2	2	4	2	4	4	58

**Exhibit 8. Judicial Workload and Need, County Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	215,683	330,412	676,087	1,235,494	326,377	270,590	203,234	135,406	367,949	214,682	396,941	317,911	4,690,766
Judicial Year Value	÷ 78,480	85,020	91,560	91,560	78,480	78,480	78,480	71,940	89,380	78,480	78,480	78,480	
Implied Judge Need (from model)	2.75	3.89	7.38	13.49	4.16	3.45	2.59	1.88	4.12	2.74	5.06	4.05	55.55
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	0.92	0.97	1.05	1.12	0.83	0.86	0.86	0.63	1.03	0.91	1.01	0.81	0.96
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**Exhibit 9. Judicial Workload and Need, Separate Juvenile Court**

	District			Statewide
	2	3	4	
Total Workload	167,764	340,828	627,150	1,135,733
Judicial Year Value	÷ 89,380	91,560	91,560	
Implied Judge Need (from model)	1.88	3.72	6.85	12.45
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.94	0.93	1.14	1.04
Judge need rounded (1.15/.6)	2	4	6	12

## **VI. RECOMMENDATIONS**

The final weighted caseload model provides an empirically grounded basis for analyzing judicial workload and need in each of Nebraska's District, County, and Separate Juvenile Courts. NSCS recommendations are intended to ensure the effective use of the weighted caseload model and to preserve the model's integrity and utility over time.

### **Recommendation 1**

The revised weighted caseload model clearly illustrates the changing character of judicial workload in Nebraska. The model is used to determine the number of judges needed in each District, County and Separate Juvenile Court. The model finds the current complement of judges is appropriate in all court locations, with the exception of the 4<sup>th</sup> Judicial District. The model suggests the need for two new judgeships in the 4<sup>th</sup> Judicial District, but does not reflect the additional judgeship to be added in that district effective July 1, 2021.

### **Recommendation 2**

A critical assumption of Nebraska's weighted caseload models is that case filings are entered into JUSTICE uniformly and accurately. NCSC recommends that Nebraska's district and county court clerks continue their efforts to improve the uniformity of data entry and that the trial courts continue efforts to encourage uniformity in case filings. Ideally, for all criminal and civil case types, multi-charge or multi-petition cases should be counted as a single case unless they are unable to be consolidated and must be processed separately. For juvenile 3A cases, NCSC recommends counting children rather than total cases due to the disparate filing practices across the state. A case with multiple children should count each child only once, when they are added to the case.

### **Recommendation 3**

The calculations of judge need in this report are based upon a three-year average of case filing data. NCSC recommends that Nebraska AOCPC recalculate judge need on an annual basis using the same methodology set forth in this report and updated with year-end case filing data to produce a 3-year rolling average. The application of the workload formula to the most recent filings will reveal the impact of any caseload changes judicial workload.

### **Recommendation 4**

The availability of support personnel, especially law clerks, court clerks, bailiffs and child support referees, has a profound impact on judges' ability to perform their work efficiently and effectively. The recommended case weights were calculated based on the actual judge time only, so if support personnel are no longer provided or are reduced in a particular district, the judicial need will be higher than is reflected in the weighted caseload report. JNAC members and results from the Sufficiency of Time survey stressed the importance of strong support staff. NCSC recommends that periodic workload assessments be conducted for law clerks, court clerks, bailiffs and child support referees.

### **Recommendation 5**

Over time, the integrity of any weighted caseload model may be affected by external factors such as changes in legislation, case law, or court technology. NCSC recommends that the Nebraska Supreme Court and the AOCPC conduct a comprehensive review of the weighted caseload models every five to seven years. Between updates, if a major change in the law appears to have a significant impact on judicial workload, JNAC and/or a representative focus group of judges that handle the case type(s) may be convened to make interim adjustments to the affected case weight(s).

## **APPENDIX A. GLOSSARY OF TERMS, DISTRICT COURT**

### ***Case Types***

#### **A. Problem-Solving Court Cases**

Young Adult, Adult Drug, Adult DUI, Veterans , Mental Health, Reentry

#### **B. Protection Orders**

Domestic Abuse, Harassment, and Sexual Assault

#### **C. Civil**

Everything that is not a Protection Order or Domestic Relations case

#### **D. Class I Felony**

Murder 1 & 2, 1<sup>st</sup> deg. Sex. Asslt, 1<sup>st</sup> deg. Sex. Asslt on a child

#### **E. Other Criminal**

All other criminal cases that are not Class I Felonies

#### **F. Domestic Relations**

Divorce, Paternity, Court Ordered Support, Grandparent Visitation, Interstate Child Support, etc.

#### **G. Appeals**

Civil, Criminal or Traffic Appeals

#### **H. Administrative Appeals**

### ***Case-Related Activities***

#### **1. Pre-Disposition/Non-Trial Disposition**

Includes all on-bench and off-bench activity related to pretrial proceedings and non-trial dispositions. In probate cases, includes uncontested proceedings to appoint a fiduciary or to order supervision of a trust. Includes all off-bench research and preparation related to pre-disposition and non-trial disposition activities. Some examples of pre-disposition/non-trial disposition activities include:

- Arraignment
- Pretrial motion that does not fully dispose of the case (e.g., motion in limine)
- Scheduling conference
- Issuance of warrant
- Entry of guilty plea and sentencing
- Motion to Dismiss
- Motion for default judgment
- Motion for summary judgment
- Uncontested disposition hearing in domestic/paternity case
- Bond reviews
- 404 & 414 motions
- Determine competency
- Daubert Motion, Trammel Motion

- Discovery motions
- Temporary injunctions

## 2. Trial

Includes all on-bench and off-bench activity related to a bench or jury trial or another contested proceeding that disposes of the original petition in the case.. Includes all off-bench research and preparation related to trials. Includes sentencing following a bench or jury trial. Some examples of trial activities include:

- Bench trial
- Jury trial
- Sentencing after conviction at trial
- Trial de novo
- Contested divorce/paternity/support hearing

## 3. Post-Disposition

Includes all on-bench and off-bench activity that occurs after the entry of judgment on the original complaint in the case. Includes all off-bench research and preparation related to post-disposition activity. Does not include trials de novo. Some examples of post-disposition activity include:

- Post-trial motion
- Motion to Revoke Probation
- Sentencing after revocation of probation
- Complaint to change of custody, support, parenting time, or domicile
- Child support enforcement
- Motion for installment judgment
- Custodial sanction hearing
- Post-conviction/habeas/DNA testing
- Motion for New Trial
- Motion to Alter/Amend, Motion to Set Aside Conviction/Judgment
- 
- Renewal on Protection Orders

## 4. Post-Release Supervision (PRS)

*For District Court only.*

- PRS hearing
- Custodial sanction hearing
- PRS status check
- Motion to revoke PRS
- Sentencing after revocation of PRS

## *Non-Case-Related Activities*

### a. Non-Case-Related Administration

Includes all non-case-related administrative work such as:

- Staff meetings
- Judges' meetings
- Personnel matters
- Staff supervision and mentoring
- Court management

**b. General Legal Research**

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

- Reading journals
- Reading professional newsletters
- Reviewing appellate court decisions

**c. Judicial Education and Training**

Includes all educational and training activities such as:

- Judicial education
- Conferences

*Includes travel related to judicial education and training.*

**d. Committee Meetings, Other Meetings, and Related Work**

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

- Community criminal justice board meetings
- Bench book committee meetings
- Other court-related committee meetings

*Includes travel related to meetings.*

**e. Community Activities and Public Outreach**

Includes all public outreach and community service that is performed in a judge's official capacity. This category does not include work for which judges are compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in your official capacity. Examples of work-related community activities and public outreach include:

- Speaking at schools about legal careers
- Judging moot court competitions

*Includes travel related to community activities and public outreach.*

**f. Work-Related Travel**

Work-Related Travel includes only travel between courts during the business day. Time is calculated from the primary office location as determined by the Nebraska Supreme Court to the visited court.

Do not include commuting time from your home to your primary office location. Record travel time from your primary office location to judicial education and training, committee meetings, or community activities and public outreach in the applicable category. This is an account of minutes spent on travel only.

**g. Vacation, Sick Leave, and Holidays**

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

**h. Lunch and Breaks**

Includes all routine breaks during the working day.

**i. NCSC Time Study**

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

## **APPENDIX B. GLOSSARY OF TERMS, COUNTY COURT**

### ***Case Types***

- A. Domestic Relations**  
Divorce, Paternity
- B. Protection Orders**  
Domestic Abuse, Harassment, and Sexual Assault
- C. Felony**  
Bond Settings, Bond Reviews, Preliminary Hearings
- D. Misdemeanor**
- E. District Court: Adult Problem-Solving Court**
- F. Traffic**
- G. Civil**
- H. Probate**  
Estates
- I. Guardianship/Conservatorship**  
Adult, Incompetent, Minor
- J. Small Claims**
- K. Adoption**
- L. Juvenile: Abuse/Neglect/Dependency, Guardianship, and TPR**
- M. Juvenile: Delinquency**
- N. Juvenile: Status Offender 3B**
- O. Juvenile: Mentally Ill and Dangerous 3C**
- P. Juvenile: Bridge to Independence (B2I)**
- Q. Juvenile: Interstate Compact Hearings/Filings**  
Transfer of Youth Under Supervision; Runaways, Escapees, and Absconders
- R. Juvenile: Problem-Solving Court Cases** (currently this time is included in 3A weight)



## ***Case-Related Activities***

### **1. Pre-Disposition/Non-Trial Disposition**

Includes all on-bench and off-bench activity related to pretrial proceedings and non-trial dispositions. In probate cases, includes uncontested proceedings to appoint a fiduciary or to order supervision of a trust. Includes all off-bench research and preparation related to pre-disposition and non-trial disposition activities. Some examples of pre-disposition/non-trial disposition activities include:

- Arraignment
- Pretrial motion that does not fully dispose of the case (e.g., motion in limine, motion to suppress)
- Proceeding to appoint a temporary guardian/conservator
- Scheduling conference
- Issuance of warrant (e.g., review probable cause affidavits and set bond; issue search warrant)
- Pre-Adjudication juvenile delinquency review
- Entry of guilty plea and sentencing
- Informal traffic hearing
- Motion for summary judgment
- Hearing on appointment of permanent guardian/conservator
- Uncontested disposition hearing
- Motions for judgment on the pleadings
- Motions for default judgment
- Motions to dismiss
- Motion to Suppress
- Competency hearings
- Bond Reviews
- Competency Motions
- Cancel Warrants
- Motions for Default Judgment
- Motions for Debtor Exams
- Signing and Reviewing Search Warrants during and after work hours
- Signing and Reviewing Arrest Warrants during and after work hours
- SIGNDESK
- Motions for Substitute Service
- Seal Orders (Juvenile and Adult)
- Gun Appeals
- Juvenile (3a)-ex parte finding for removal; appt counsel, etc.

### **2. Trial**

Includes all on-bench and off-bench activity related to a bench or jury trial or another contested proceeding that disposes of the original petition in the case. In probate cases, includes contested proceedings to appoint a fiduciary or to order supervision of a trust. Includes all off-bench research and preparation related to trials. Includes sentencing following a bench or jury trial. Some examples of trial activities include:

- Bench trial
- Jury trial
- Sentencing after conviction at trial
- Trial de novo
- Trial on appointment of a permanent guardian/conservator
- Contested divorce hearing

- Juvenile adjudicatory hearing
- Contested disposition hearing
- Will Contest
- Trial to Remove POA, Trustee, Guardian/Conservator, Termination of Guardianship/Conservatorship
- Expedited Visitation Hearings in Guardianships
- Contested Fee Application Hearings
- Conducted All Legal Research
- Draft all Orders (Motions, Trial, Scheduling, etc.)
- Drug court termination hearings by county judge for district court drug court cases
- Sentencing hearings to determine financial ability to pay
- Drug court termination hearings by county judge for district court drug court cases

### 3. **Post-Disposition**

Includes all on-bench and off-bench activity that occurs after the entry of judgment on the original petition in the case. In probate cases, includes all activity after a fiduciary is appointed or trust supervision is ordered. Includes all off-bench research and preparation related to post-disposition activity. Does not include trials de novo. Some examples of post-disposition activity include:

- Post-trial motion
- Sentencing after revocation of probation
- Guardianship/conservatorship review
- Guardianship/conservatorship modification/termination proceeding
- Account review (probate)
- Motion for installment judgment
- Permanency hearing
- Termination of parental rights
- 90-day review hearing (child protective proceedings)
- Post-adjudication juvenile delinquency review
- Custodial sanction hearing
- Post-conviction/habeas/DNA testing
- Time to Pay Requests
- Motions to Set Aside
- Motion for Debtor Exams
- Revivor Hearings
- Application for Continuing Lien
- Release Garnishee
- Motions to Determine Garnishee Liability
- Release of Non Exempt Funds
- Motions to Seal
- Garnishments
- Debtor exams
- Contempt/orders to show cause hearings
- Hearings on failures to pay fines/costs

## *Non-Case-Related Activities*

**a. Non-Case-Related Administration**

Includes all non-case-related administrative work such as:

Staff meetings  
Judges' meetings  
Personnel matters  
Staff supervision and mentoring  
Court management

**b. General Legal Research**

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

Reading journals  
Reading professional newsletters  
Reviewing appellate court decisions

**c. Judicial Education and Training**

Includes all educational and training activities such as:

Judicial education  
Conferences  
*Includes travel related to judicial education and training.*

**d. Committee Meetings, Other Meetings, and Related Work**

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

Community criminal justice board meetings  
Bench book committee meetings  
Other court-related committee meetings  
*Includes travel related to meetings.*

**e. Community Activities and Public Outreach**

Includes all public outreach and community service that is performed in a judge's official capacity. This category does not include work for which a judge is compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in their official capacity. Examples of work-related community activities and public outreach include:

Speaking at schools about legal careers  
Judging moot court competitions  
*Includes travel related to community activities and public outreach.*

**f. Work-Related Travel**

Work-Related Travel includes only travel between courts during the business day. Time is calculated from the primary office location as determined by the Nebraska Supreme Court to the visited court.

Does not include commuting time from a judge's home to their primary office location. Does include travel time from a judge's primary office location to judicial education and training, committee meetings, or community activities and public outreach in the applicable category. This is an account of minutes spent on travel only.

**g. Vacation, Sick Leave, and Holidays**

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

**h. Lunch and Breaks**

Includes all routine breaks during the working day.

**i. NCSC Time Study**

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

## APPENDIX C. GLOSSARY OF TERMS, SEPARATE JUVENILE COURT

### *Case Types*

- A. Abuse/Neglect/Dependency, Guardianship, and TPR**
- B. Delinquency**
- C. Status Offender 3B**
- D. Mentally Ill and Dangerous 3C**
- E. Problem-Solving Court Cases** (currently this time is included in the 3A weight)
- F. Adoption**
- G. Domestic Relations**  
Paternity and Custody Determinations
- H. Bridge to Independence (B2I)**
- I. Interstate Compact Hearings/Filings**  
Transfer of Youth Under Supervision; Runaways, Escapees, and Absconders

### *Case-Related Activities*

- 4. Pre-Disposition/Non-Trial Disposition**  
Includes all on-bench and off-bench activity related to pretrial proceedings and non-trial dispositions. Includes all off-bench research and preparation related to pre-disposition and non-trial disposition activities. Some examples of pre-disposition/non-trial disposition activities include:
  - Initial appearance-both 3a and delinq.
  - Docket call-
  - Pretrial motion hearing (both types of cases)
  - Plea hearing/informal adjudication(both types of cases)
  - Formal adjudication/trial (both types of cases)
  - Disposition hearing (both types of cases)
- 5. Trial**  
Includes all on-bench and off-bench activity related to a bench trial or another contested proceeding that disposes of the original petition in the case. Includes all off-bench research and preparation related to trials. Some examples of trial activities include:
  - Continued disposition hearing (both types of cases)
  - Review hearing (3a and probation)
  - Permanency hearing (3a only)
  - Exception hearing (3a only)
  - Detention hearing (delinquency only)

## 6. Post-Disposition

Includes all on-bench and off-bench activity that occurs after the entry of judgment on the original petition in the case. Includes all off-bench research and preparation related to post-disposition activity. Does not include trials de novo. Some examples of post-disposition activity include:

- Revocation of probation hearing docket call or plea (delinquency only)
- Revocation of probation hearing-contested hearing (delinquency only)
- Motion for commitment to yrtc hearings (delinquency only)
- Motion for termination of parental rights hearings (3a only) initial appearance, docket call and plea or formal hearing(trial)
- Guardianship review hearings (3a only)
- Placement check hearings (both delinquency and 3a)
- Placement change hearings (primarily 3a but occasionally probation review)
- Interstate compact hearings on runaways and absconders

### *Non-Case-Related Activities*

#### a. Non-Case-Related Administration

Includes all non-case-related administrative work such as:

- Staff meetings
- Judges' meetings
- Personnel matters
- Staff supervision and mentoring
- Court management

#### b. General Legal Research

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

- Reading journals
- Reading professional newsletters
- Reviewing appellate court decisions

#### c. Judicial Education and Training

Includes all educational and training activities such as:

- Judicial education
- Conferences

*Includes travel related to judicial education and training.*

#### d. Committee Meetings, Other Meetings, and Related Work

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

- Community criminal justice board meetings
- Bench book committee meetings
- Other court-related committee meetings

*Includes travel related to meetings.*

#### e. Community Activities and Public Outreach

Includes all public outreach and community service that is performed in a judge's official capacity. This category does not include work for which a judge is compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in

their official capacity as a judge. Examples of work-related community activities and public outreach include:

- Speaking at schools about legal careers
- Judging moot court competitions

*Includes travel related to community activities and public outreach.*

**f. Work-Related Travel**

Work-Related Travel includes only travel between courts during the business day. Time is calculated from the primary office location as determined by the Nebraska Supreme Court to the visited court.

Does not include commuting time from a judge's home to their primary office location. Does include travel time from a judge's primary office location to judicial education and training, committee meetings, or community activities and public outreach in the applicable category. This is an account of minutes spent on travel only.

**g. Vacation, Sick Leave, and Holidays**

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

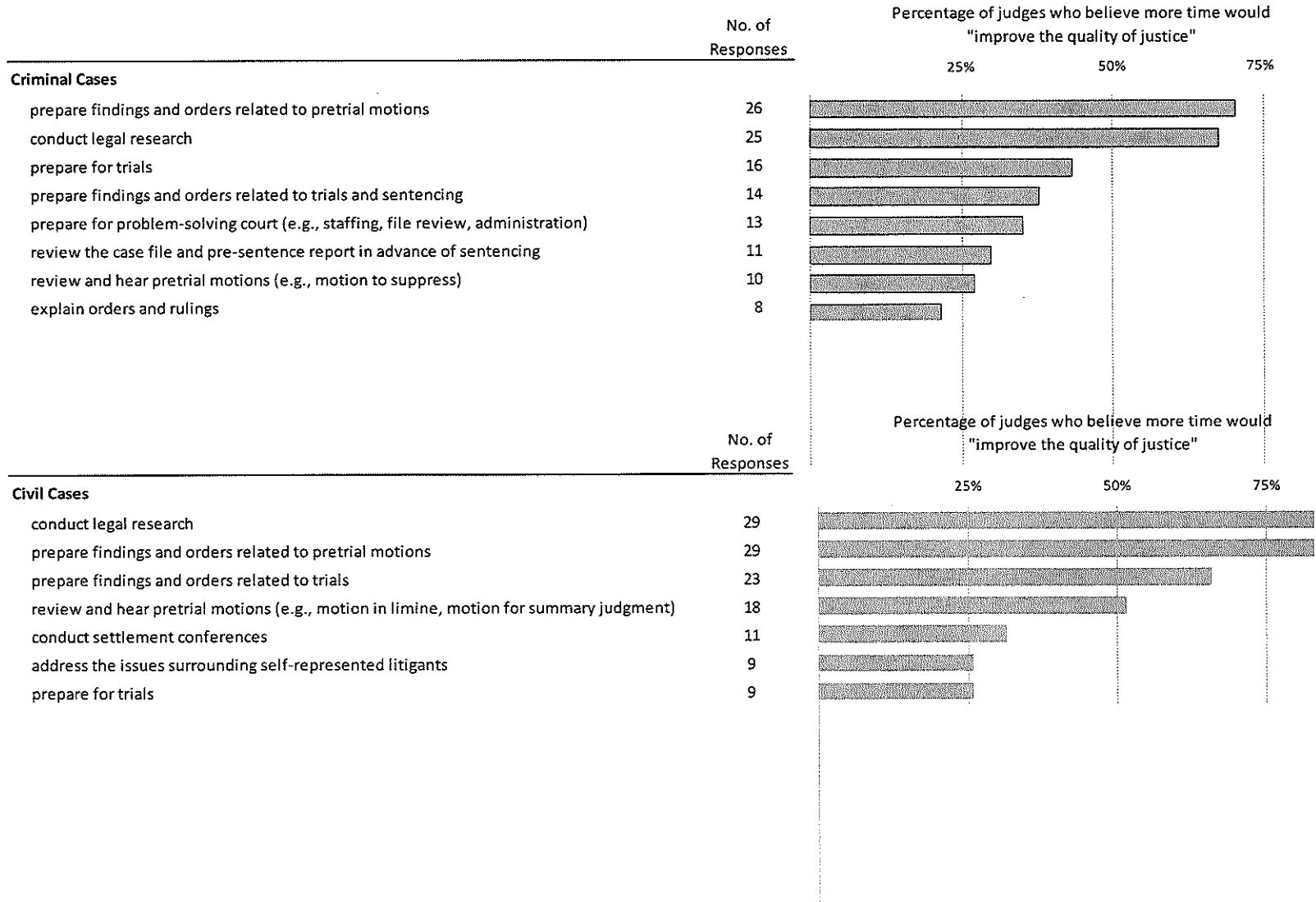
**h. Lunch and Breaks**

Includes all routine breaks during the working day.

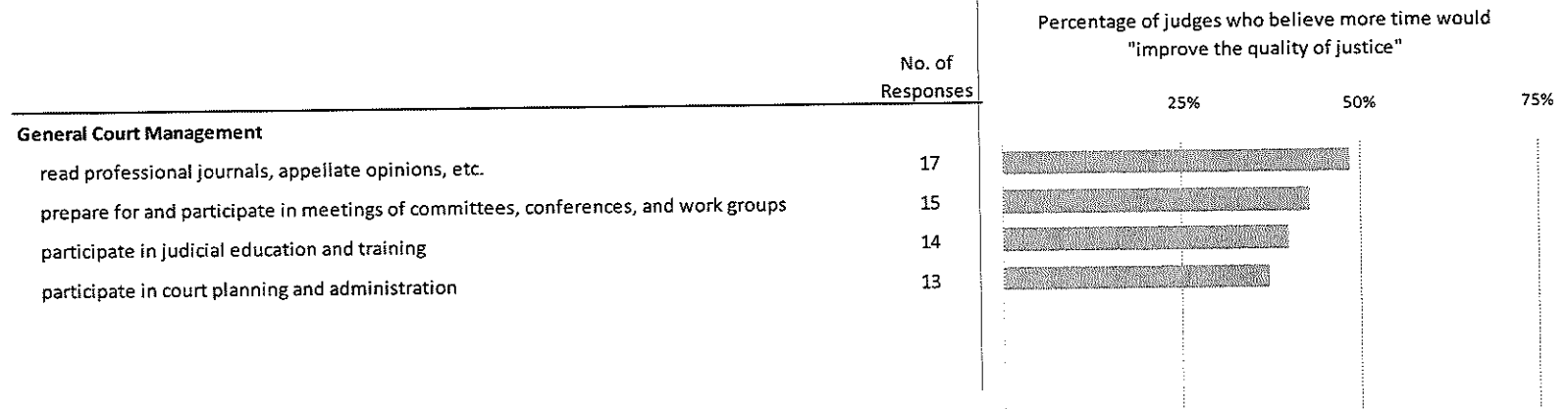
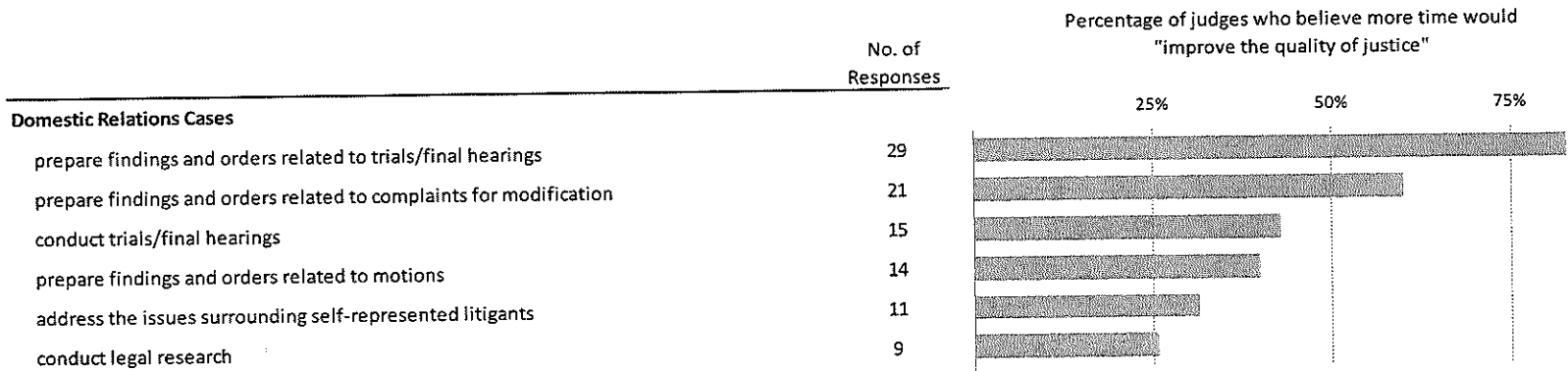
**i. NCSC Time Study**

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

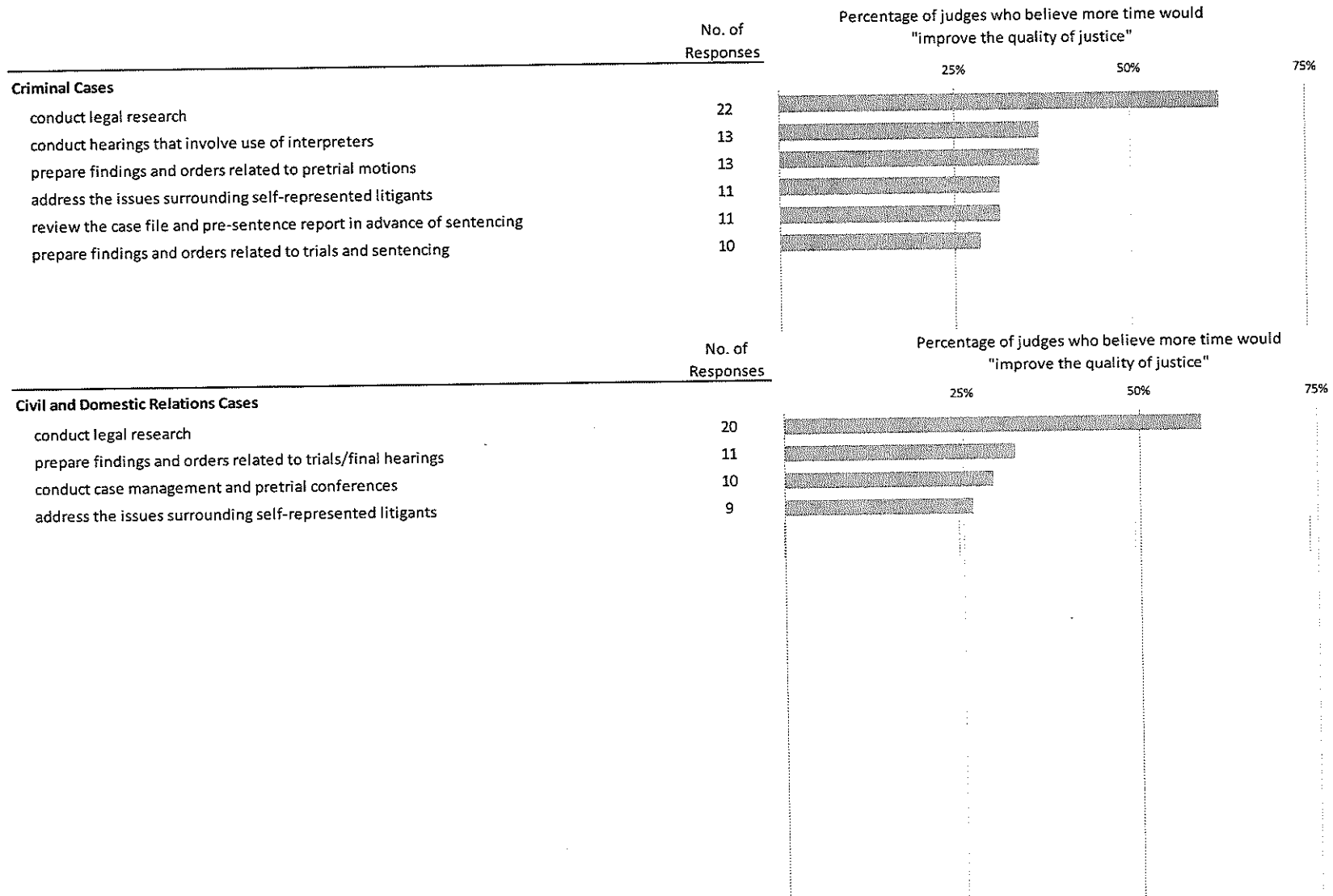
## APPENDIX D. SUFFICIENCY OF TIME SURVEY RESULTS, DISTRICT COURT

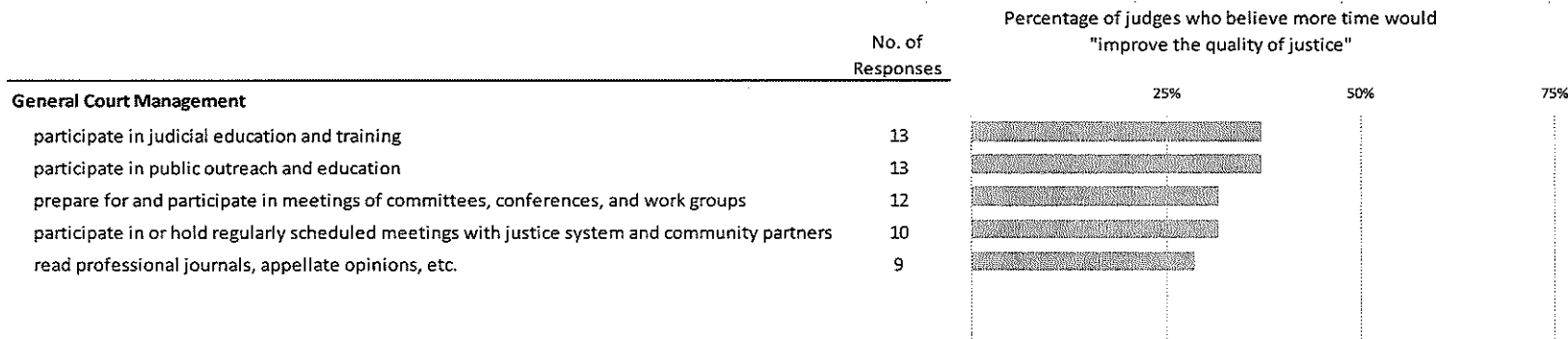
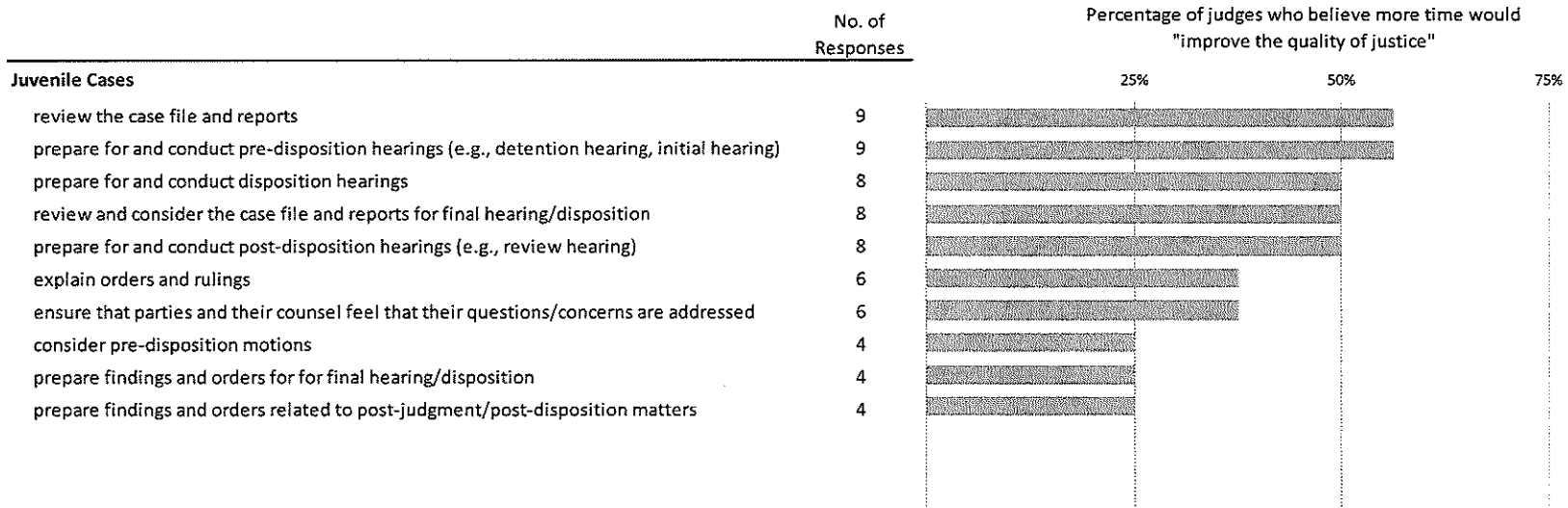




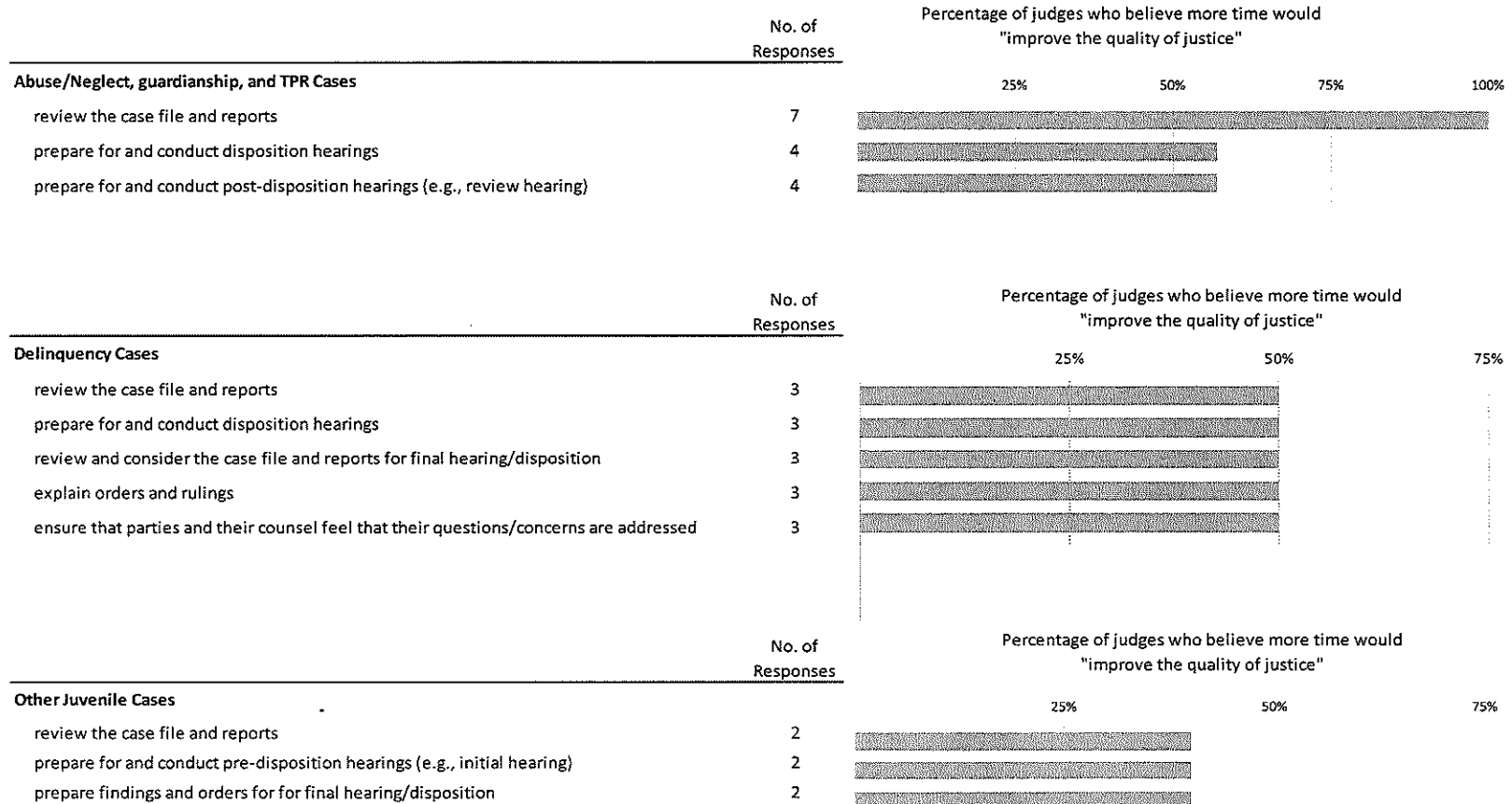


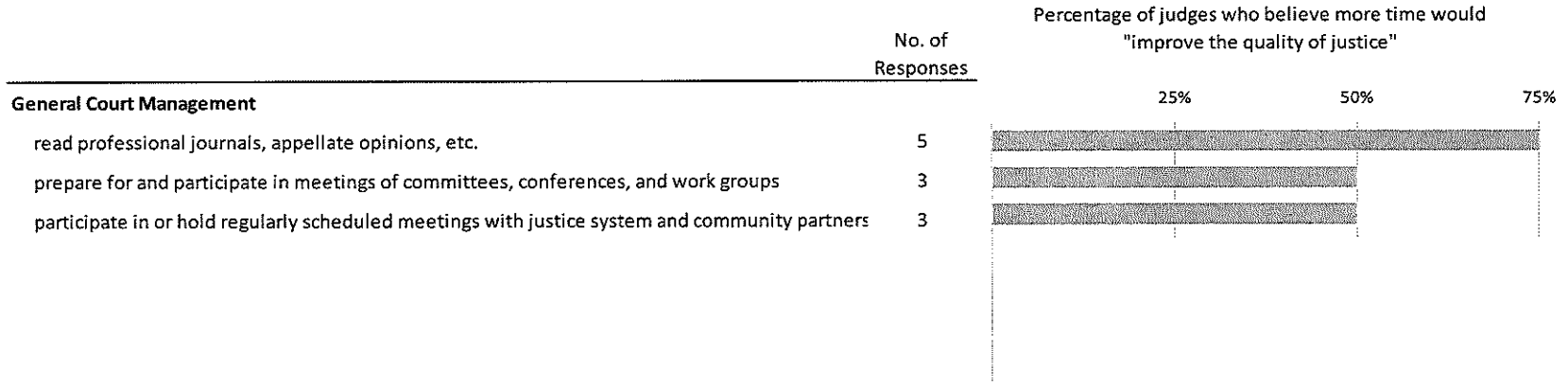
## APPENDIX E. SUFFICIENCY OF TIME SURVEY RESULTS, COUNTY COURT





## APPENDIX F. SUFFICIENCY OF TIME SURVEY RESULTS, SEPARATE JUVENILE COURT





## **APPENDIX G: IMPLICATIONS FOR JUDICIAL NEED USING THREE ALTERNATIVE VERSIONS OF THE 3A CHILDREN & PSC CASE WEIGHT**

The purpose of this Appendix is to present the implications for judicial need in the County Courts and Separate Juvenile Courts using three alternative versions of the case weight for 3A Children & PSC cases. The results on judicial need presented in Exhibits 8 and 9 use the individual weights for 3A Children & PSC based on the time study and shown in Exhibit 3: 272 minutes for County Court and 518 minutes for Separate Juvenile Court. As discussed above in relation to Exhibit 3, JNAC was not able to reach consensus on the case weight(s) for 3A Children & PSC cases for the reasons articulated. To understand the policy implications on judicial need if the weights are adjusted, NCSC considered the following three options suggested by members of the JNAC and other county court judges:

1. Use a combined average of 399 minutes for Juvenile 3A children & PSC in all courts.
2. Use the county court weight of 272 minutes for Juvenile 3A children & PSC in both county court and separate juvenile court .
3. Use the separate juvenile court weight of 518 minutes for Juvenile 3A children & PSC in both the county court and the separate juvenile court.

Results of the three options are presented on the following pages.

*Option 1.* Implied judicial need using the overall average for 3A Children & PSC cases of 399 minutes is shown in **G1a** and **G1b** for County Court and Separate Juvenile Court by district. The primary impact of this option is to increase the implied need in the County Court by about two judicial full-time equivalent (FTE) and to lower the implied need in the Separate Juvenile Court by about two FTE. However, applying the rounding rule using this option would not lead to an immediate suggested change in the number of judges by district for either court type. Over time, however, and assuming no significant change in actual judicial handling practices, this option would generally underestimate the actual judicial need in the separate juvenile courts, and overestimate the actual judicial need in the county courts.

**G1a: County Court Implied Need using County Court & Separate Juvenile Court Average 3A & PSC Case Weight of 399**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Implied Judge Need (from model)	2.96	3.97	7.38	13.49	4.38	3.64	2.75	2.01	4.34	2.93	5.43	4.33	57.61
Actual Judges	3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	0.99	0.99	1.05	1.12	0.88	0.91	0.92	0.67	1.09	0.98	1.09	0.87	0.99
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**G1b: Separate Juvenile Court Implied Need Using County Court & Separate Juvenile Court Average 3A & PSC Case Weight of 399**

	2	3	4	Statewide
Implied Judge Need (from model)	1.63	3.22	5.80	10.65
Actual Judges	2	4	6	12
Workload per judge (implied ÷ actual)	0.82	0.81	0.97	0.89
Judge need rounded (1.15/.6)	2	4	6	12

*Option 2.* Implied need using the County Court time study case weight for 3A Children & PSC cases of 272 minutes for both County Court and Separate Juvenile Court is shown in **G2a** and **G2b**. With this option, there is no change to implied need in the County Court from that shown in Exhibit 8. As this option uses the lower County Court case weight, implied need in the Separate Juvenile Court is also lower, falling by about 3.7 judicial FTE. However, the use of the rounding rule would not lead to an immediate suggested change in the current number of separate juvenile court judges. Over time, however, and assuming no significant change in actual judicial handling practices, this option would accurately estimate the number of county court judges needed, but would generally underestimate the actual judicial need in the separate juvenile courts.

**G2a: County Court Implied Need using County Court 3A & PSC Case Weight of 272**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Implied Judge Need (from model)	2.75	3.89	7.38	13.49	4.16	3.45	2.59	1.88	4.12	2.74	5.06	4.05	55.55
Actual Judges	3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	0.92	0.97	1.05	1.12	0.83	0.86	0.86	0.63	1.03	0.91	1.01	0.81	0.96
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**G2b: Separate Juvenile Court Implied Need Using County Court 3A & PSC Case Weight of 272**

	District			Statewide
	2	3	4	
Implied Judge Need (from model)	1.37	2.68	4.68	8.73
Actual Judges	2	4	6	12
Workload per judge (implied ÷ actual)	0.69	0.67	0.78	0.73
Judge need rounded (1.15/.6)	2	4	6	12



*Option 3.* Implied need using the Separate Juvenile Court time study case weight for 3A Children & PSC cases of 518 minutes for both County Court and Separate Juvenile Court is shown in **G3a** and **G3b**. Use of this option leads to no change in the implied need for Separate Juvenile Court as shown in Exhibit 9. This case weight is higher than the original weight used for County Court, resulting in an increase to implied need in county court of about four judicial FTE. Once again, applying the rounding rule would not lead to an immediate suggested change in the current number of county court judges, although the implied judicial need in two districts (9<sup>th</sup> and 11<sup>th</sup>) increases to the upper threshold of the rounding rule of 1.15. Over time, however, and assuming no significant change in actual judicial handling practices, this option would accurately estimate the number of separate juvenile court judges needed, but would generally overestimate the actual judicial need in the county courts.

**G3a: County Court Implied Need using Separate Juvenile Court 3A & PSC Case Weight of 518**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Implied Judge Need (from model)	3.16	4.04	7.38	13.49	4.59	3.81	2.90	2.12	4.56	3.12	5.78	4.59	59.54
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	1.05	1.01	1.05	1.12	0.92	0.95	0.97	0.71	1.14	1.04	1.16	0.92	1.03
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**G3b: Separate Juvenile Court Implied Need Using Separate Juvenile Court 3A & PSC Case Weight of 518**

	District			Statewide
	2	3	4	
Implied Judge Need (from model)	1.88	3.72	6.85	12.45
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.94	0.93	1.14	1.04
Judge need rounded (1.15/.6)	2	4	6	12

# **ADDENDUM TO FINAL REPORT**

Including final case weights and implied judicial need for  
District Court, County Court and Separate Juvenile Court

December 2020

After receiving the “Nebraska Judicial Workload Assessment, Final Report, October 2020” the Nebraska Supreme Court put the full report out for public comment. Written comments were received from and on behalf of county court judges, attorneys who handle juvenile cases, and the Nebraska State Bar Association. All comments were carefully considered by the Supreme Court, and copies were shared with the NCSC for its additional consideration and response. **This addendum summarizes the public comments, the NCSC response to those comments, and the final decision of the Nebraska Supreme Court to accept the NCSC report and adopt the proposed case weights as modified.**

#### **Summary of Public Comments:**

The comments were generally supportive of the workload study and the new methodology used to determine judicial need, but expressed concern that different weights were proposed for the same juvenile case types depending on whether the case was heard in the county courts or the separate juvenile courts. Many comments expressed a fundamental belief that all juvenile case types should be weighted the same whether handled in a county court, or in a separate juvenile court. To achieve more uniform case weights, some suggested that an averaged case weight should be developed for all juvenile case types and applied in all courts regardless of judicial handling practices. Others suggested that using the highest recommended case weight in both types of courts would ensure that all areas of the State have sufficient judicial resources to devote appropriate time to handling juvenile cases.

The Nebraska State Bar Association generally rejected the notion that all juvenile case weights must be identical in the county courts and separate juvenile courts, reasoning “there are valid reasons why the time spent on 3A cases in these courts differ which may be related to community demographics, specialization, court culture and the difference in access to services across the state.” The NSBA generally opposed lowering case weights in the separate juvenile courts, but it did support separating the time devoted to problem solving courts, and increasing the county court weight for 3(a) juvenile abuse/neglect cases from 272 minutes to 383 minutes.

#### **Summary of NCSC Response to Public Comments:**

After reviewing the public comments, the NCSC assured the Nebraska Supreme Court that the juvenile case weights proposed in its final report are empirically sound. All case weights were based on the actual time reported by judges during the month-long time study, and different weights were developed because the data show significantly different judicial handling practices in those courts, with judges in the separate juvenile courts reporting considerably more time. This actual difference in judicial handling practices is not a new phenomenon; it was observed in both prior judicial time studies, and explains why those studies also recommended a higher case weight for abuse/neglect cases in the separate juvenile courts.

While expressing confidence in the methodology and accuracy of the weights proposed in the 2020 final report, the NCSC was also supportive of making limited, policy-based adjustments to the proposed weights to address the concerns expressed during the public comment period. In considering such adjustments, the NCSC encouraged the Nebraska Supreme Court to keep in mind that a well-developed set of judicial workload standards should: (1) provide an empirically correct profile of the time actually spent by judges handling the cases; (2) account for all the time judges spend on their work (including time in chambers, travel time, administrative time, continuing education, and judicial

outreach); (3) allow sufficient time for all judges to deliver high-quality justice; and (4) be viewed as objectively credible by the judges, the practicing bar, and the public.

**Nebraska Supreme Court Adopts Final Report with Modifications:**

After careful consideration, the Nebraska Supreme Court voted to accept the NCSC's final report and to adopt the proposed case weights, with the following modifications:

- (1) The court accepted the recommendation to count 3(a) children rather than 3(a) cases for purposes of preparing weighted caseload reports, with the caveat that this approach will be reconsidered if, in the future, uniformity in filing practices can be achieved.
- (2) The Court directed that all time reported for juvenile problem solving courts should be removed from the time reported on abuse/neglect cases, and NCSC should develop a temporary weight for juvenile problem-solving court cases, pending a narrow time study of juvenile problem-solving court cases in the future. The explicit focus on juvenile problem solving court cases produces a case weight of 654 minutes. With the recent adoption of state-wide practice standards for such courts, it is expected that judicial handling practices will be uniform across the state, so the temporary weight of 654 minutes for juvenile problem-solving court cases will be applied in both county courts and separate juvenile courts.
- (3) After the problem-solving court time is removed from the proposed weight for 3(a) children in the separate juvenile court, the adjusted weight is 487 minutes. The Court directs that this adjusted weight of 487 minutes will be applied to 3(a) children in both county courts and separate juvenile courts, with the expectation that all judges handling such cases will work to implement best practices, and with the caveat that this modification will be reconsidered if, in the future, judicial handling practices do not support application of a uniform weight.
- (4) The Court adopts all other proposed case weights as recommended in the final report. For the sake of clarity, the Court directed the NCSC to prepare a Case-Weight Chart for inclusion in the addendum which shows the final adopted case weights for all courts.

The Nebraska Supreme Court concluded that these limited policy-based adjustments to the weighted caseload standards fairly address the important concerns expressed by the county court judges, without reducing resources in the separate juvenile courts or compromising the empirical integrity of the new judicial workload study.

The following four Exhibits show the final results from the study:

- Addendum Exhibit 1: Final Case Weights
- Addendum Exhibit 2: Final Judicial Workload and Need, District Court
- Addendum Exhibit 3: Final Judicial Workload and Need, County Court
- Addendum Exhibit 4: Final Judicial Workload and Need, Separate Juvenile Court

**Addendum Exhibit 1. Final Case Weights**

<b>District Court</b>	<b>Final Case Weight (minutes)</b>
Problem Solving Court Cases	683
Protection Orders	32
Civil	219
Class I Felony	367
Other Criminal	149
Domestic Relations	97
Appeals	343
Aministrative Appeals	540

<b>County Court</b>	<b>Final Case Weight (minutes)</b>
Protection Orders	32
Felony	26
Misdemeanor	23
District Court: Adult Problem-Solving Court	683
Traffic	1
Civil	8
Probate	61
Guardianship/Conservatorship	133
Small Claims	30
Adoption	92
Domestic Relations	97
Juvenile: 3A CHILDREN	487
Juvenile: Problem Solving Court (PSC)	654
Juvenile: Delinquency	100
Juvenile: Status Offender 3B	37
Juvenile: Mentally Ill and Dangerous 3C	265
Juvenile: Bridge to Independence (B21)	58
Juvenile: Interstate Compact Hearings/Filings	2

<b>Separate Juvenile Court</b>	<b>Final Case Weight (minutes)</b>
Adoption	49
Domestic Relations	26
Juvenile: 3A CHILDREN	487
Juvenile: Problem Solving Court (PSC)	654
Juvenile: Delinquency	136
Juvenile: Status Offender 3B	54
Juvenile: Mentally Ill and Dangerous 3C	265
Juvenile: Bridge to Independence (B21)	36
Juvenile: Interstate Compact Hearings/Filings	2

**Addendum Exhibit 2. Final Judicial Workload and Need, District Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	244,056	416,957	772,490	1,893,644	275,364	252,543	182,868	120,081	347,305	168,962	348,001	311,290	5,333,561
Judicial Year Value	÷ 78,480	91,560	91,560	91,560	85,020	89,380	81,750	78,480	89,380	76,300	81,750	81,750	
Implied Judge Need (from model)	3.11	4.55	8.44	20.68	3.24	2.83	2.24	1.53	3.89	2.21	4.26	3.81	60.78
Actual Judges	÷ 3	4	8	16	4	3	2	2	4	2	4	4	56
Workload per judge (implied ÷ actual)	1.04	1.14	1.05	1.29	0.81	0.94	1.12	0.77	0.97	1.11	1.06	0.95	1.09
Judge need rounded (1.15/.6)	3	4	8	18	4	3	2	2	4	2	4	4	58

**Addendum Exhibit 3. Final Judicial Workload and Need, County Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	246,003	339,938	671,497	1,229,131	361,236	297,101	226,823	151,369	406,925	243,353	449,496	358,368	4,981,240
Judicial Year Value	÷ 78,480	85,020	91,560	91,560	78,480	78,480	78,480	71,940	89,380	78,480	78,480	78,480	
Implied Judge Need (from model)	3.13	4.00	7.33	13.42	4.60	3.79	2.89	2.10	4.55	3.10	5.73	4.57	59.22
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	1.04	1.00	1.05	1.12	0.92	0.95	0.96	0.70	1.14	1.03	1.15	0.91	1.02
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**Addendum Exhibit 4. Final Judicial Workload and Need, Separate Juvenile Court**

	District			Statewide
	2	3	4	
Total Workload	162,205	366,468	606,676	1,135,733
Judicial Year Value	÷ 89,380	91,560	91,560	
Implied Judge Need (from model)	1.81	4.00	6.63	12.44
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.91	1.00	1.10	1.04
Judge need rounded (1.15/.6)	2	4	6	12

June 9, 2023

Nebraska Judicial Resource Commission

% Nebraska Supreme Court

RE: 6<sup>th</sup> Judicial District County Court Vacancy

Members of the Commission:

My retirement, after 19.5 years, is the reason for this vacancy.

I recommend the vacancy be filled and remain in the 6<sup>th</sup> Judicial District, with Cedar County as the primary office location.

My recommendations are based on the following:

- A. Routinely, much emphasis, and the primary focus is placed on workload statistics. However, Neb. Rev. Stat. §24-1206 lists, and requires, the Commission to consider other factors. The statute gives no preference or priority to any one factor. Briefly I will discuss those factors below.
- B. One factor is that litigant's access to the Courts must be adequate. I am told a plan exists in some form where one or more counties maybe move to another Judicial District, while moving this vacancy to a third, unknown, district. That would result in a reduction of access to judicial services to the citizens of the 6<sup>th</sup> and the receiving district. The obvious results are shortened and/or less frequent court dates, (such as an afternoon or morning, twice a month); another most likely result would be over-packed dockets, reducing needed time to adequately hear each case. In a similar context, though not recently, I have experienced increased numbers of domestic cases, such as protection orders divorces, and custody proceeding. This is so because where one or more of the parties chose for the case to be heard before a county judge, rather a district judge, because the county judge would hear and decide the case quicker than the district court's presence in the county would allow.
- C. Turning to the population of this district, certain portions of the district are denser. Yet the non-dense portions retain many of the dynamics of non-rural districts. The three counties I had primarily served in the 6<sup>th</sup> includes a multitude of ethic and racial elements, a wide range of economic/social elements, and two Native American reservations. Additionally, considerable traffic passes through the district for business, entertainment, education, and employment opportunities in either South Dakota or Iowa. Similarly, for the same reasons, people from those states enter the 6<sup>th</sup>. Additionally, and not always recognized, is in the northern part of the district there are located employers who require a substantial number of employees, such as at Tyson Inc., Prince Manufacturing, and Michael Foods, to name a few. This is because right next to the 6<sup>th</sup> are several larger population centers, including the Sioux City, Iowa "Metro" area with a population exceeding 100,000



people, and Yankton, South Dakota, with approximately 15,000 people, and Lewis and Clark Recreational area that attracts large number of people throughout the year. Not infrequently, I have traveled to the other county courts in the 6<sup>th</sup> for a variety of reasons; conflicts, vacations, illness; and the like. From Cedar County to Dodge County one-way is approximately two hours and over 100 miles according to "MAPS", from Cedar to Washington County is over two hours and roughly 130 miles. Similarly, I have traveled to courts in other districts to assist and have served on several committees requiring travel to Lincoln, (roughly 160 miles and 2 hours and 45 minutes). For a judge from another District to travel to Cedar, or Dixon County, merely adds to their current duties and travel time, again negatively impacting the litigants in two districts.

- D. One uniqueness about rural county courts concerns criminal prosecution, where frequently, the only prosecutor is "part-time", and has a private practice, needed, to support themselves and their family. As a result, the time devoted to prosecution is less than if they were full time, often limiting access to the prosecutors, by defendants and/or their counsel to "court days", creating additional time crunch issues. Another factor not mentioned are the statutory created time limits and required hearings. For instance, hearings for Restitution of Premises, or Adoptions, must be heard within a specific time. Also, when someone is arrested for violating a protection order, that person must be "taken before" the judge that issued the order. When a judge infrequently in the county such time factors can be difficult to meet. Yes, in some limited circumstances technology can assist, but frankly it is not as great as portrayed, and is not the equivalent of being "in the room" with the parties. Something I have found valuable when sitting on the bench.
- E. Finally, I would not endorse as a wise course of action, the idea that the current case numbers reliably predict future caseloads. In addition to the pandemic, which most definitely reduced case numbers, the method of calculation is essentially a new method of arriving at these numbers. And we are told not to compare the new numbers with the past numbers, which were derived by another method. I would urge the same cautionary approach until the new method has earned a status of reliability.

Thank you for considering these observations, and Best Regards,

  
Douglas L. Luebel

Ret. County Judge-6<sup>th</sup> Judicial District

e-mail: [luebelaw@gmail.com](mailto:luebelaw@gmail.com) cell phone 712-253-8799



June 9, 2023

Sent via email to:  
[Dawn.Mussmann@nebraska.gov](mailto:Dawn.Mussmann@nebraska.gov)

Judicial Resources Commission

Re: 6<sup>th</sup> District Judicial Vacancy

To Whom It May Concern:

The attorneys of our firm join in making this written testimony to the Judicial Resources Commission. It is our firm's testimony that each of our attorneys recommends to and requests that the Judicial Resources Commission find that there is a judicial vacancy in the office of the County Court, 6<sup>th</sup> Judicial District, due to the resignation of Judge Douglas Luebe, effective June 2, 2023. Failure to do so will result in a multitude of problems for not only the 6<sup>th</sup> District, but also all citizens of Nebraska.

Kevin J. Loftus ●●◆  
Thomas P. Reynolds ●■  
Nikki M. Brandt ●■  
Melissa J. Kay ●■  
Craig A. Kennedy –  
Of Counsel ●  
Steven L. Pier –  
Of Counsel ●■

◆ = Admitted in South Dakota  
■ = Admitted in Nebraska  
● = Admitted in Iowa

Our firm is proud to have many of our attorneys licensed in the State of Nebraska. We conduct business in the 6<sup>th</sup> Judicial district quite regularly. Our firm provides the public defender's office for Cedar County, and we enjoy doing so. We provide legal services for most indigent defendants and juveniles or parents of juveniles in Cedar County. We also provide legal services in the areas of family law, tax law, business law, and estate planning. Our attorneys have also appeared in courts in Dixon County, Thurston County, Knox County, Stanton County, Madison County, Wayne County, and Pierce County.

Since most of our legal practice in the State of Nebraska is conducted in the 6<sup>th</sup> and 7<sup>th</sup> Judicial Districts, our firm and more particularly our clients, residents of the State of Nebraska, will be greatly impacted by the decision made by the Judicial Resources Commission regarding whether a judicial vacancy exists in the office of the County Court, 6<sup>th</sup> Judicial District, due to the resignation of Judge Douglas Luebe. Our clients deserve fair and expedient access to a County Court Judge. Until June 2, 2023 that was not an issue, as the County Court Judges of the 6<sup>th</sup> and 7<sup>th</sup> Districts have made that possible. In the 6<sup>th</sup> District in particular, we have been able to schedule matters without many issues. However, recently, that has not been the case. We have been advised that until another decision has been made, the remaining judges of the 6<sup>th</sup> District will be covering the counties that the Honorable Douglas Luebe had previously covered. In reality, particularly in Cedar County criminal matters, this means we



have access to one of two Judges twice per month, and less often if there is a holiday, vacation day, CLE event, or any other event that falls on one of those two court dates that requires that day to be cancelled. An example of this problem is evident in the current criminal court calendar for the months of June and July in Cedar County. Court was scheduled for June 6<sup>th</sup>, however, hearings that day were conducted via Webex. There is court scheduled for June 20<sup>th</sup>, then the next date is July 18<sup>th</sup>. Since the 4<sup>th</sup> of July falls on one of the scheduled court days, there is only one court day in July. If we have a client arrested on June 21<sup>st</sup>, 2023 will they sit in jail until the next hearing date of July 20<sup>th</sup>, 2023 before they are in front of a judge and are able to request counsel? Will the Court hold an arraignment hearing via Webex prior to July 20<sup>th</sup>? Our clients have a right to have a hearing in court sooner than a month after arrest.

It is apparent that the other option is to have more remote hearings when in-person court is unavailable. COVID-19 has forced this situation in the last few years. The Lancaster County Attorney's office recently issued a letter/notice to the Courts and to its prosecutors that Court shall resume in the Courtroom for all parties unless they are incarcerated or there are exceptional circumstances warranting the use of remote technology. The letter cites the Uniform District Court and County Court Rules of Practice and Procedure § 6-1402, which requires "all parties and their attorneys shall be present in the courtroom." Choosing not to declare a judicial vacancy where it is needed and requiring a larger caseload per judge, which in turn requires remote technology to be used to maintain efficiency does not constitute an exceptional reason to use remote technology.

Increasing the use of remote technology raises other concerns. Many times, while relying on remote technology, it has failed, and we have had to have telephonic hearings as the only backup option. Remote technology has led to increasing unprofessionalism in courtroom attire and appearance. It has also led to a decrease in mentorship from older attorneys to younger attorneys. When we are not required to appear, it is easier to default to this option. This leads to less attorneys being present in the Courtroom to discuss, negotiate, and mentor. As attorneys and officers of the Court we have a civic duty to be present. Without these core values and traditions, our justice system may suffer.

The citizens of Nebraska have a right to access to justice. This requires in person court more than once or twice per month. Our firm was advised of the different options regarding combining districts or moving different counties to different districts as part of a pilot program, however, the bottom line is that the 6<sup>th</sup> District needs a vacancy declared.

Without declaring a vacancy, the little resources that are left in the 6<sup>th</sup> District rural areas will dwindle further. Soon, there will not be any resources in rural areas. Nebraska should want to push people into rural areas and provide resources for those areas. If not, the people will move to where they can access the resources, and with Nebraska's populated areas consisting mostly in one area of the state, the remainder of the people will be forced into neighboring states.

Our firm thanks you for taking the time to consider our testimony regarding this matter. We highly encourage you to declare a judicial vacancy in the 6<sup>th</sup> Judicial District.

Sincerely,

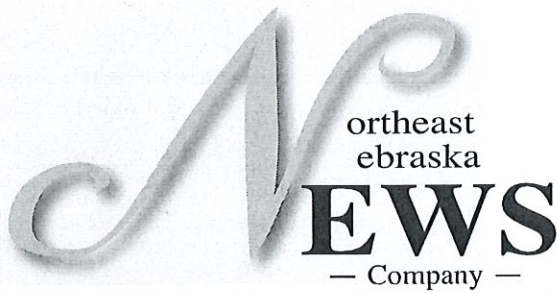
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NMB:bt



*Robert T. Dump &  
Peggy E. Year*

Publishers

Northeast Nebraska News Company

P.O. Box 977

Hartington, NE 68739

Dear Committee Members,

After reading the interview with retiring County Court Judge Douglas Luebe, by Cedar County News reporter, Trisha Benton, we learned that replacing our county judge is not necessarily a foregone conclusion.

Unfortunately, with our proximity to Yankton, S.D., Gavin's Point Dam and U.S. Highway 81, the only north-south road from Canada to Mexico, it is important to maintain a strong judicial presence in Cedar County.

While we understand that the population base in rural areas across the state, and in particular Cedar County, has declined over the years, the proliferation of criminal activity in rural areas has not. In just the first six months of this year, there has been a case of stalking, with several violations of protection orders requiring frequent return trips to Judge Luebe's courtroom; not to mention four murders in Laurel, and two months ago, a murder in Hartington, 20 miles to the north of Laurel. The murders are particularly significant because the individuals involved were not from the area. Crime is not reserved for only the more populous areas of the state. Having a judge "in county" guarantees due process for the accused and relieves the economic expense to the county of housing and transportation of individuals to other locations. It also allows easier access for witnesses, family members and community members to participate in the judicial process.

The taxpayers of Cedar County have invested heavily in its courthouse, improving not only the facility itself, with a 2009 addition and renovation project, but also increasing security measures for the judges and other courthouse officials working in the building.

As a former member of the Judicial Nominating Committee, Peggy understands the elements being considered when debating the appointments of judges across the state. As publishers of several newspapers in NE Nebraska, we are also aware of the needs and considerations of the residents of NE Nebraska, and access to the courts is of particular importance.

It is our hope that the committee will take all of this into consideration when deciding the needs to be filled in Cedar County.

Please feel free to contact either one of us if you have any questions or would require anymore supporting information.

*Robert T. Dump  
and Peggy E. Year*  
Publishers



## Mussmann, Dawn

---

**From:** Melinda Wicks <mbwicks@gmail.com>  
**Sent:** Friday, June 9, 2023 4:37 PM  
**To:** Mussmann, Dawn  
**Subject:** Judicial Vacancy for the Sixth Judicial District

June 9, 2023

Judicial Resources Commission  
c/o Dawn Mussmann  
State Capitol Building  
P.O. Box 98910  
Lincoln, NE 68509  
[Dawn.Mussmann@nebraska.gov](mailto:Dawn.Mussmann@nebraska.gov)

Re: Public Testimony

Dear Justice Stacy and members of the Judicial Resources Commission:

Please accept this correspondence as my written testimony in support of declaring a vacancy in the Sixth Judicial District due to the retirement of Judge Douglas Luebe, which was effective June 2, 2023. While the weighted caseload indicates a need for 3.28 Judges for this district, I believe that having the vacancy filled offers more for the community and citizens in those affected counties than just the volume of cases that can be heard. It offers a level of consistency, as well as the ability to seek just resolutions quickly. Having Judges driving from other counties once or twice a month can backlog cases and hinder timely resolutions. There is also drive time that will take up a greater portion of the day for the covering judges, leaving less time in the day for hearings and issuing orders. Other cases will have mandatory timelines that may become an issue for other Judges handling their own counties to try and schedule these cases, especially if they are ones that could take longer than an hour or two.

I believe that the citizens of those communities deserve to have a Judge based in the community and one who will provide that consistency needed. I would respectfully request that this commission declare a vacancy in the Sixth Judicial District for the County Court level.

Sincerely,

Melinda Wicks



# Clerk of the District Court Cedar County, Nebraska

Janet R. Wiechelman  
P.O. Box 796  
Hartington, Nebraska 68739  
(402) 254-6957  
(402) 254-7447 FAX

District Judge  
Bryan C. Meisner

June 9, 2023

Judicial Resources Commission  
c/o Dawn Mussmann  
[Dawn.Mussmann@nebraska.gov](mailto:Dawn.Mussmann@nebraska.gov)

RE: Judiciary Vacancy of the County Judge of the 6<sup>th</sup> Judicial District

Dear Committee Members:

This letter addresses the issue before the Commission on the vacancy of a County Court Judge in the 6<sup>th</sup> Judicial District and what I believe are concerns if this vacancy is not filled.

1. The Courts have been providing access for the judges, attorneys and their clients and self represented litigants through video conferencing. This has enabled judges to have the capability to hear matters that are time sensitive and the travel time to the courthouse is not available to do so. Although Cedar County has now been provided the equipment to have hearings in this fashion, there are still proceedings that are best served with the physical appearance of a judge and parties. If the judges are located further from counties in the judicial district, will counties be subject to the court resources via videoconference?
2. The committee has been provided the Weighted Caseload Reports. This is a good resource in looking at the current situation, however, I believe that you need to look at how the caseload has fluctuated throughout the last 5 years. 2020 and the COVID pandemic affected some counties with the amount of filings that were made. Also, 2022 was an election year and there may have been a change in the local law enforcement and the county attorney whose direct involvement with the courts will affect the increase or decrease in court filings.

In reflection of the last 5 years, the weighted caseload for Cedar County Court the average would be .25 not the .18 which was in 2022. Even the average for the last 5 years in the Cedar County District Court would be .12 not the .08 as the 2022 report indicates. There was a change in the county attorney position in 2019 and the criminal cases filed decreased from the prior county attorney. Crime has not decreased.



The same is across the board for all judicial districts in the County Court and District Courts if you review the 5 year average. Attachment #1 is the 5 year average for the County Court Judicial Districts #5, #6, #7 and #8. Attachment #2 is the 5 year average for the District Court Judicial Districts #5, #6, #7 and #8. The identified judicial districts encompass the northeast rural section of Nebraska.

3. It appears from the information of the weighted case load compilation I have provided for the last 5 years, the workload per judge has not increased or decreased in a significant amount requiring the decrease in a county or district court judge. It is, however, evident that there needs to be an adjustment of the judges within the 6<sup>th</sup> judicial district to provide more access to a judge in Dodge County. Perhaps an adjustment be made that the vacancy be declared and that new county court judge be responsible for Cedar and Dixon and more time allotted to Dakota County. Or, in the alternative, add Dodge County and have designated court dates in a month to alleviate the case load for the current judge.
4. This current vacancy does not affect the District Court directly other than when a county court judge is requested in a domestic relations action. However, I have concern if the vacancy is not filled and Cedar County Court be moved to another judicial district, when a District Court judgeship becomes vacant, this will also occur with the Cedar County District Court.

I began my service as Clerk of District Court in January of 1991 and was given the opportunity to work with Hon. Robert Otte as my first judge. However, in the last 31 years, I have had 5 district court Judges:

(Deceased) 3-1993; 1993 to 2005; 2005-2011; 2011-2019; 2019 to current

The Hon. Bryan Meisner has only been appointed since 2019. The common phrase within the courts is consistency. In the transitions there has always been an adjustment made in this county. One judge had decided to change the motion days from the 2<sup>nd</sup> and 4<sup>th</sup> Mondays of each month to another date. However, after a while, it was found that the attorneys who represented clients in this area were not available as they had previously scheduled court in another county or court. We are a creature of habit and this area has become accustomed to the specific dates for each county and court and the attorneys are conscious of this when they schedule their court filings.

If the County Court or District Court would change to a different judicial district, there may be a county or court that has already been using the designated date, and there will be a transition again in finding the correct flow of the attorneys and their clients' cases.

5. I appreciate the work of the commission in finding a way to properly allocate the judge's ability to be available for the public who are in need of the court's services. However, when this is viewed in a different way, it shows that there is a lack of the court's visibility in a county. In smaller counties, the judge does not physically appear for hearings in that county but has them in a larger county where the attorneys and judge may already be present. You are no longer giving the public accessibility to the Court.

Please consider the information presented to you today in the testimony and written documentation. As a court official we see and understand the attorneys and the public who inquire whether they will have the ability to have their case heard in a reasonable fashion. I would like to inform them that there is a county court judge assigned in the 6<sup>th</sup> Judicial District to handle the Cedar County assigned domestic relation cases and any hearings will be scheduled with the utmost importance.

Thank you for your consideration.

Sincerely,

*/s/ Janet R. Wiechelman*

Janet R. Wiechelman

Attachments



County Court 5 Year Case Load (5th, 6th, 7th and 8th)

<b>5th Judicial</b>	Boone	Nance	Merrick	Hamilton	Platte	Polk	York	Colfax
1-2018 to 12-2018	0.19	0.15	0.29	0.33	0.86	0.18	0.50	0.39
1-2019 to 12-2019	0.17	0.13	0.27	0.30	0.68	0.21	0.47	0.32
1-2020 to 12-2020	0.13	0.08	0.27	0.29	1.10	0.15	0.56	0.42
1-2021 to 12-2021	0.11	0.08	0.26	0.29	1.04	0.13	0.54	0.41
1-2022 to 12-2022	0.12	0.09	0.29	0.29	0.97	0.11	0.59	0.46
Average case load	0.14	0.11	0.28	0.30	0.93	0.16	0.53	0.40
<b>6th Judicial</b>	Cedar	Dixon	Dakota	Thurston	Burt	Washington	Dodge	
1-2018 to 12-2018	0.34	0.28	0.60	0.27	0.34	0.65	1.38	
1-2019 to 12-2019	0.32	0.25	0.61	0.25	0.32	0.55	1.15	
1-2020 to 12-2020	0.23	0.12	0.62	0.11	0.21	0.54	1.59	
1-2021 to 12-2021	0.20	0.10	0.65	0.11	0.19	0.47	1.60	
1-2022 to 12-2022	0.18	0.12	0.64	0.10	0.17	0.44	1.63	
Average case load	0.25	0.17	0.62	0.17	0.25	0.53	1.47	
<b>7th Judicial</b>	Knox	Antelope	Pierce	Madison	Wayne	Stanton	Cuming	
1-2018 to 12-2018	0.20	0.26	0.21	0.90	0.25	0.29	0.30	
1-2019 to 12-2019	0.22	0.22	0.22	0.90	0.28	0.26	0.28	
1-2020 to 12-2020	0.14	0.21	0.15	1.39	0.27	0.24	0.30	
1-2021 to 12-2021	0.15	0.18	0.15	1.40	0.26	0.24	0.33	
1-2022 to 12-2022	0.15	0.17	0.14	1.31	0.26	0.24	0.37	
Average case load	0.17	0.21	0.17	1.18	0.26	0.25	0.32	

County Court 5 Year Case Load (5th, 6th, 7th and 8th)

<b>8th Judicial</b>	<b>Cherry</b>	<b>Keya Paha</b>	<b>Brown</b>	<b>Rock</b>	<b>Blaine</b>	<b>Loup</b>	<b>Custer</b>	<b>Boyd</b>
1-2018 to 12-2018	0.19	0.07	0.16	0.08	0.07	0.07	0.35	0.08
1-2019 to 12-2019	0.18	0.07	0.14	0.08	0.07	0.07	0.36	0.09
1-2020 to 12-2020	0.21	0.01	0.16	0.04	0.01	0.02	0.48	0.06
1-2021 to 12-2021	0.20	0.01	0.15	0.03	0.01	0.02	0.47	0.06
1-2022 to 12-2022	0.21	0.01	0.15	0.03	0.01	0.03	0.42	0.06
Average case load	0.20	0.03	0.15	0.05	0.03	0.04	0.42	0.07

County Court 5 Year Case Load (5th, 6th, 7th and 8th)

Butler	Seward	Saunders						Need	Judges	Workload
0.27	0.37	0.45						3.98	5	
0.32	0.39	0.43						3.89	5	
0.31	0.42	0.51						4.23	5	0.85
0.32	0.43	0.50						4.11	5	0.82
0.30	0.42	0.48						4.12	5	0.82
0.30	0.41	0.47						4.03	5	0.81
								3.76	4	
								3.48	4	
								3.43	4	0.86
								3.33	4	0.83
								3.28	4	0.82
								3.47	4	0.87
								2.42	3	
								2.38	3	
								2.70	3	0.90
								2.72	3	0.91
								2.64	3	0.88
								2.57	3	0.86

County Court 5 Year Case Load (5th, 6th, 7th and 8th)

Holt	Garfield	Valley	Sherman	Wheeler	Greeley	Howard				
0.25	0.09	0.18	0.14	0.07	0.10	0.20		2.09	3	
0.26	0.09	0.15	0.13	0.07	0.09	0.17		1.99	3	
0.35	0.08	0.18	0.14	0.02	0.05	0.21		2.02	3	0.67
0.32	0.10	0.18	0.16	0.01	0.06	0.22		2.02	3	0.67
0.32	0.10	0.20	0.20	0.02	0.07	0.22		2.05	3	0.68
0.30	0.09	0.18	0.15	0.04	0.07	0.20		2.04	3	0.68

District Court 5 Year Case Load (5th, 6th, 7th and 8th)

<b>5th Judicial</b>	<b>Boone</b>	<b>Nance</b>	<b>Merrick</b>	<b>Hamilton</b>	<b>Platte</b>	<b>Polk</b>	<b>York</b>	<b>Colfax</b>
1-2018 to 12-2018	0.13	0.15	0.27	0.25	0.67	0.14	0.53	0.27
1-2019 to 12-2019	0.15	0.13	0.35	0.27	0.77	0.15	0.44	0.24
1-2020 to 12-2020	0.09	0.08	0.28	0.24	0.77	0.09	0.53	0.21
1-2021 to 12-2021	0.08	0.07	0.30	0.28	0.78	0.09	0.60	0.22
1-2022 to 12-2022	0.08	0.07	0.26	0.27	0.71	0.07	0.67	0.20
Average case load	0.11	0.10	0.29	0.26	0.74	0.11	0.55	0.23
<b>6th Judicial</b>	<b>Cedar</b>	<b>Dixon</b>	<b>Dakota</b>	<b>Thurston</b>	<b>Burt</b>	<b>Washington</b>	<b>Dodge</b>	
1-2018 to 12-2018	0.17	0.12	0.54	0.14	0.16	0.50	1.16	
1-2019 to 12-2019	0.14	0.14	0.51	0.16	0.15	0.49	0.85	
1-2020 to 12-2020	0.11	0.08	0.49	0.11	0.15	0.49	1.12	
1-2021 to 12-2021	0.09	0.09	0.50	0.12	0.16	0.48	1.04	
1-2022 to 12-2022	0.08	0.07	0.54	0.12	0.17	0.42	0.98	
Average case load	0.12	0.10	0.52	0.13	0.16	0.48	1.03	
<b>7th Judicial</b>	<b>Knox</b>	<b>Antelope</b>	<b>Pierce</b>	<b>Madison</b>	<b>Wayne</b>	<b>Stanton</b>	<b>Cuming</b>	
1-2018 to 12-2018	0.18	0.22	0.16	1.12	0.20	0.17	0.20	
1-2019 to 12-2019	0.18	0.17	0.17	1.10	0.19	0.20	0.18	
1-2020 to 12-2020	0.13	0.18	0.13	1.34	0.15	0.13	0.16	
1-2021 to 12-2021	0.13	0.15	0.14	1.33	0.17	0.14	0.16	
1-2022 to 12-2022	0.12	0.13	0.12	1.21	0.17	0.12	0.15	
Average case load	0.15	0.17	0.14	1.22	0.18	0.15	0.17	

District Court 5 Year Case Load (5th, 6th, 7th and 8th)

8th Judicial	Cherry	Keya Paha	Brown	Rock	Blaine	Loup	Custer	Boyd
1-2018 to 12-2018	0.15	0.05	0.10	0.05	0.05	0.04	0.26	0.07
1-2019 to 12-2019	0.18	0.05	0.11	0.07	0.05	0.05	0.30	0.06
1-2020 to 12-2020	0.15	0.01	0.08	0.03	0.01	0.01	0.34	0.03
1-2021 to 12-2021	0.16	0.01	0.09	0.03	0.01	0.01	0.29	0.02
1-2022 to 12-2022	0.13	0.01	0.08	0.03	0.03	0.01	0.25	0.02
Average case load	0.15	0.03	0.09	0.04	0.03	0.02	0.29	0.04

District Court 5 Year Case Load (5th, 6th, 7th and 8th)

Butler	Seward	Saunders						Need	Judges	Workload
0.26	0.34	0.44						3.49	4	
0.23	0.33	0.44						3.54	4	
0.23	0.33	0.43						3.28	4	0.82
0.25	0.38	0.46						3.52	4	0.88
0.27	0.43	0.43						3.46	4	0.87
0.25	0.36	0.44						3.44	4	0.86
								2.79	3	
								2.43	3	
								2.55	3	0.85
								2.47	3	0.82
								2.38	3	0.79
								2.53	3	0.84
								2.24	2	
								2.18	2	
								2.22	2	1.11
								2.22	2	1.11
								2.02	2	1.01
								2.18	2	1.09

District Court 5 Year Case Load (5th, 6th, 7th and 8th)

Holt	Garfield	Valley	Sherman	Wheeler	Greeley	Howard				
0.27	0.07	0.15	0.09	0.05	0.07	0.15		1.61	2	
0.30	0.06	0.13	0.09	0.05	0.06	0.12		1.67	2	
0.35	0.04	0.14	0.06	0.02	0.04	0.15		1.46	2	0.73
0.32	0.04	0.11	0.07	0.02	0.04	0.12		1.34	2	0.67
0.32	0.03	0.12	0.06	0.02	0.04	0.11		1.23	2	0.62
0.31	0.05	0.13	0.07	0.03	0.05	0.13		1.47	2	0.74



# Thurston County Attorney

PO Box 490

106 SOUTH 5<sup>th</sup> STREET

PENDER, NE 68047

[county.attorney@thurstoncountyne.gov](mailto:county.attorney@thurstoncountyne.gov)

Tammy Maul-Bodlak, County Attorney  
Teri Lamplot, Deputy County Attorney

Telephone: (402) 385-3416  
Fax: (402) 385-2152

June 9, 2023

Judicial Resource Commission  
c/o Dawn Mussmann  
PO Box 98910  
Lincoln, NE 68509

Re: Judicial vacancy

To whom it may concern:

As the County Attorney for Thurston County, I would encourage the committee to declare a vacancy in the office of the County Court for the 6<sup>th</sup> Judicial District. Residents of rural counties need reasonable, timely access to the court system.

Temporary removal orders, protection orders, restitution of premises hearings, bond review hearings and preliminary hearings are just a few examples of urgent matters that would be negatively impacted by diminished availability of a judge in this district.

Although theoretically access to the court through webex or other electronic means would mitigate those concerns, from a practical standpoint, this has not been my experience. We frequently experience technical difficulties, including internet access issues and equipment malfunctions. Thurston County does not have on-site technical support to timely address these issues.

Case filing numbers may vary from year to year, but the need to provide full and equal access to the court system for Thurston County residents does not.

Sincerely,

Tammy Maul-Bodlak



# Nebraska State Bar Association

*"Helping lawyers help people"*



June 15, 2023

The Honorable Stephanie F. Stacy  
Nebraska Supreme Court Justice  
State Capitol, #2219  
Lincoln, NE 68509

Dear Justice Stacy:

On behalf of the Nebraska State Bar Association, I wish to convey to the members of the Judicial Resources Commission our recommendations regarding the vacancies in the District Court of the 4<sup>th</sup> Judicial District, due to the retirement of Judge Coffey and the County Court of the 6<sup>th</sup> Judicial District, due to the retirement of Judge Luebe.

The Nebraska State Bar Association's Judicial Resources Committee met with lawyers from the 6<sup>th</sup> and 7<sup>th</sup> judicial districts on both June 1<sup>st</sup> and June 6<sup>th</sup> and held its Committee meeting on June 14<sup>th</sup>. The Committee weighed a number of factors including caseload, case types and most importantly, access to the trial courts for Nebraska citizens. The members of the Committee also had available:

- The Judicial Weighted Caseload Reports ("Judicial Workload Assessment") which included statistics through 2022;
- A preliminary proposal made by the AOCP to change the judicial district boundaries between the 6<sup>th</sup> and 7<sup>th</sup> judicial districts for the County Courts;
- The letter submitted to the Judicial Resources Commission by the Nebraska County Judges Association; and
- The AOCP's final recommendation to postpone a decision while a committee is formed to consider reconfiguration of the judicial districts to "gradually address the fact that a significant majority of judicial districts currently have more county court judges than the system needs."

Following discussion, the NSBA's Judicial Resource Committee concluded that the State's justice system will not have adequate judicial resources available unless the current vacancies are filled expeditiously. According to the rounding rule adopted by this Commission, the weighted caseload statistics for both positions support declaring a

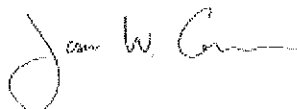


vacancy. In addition, we have heard from lawyers in the 6<sup>th</sup> judicial district that there has already been a significant negative impact on scheduling following Judge Luebe's retirement. After consulting with the local judges about the proposed boundary change, consensus could not be reached because there is not a coverage scenario that will not result in the residents of the 6<sup>th</sup> and 7<sup>th</sup> districts not having a reduction in the number of days a judge visits their county and an increase in the number of days to schedule and resolve cases.

At the same time that this Commission is hearing an argument for potentially reducing judicial resources, the Nebraska Legislature (upon this Commission's recommendation) recently added an additional judgeship to the 9<sup>th</sup> judicial district, and the state is committed to expanding problem solving courts, an endeavor that will require substantial additional judicial resources. The NSBA plays a significant role in assisting the Judicial Resources Commission with adding additional judgeships where recommended and appreciates how difficult that recommendation can be to accomplish. Should a study Committee be formed, we believe that the proposed charge should be reframed to ask **how existing judicial resources might be better deployed to both enhance the administration of justice and expand Nebraska's problems solving courts.**

Thank you for your consideration. The practicing bar is an important and interested stakeholder in these decisions and we respectfully request that the Judicial Branch continue to work with the NSBA by including bar leaders from across the state in these conversations.

Sincerely,



Jason Grams  
President  
Nebraska State Bar Association

# Nebraska Judicial Branch

## Weighted Caseload Report

# County Courts

Reporting Period  
Calendar Year 2022

Jan. 1, 2022 to  
Dec. 31, 2022



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# Weighted Caseload Report

## Nebraska County Courts Weighted Caseload Report

Nebraska has a county court in each of its 93 counties, organized into 12 Judicial Districts. Pursuant to Neb. Rev. Stat. § 24-503, the Legislature determines the number of county court judges who serve in each judicial district, and the geographic boundaries of each judicial district. An objective assessment of judicial workload allows informed decisions about district boundaries and the number of judges needed to timely resolve the cases in each judicial district.

To assist in evaluating judicial workloads, Neb. Rev. Stat. § 24-1007(1) requires the Nebraska Administrative Office of the Courts and Probation (AOCP) to compile judicial workload statistics based on caseload numbers weighted by category of case. These weighted caseload statistics are used by the Judicial Branch, the Judicial Resources Commission, and the Legislature to evaluate judicial need, and guide decisions and recommendations on how best to allocate judicial resources across the state.

To ensure the validity, uniformity and accuracy of the AOCP's judicial workload statistics, a statewide judicial time study was conducted in 2019-2020 under the direction and leadership of the National Center for State Courts. For a full description of the judicial time study and the recommended weighting methodology and standards, see *Nebraska Judicial Workload Assessment Final Report* (October 2020) on the Nebraska Supreme Court Website. Because this Weighted Caseload Report utilizes the methodology and standards from the 2020 workload assessment, direct comparison to archived reports is not recommended.

No quantitative judicial workload assessment method, including the weighted caseload method, can determine the exact number of judges needed within each court. For example, judges may be asked to assist non-home districts to ensure speedy trials for all involved and that one district is not unduly overburdened. However, in that case, the Full-Time Equivalent (FTE) estimate without a weight for cases heard outside of their home district may underrepresent the actual FTE of both those districts. Left unadjusted, not only adds artificial FTE to the districts being assisted but the FTE for judge assistance between districts is also left unknown. To address this challenge, the Research and Data Team has developed a ratio of assistance to overall FTE. The weight for the help provided or received will be denoted at the top of the page in red.

Weighted caseload statistics approximate the number of judges needed to handle the current caseload based upon the calculations of a three-year rolling average of case filing data. Therefore, when weighted caseload statistics are examined in conjunction with other compelling and critical metrics, they provide a vital part of an objective and standardized assessment of judicial needs and the fair allocation of judicial resources across juvenile courts in the State of Nebraska.



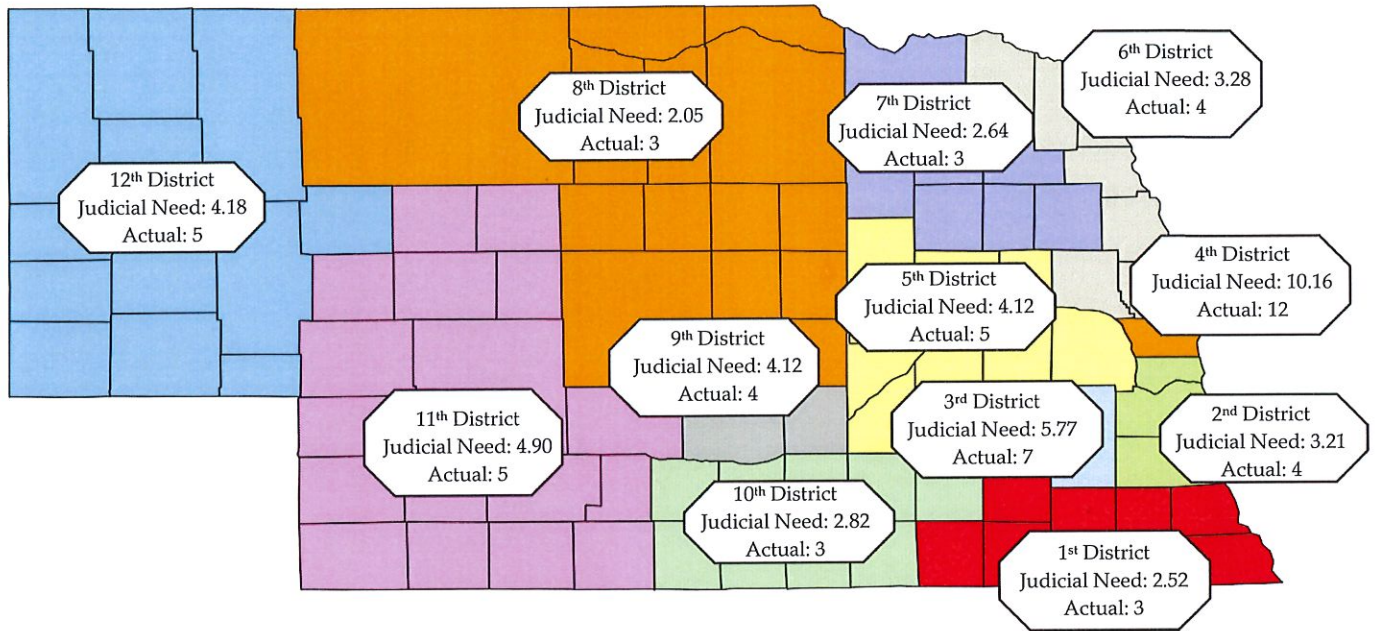
**Corey R. Steel | Nebraska State Court Administrator**  
**Nebraska Supreme Court**  
**Administrative Office of the Courts & Probation**

Rm. 1213 State Capitol | P.O. Box 98910 | Lincoln, NE 68509  
T 402.471.3730 | F 402.471.2197  
[www.supremecourt.ne.gov](http://www.supremecourt.ne.gov)

# Weighted Caseload Report

## Nebraska County Court Judicial Needs

Calendar Year 2022 (Jan. 1 2022 – Dec. 31, 2022)



Note: Differences between the total District Court Need for Judges and the sum of individual counties is due to rounding to the nearest one-hundredth.

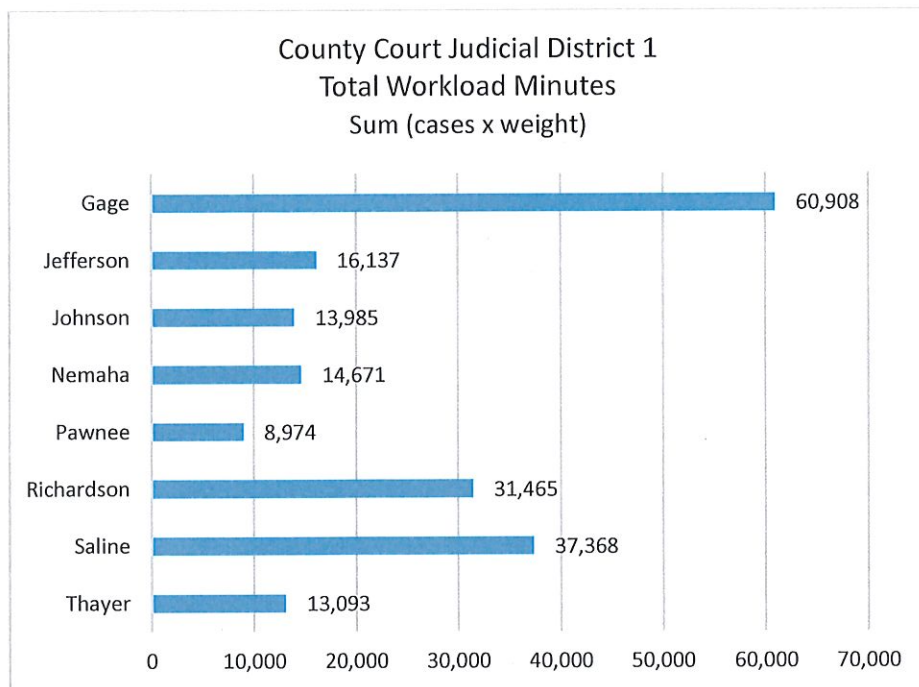
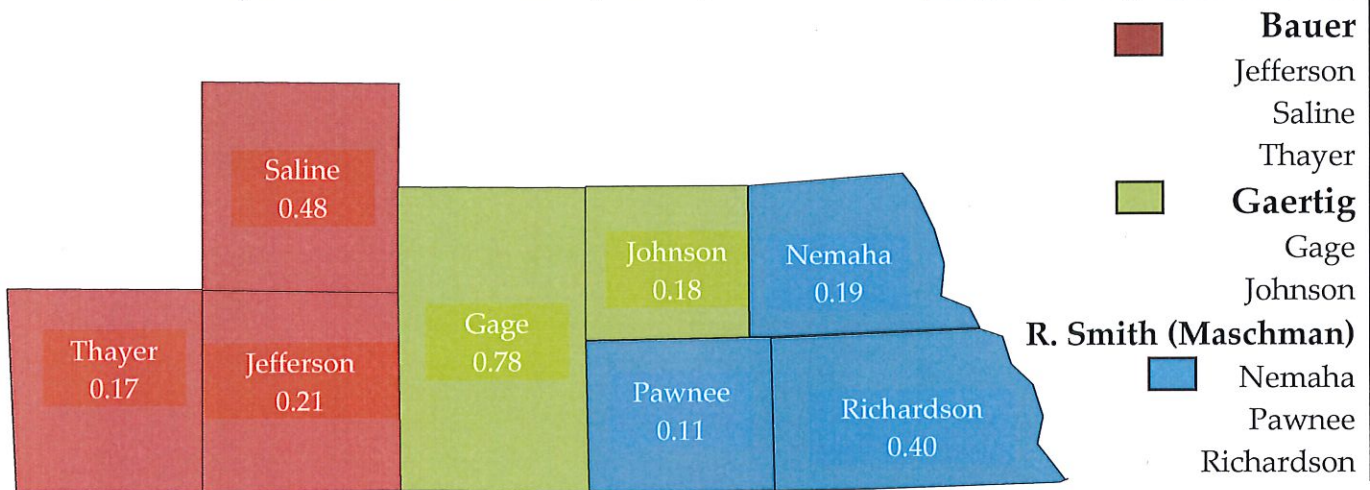
# Weighted Caseload Report

## 1<sup>st</sup> Judicial District – County Court

County court need for judges: 2.52  
 Current number of judges: 3  
 Workload per judge: 0.84

Predicted judicial resources need by county

Judges Serving the 1st District



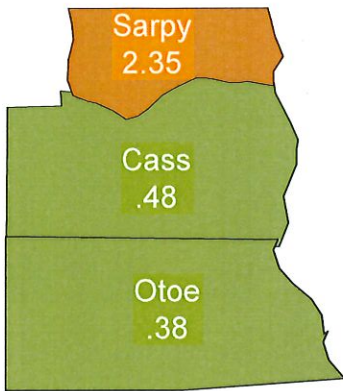


# Weighted Caseload Report

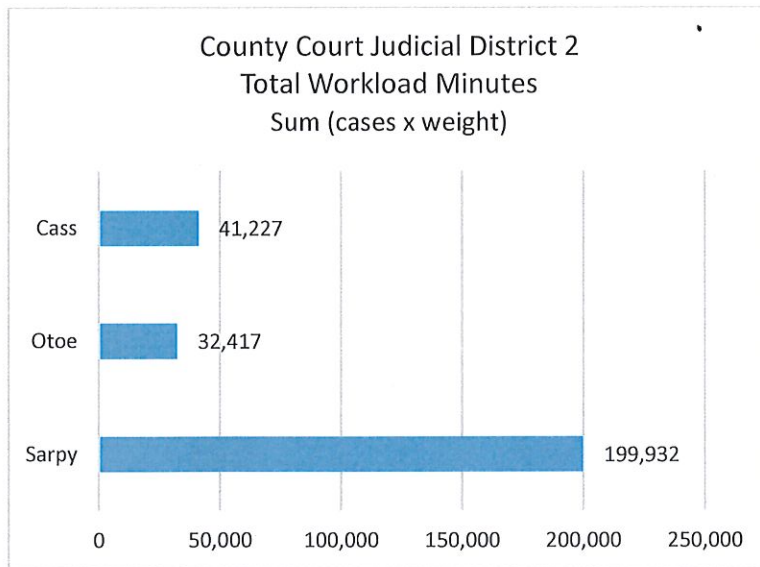
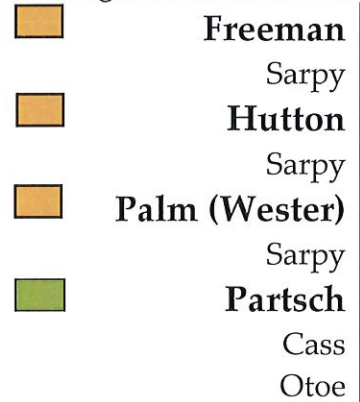
## 2<sup>nd</sup> Judicial District – County Court

County court need for judges: 3.21  
 Current number of judges: 4  
 Workload per judge: 0.80

### Predicted judicial resources need by county



### Judges Serving the 2nd District

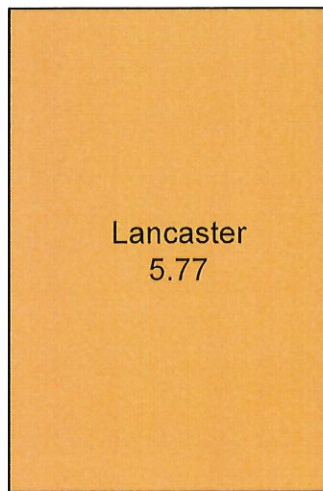


# Weighted Caseload Report

## 3<sup>rd</sup> Judicial District –County Court

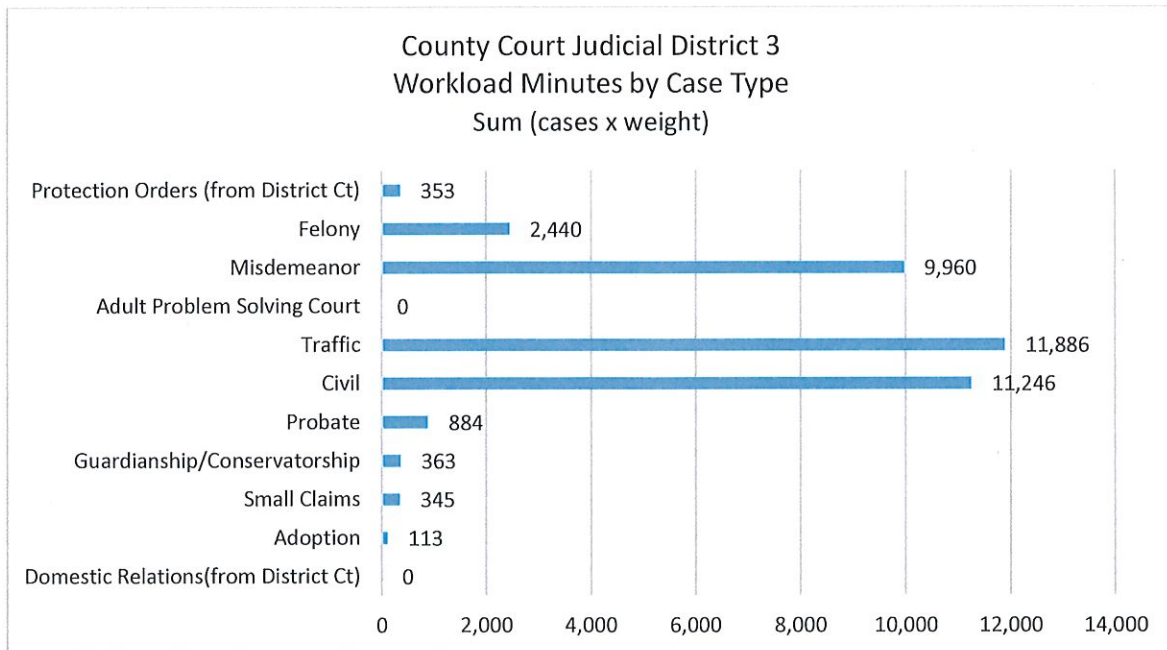
County court need for judges: 5.77  
 Current number of judges: 7  
 Workload per judge: 0.82

Predicted judicial resources need by county



Judges Serving the 3rd District

Acton  
 Dalton  
 Parsley  
 Phillips  
 Reuter  
 Yardley  
 Zimmerman

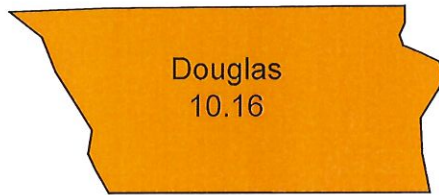


# Weighted Caseload Report

## 4<sup>th</sup> Judicial District –County Court

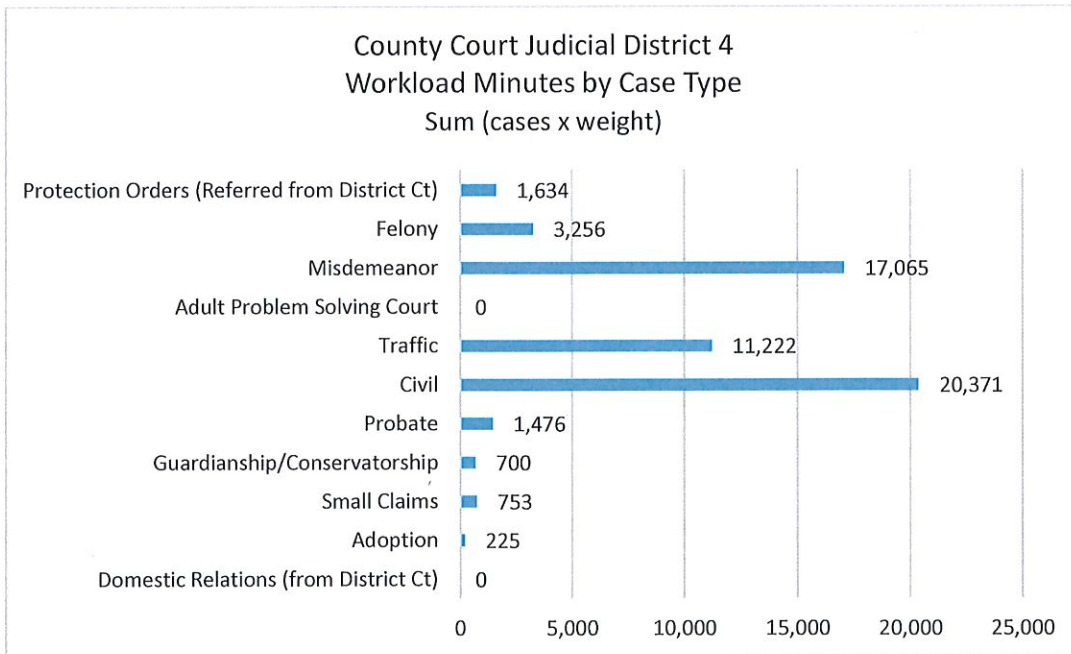
County court need for judges: 10.16  
 Current number of judges: 12  
 Workload per judge: 0.85

Predicted judicial resources need by county



Judges Serving the 4th District

- Forsberg
- Hansen
- Harmon
- Hendrix
- Huber
- Keim
- Lohaus
- Lowe
- Marcuzzo
- McDermott
- Shearer
- Vaughn

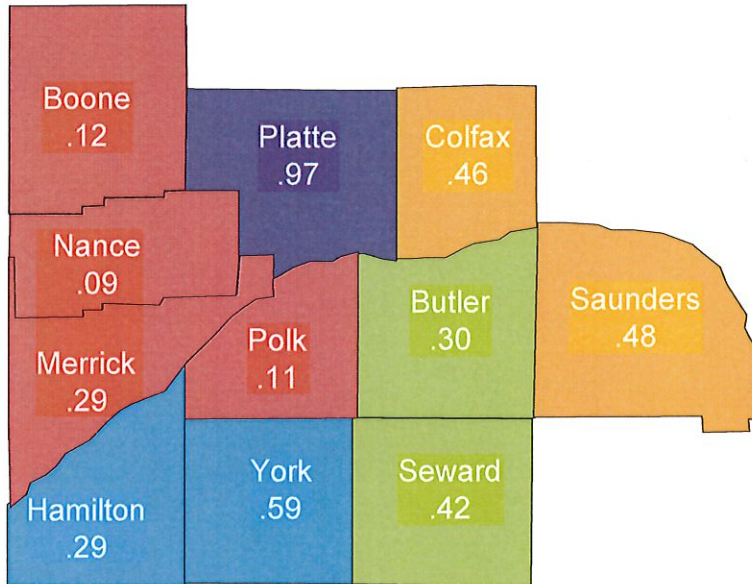


# Weighted Caseload Report

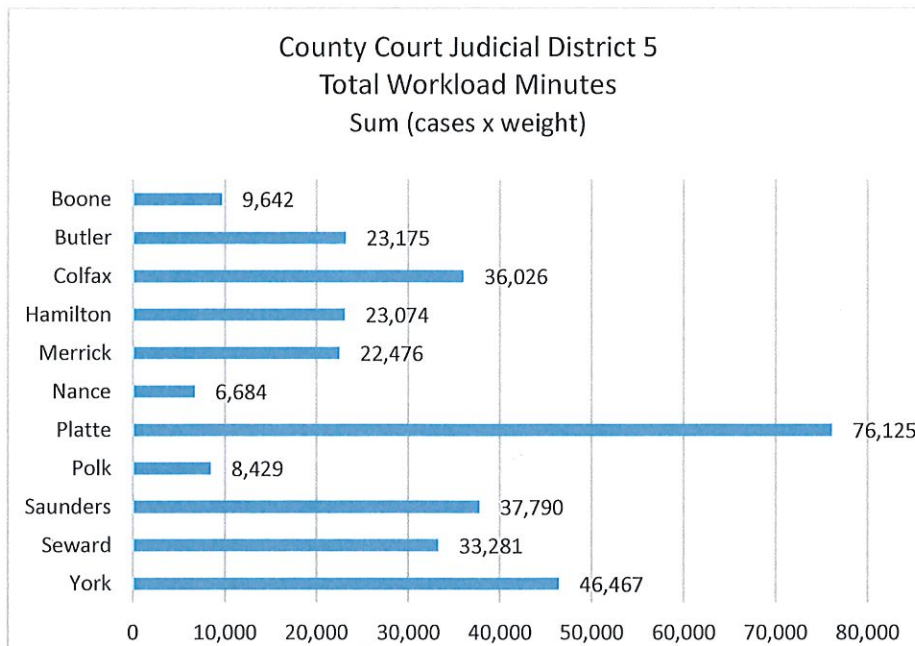
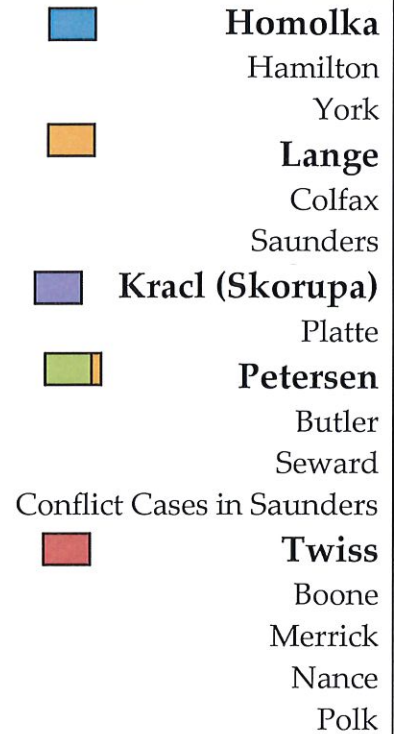
## 5<sup>th</sup> Judicial District - County Court

County court need for judges: 4.12  
 Current number of judges: 5  
 Workload per judge: 0.82

Predicted judicial resources need by county



Judges Serving the 5th District

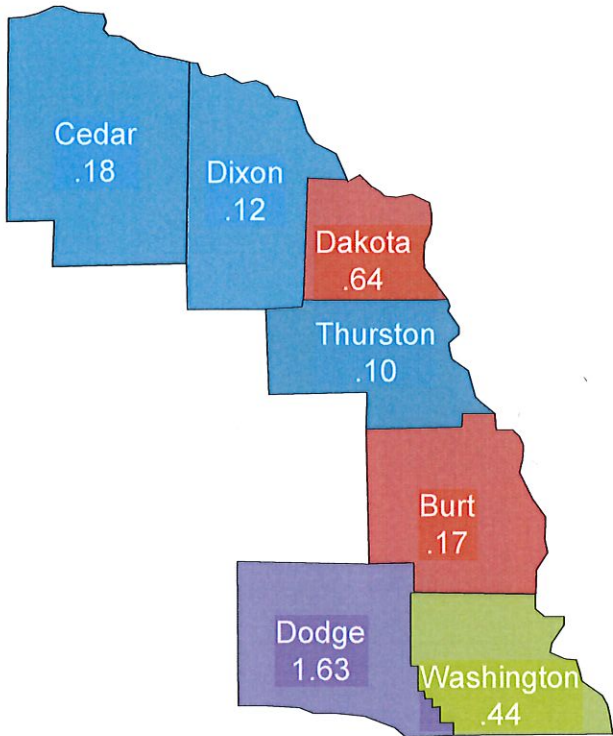


# Weighted Caseload Report

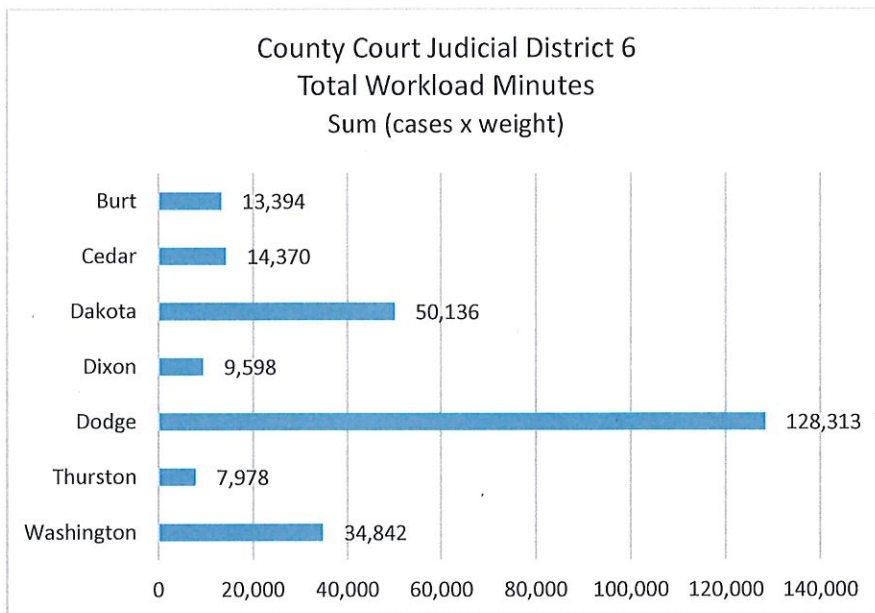
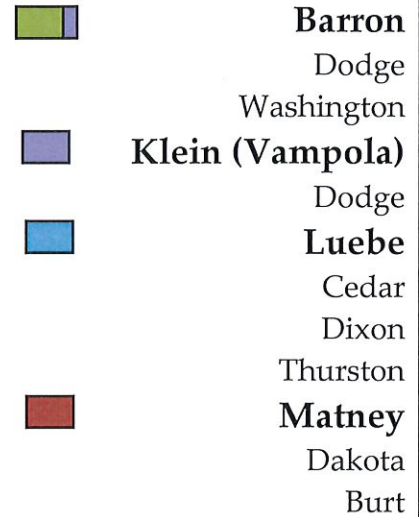
## 6<sup>th</sup> Judicial District – County Court

County court need for judges: 3.28  
 Current number of judges: 4  
 Workload per judge: 0.82

Predicted judicial resources need by county



Judges Serving the 6th District

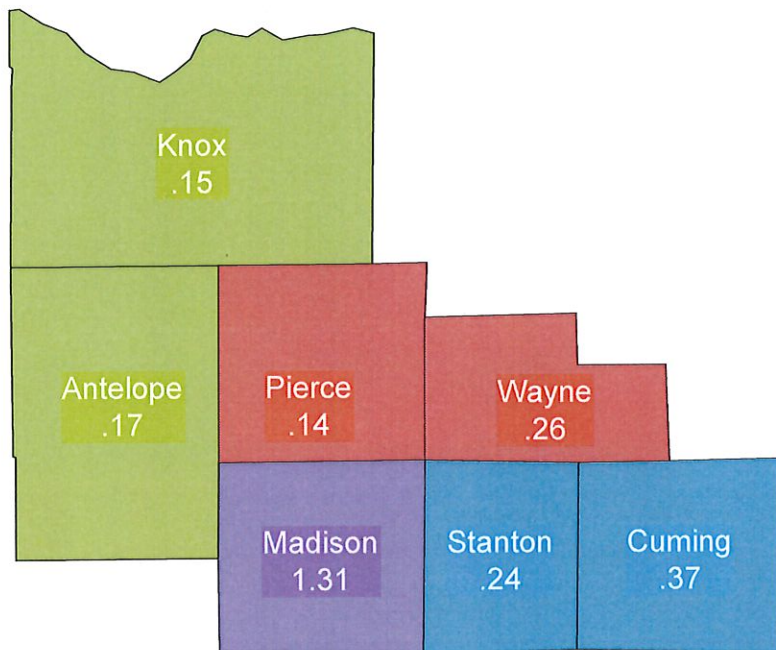


# Weighted Caseload Report

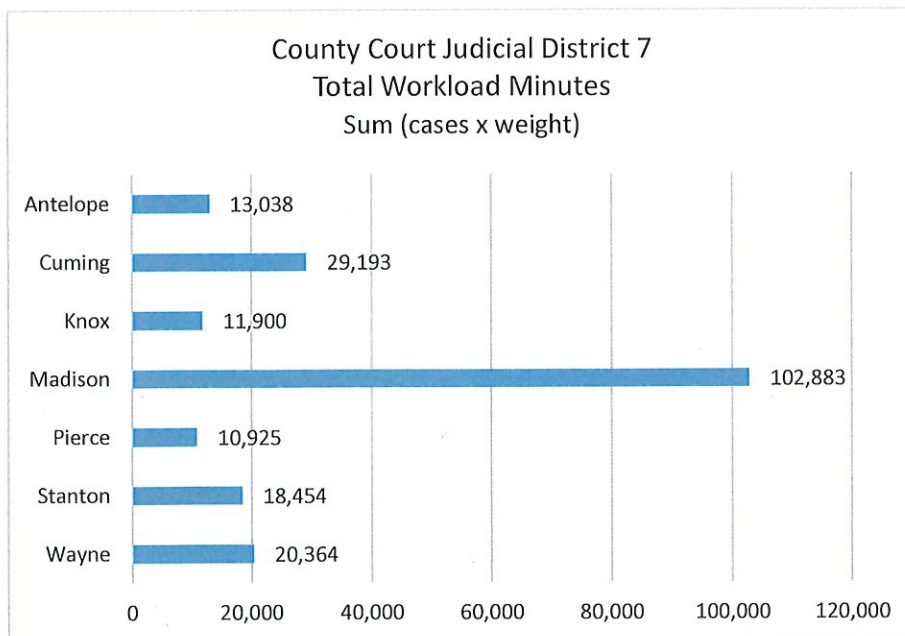
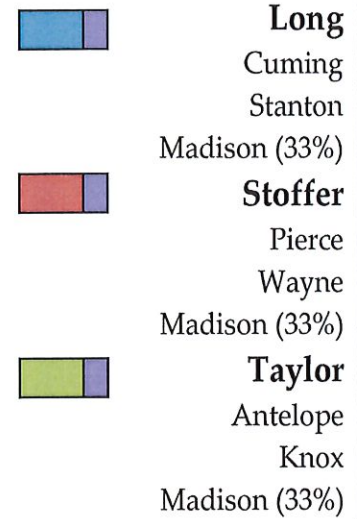
## 7<sup>th</sup> Judicial District – County Court

County court need for judges: 2.64  
 Current number of judges: 3  
 Workload per judge: 0.88

Predicted judicial resources need by county



Judges Serving the 7th District



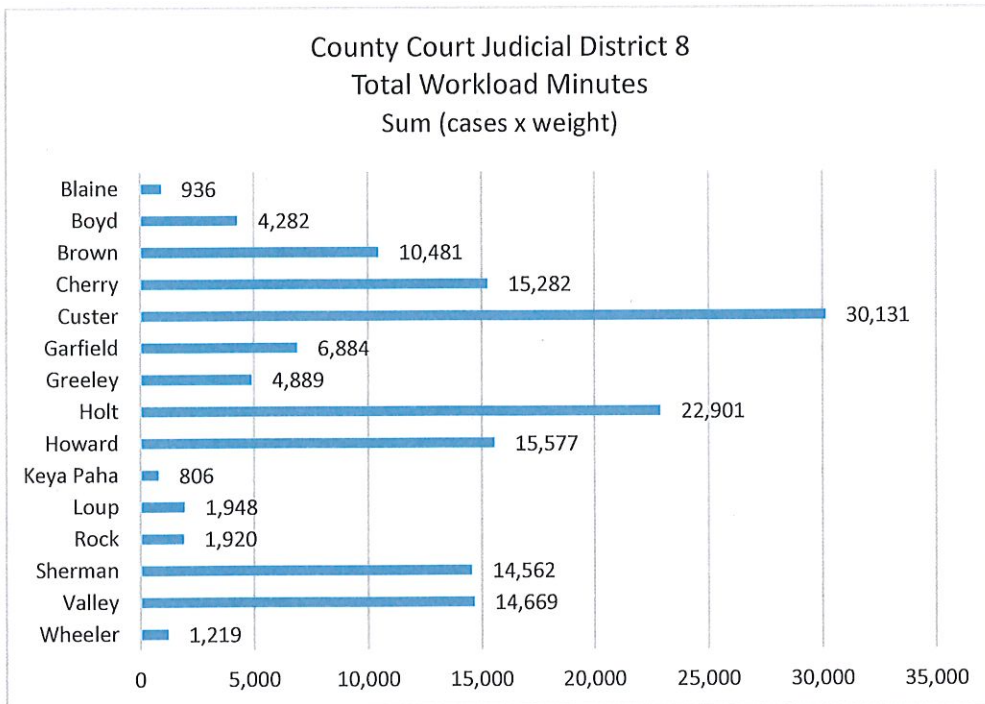
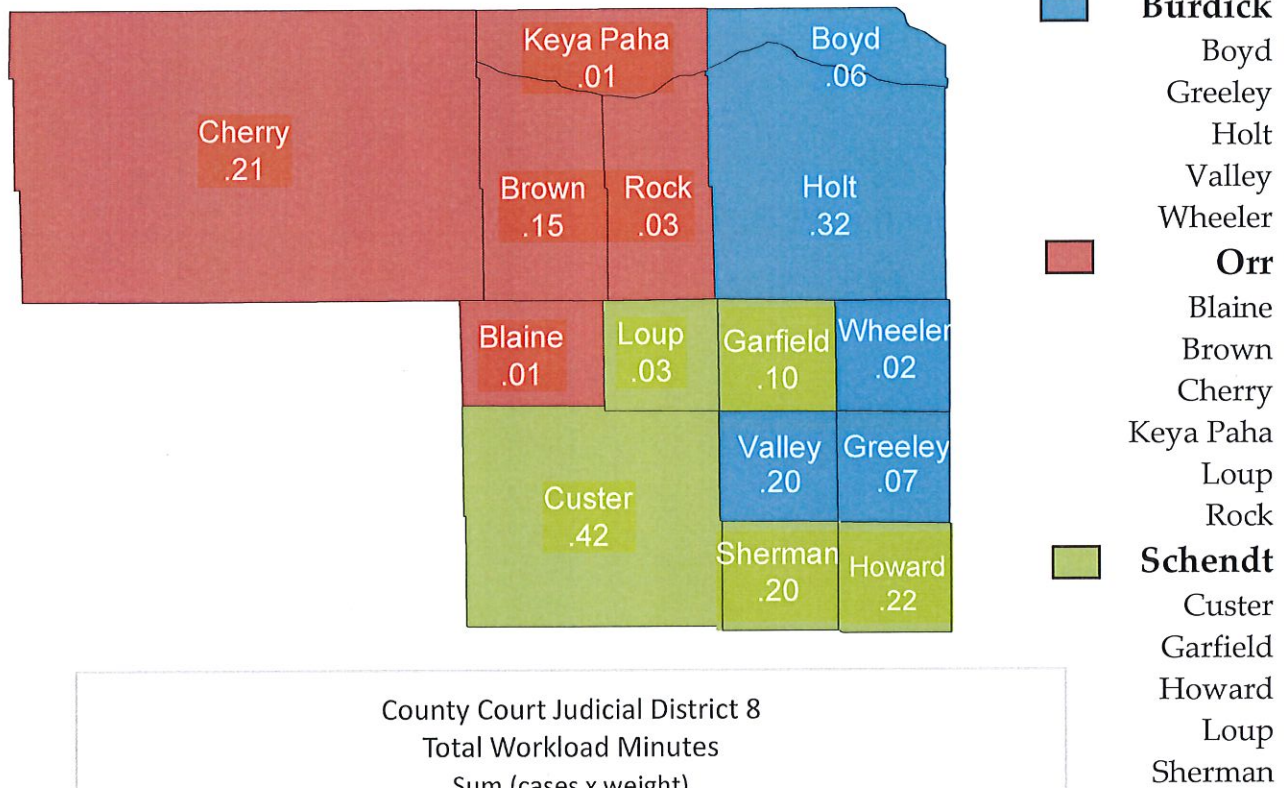
# Weighted Caseload Report

## 8<sup>th</sup> Judicial District – County Court

County court need for judges: 2.05  
 Current number of judges: 3  
 Workload per judge: 0.68

Predicted judicial resources need by county

Judges Serving the 8th District



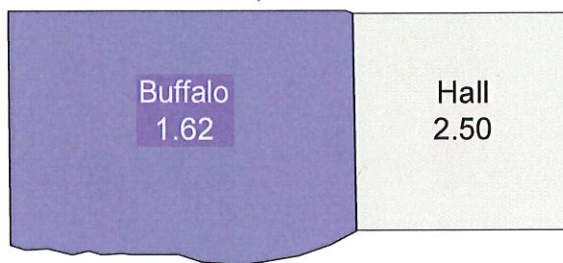
# Weighted Caseload Report

## 9<sup>th</sup> Judicial District – County Court






County court need for judges: 4.12  
 Current number of judges: 4  
 Workload per judge: 1.03

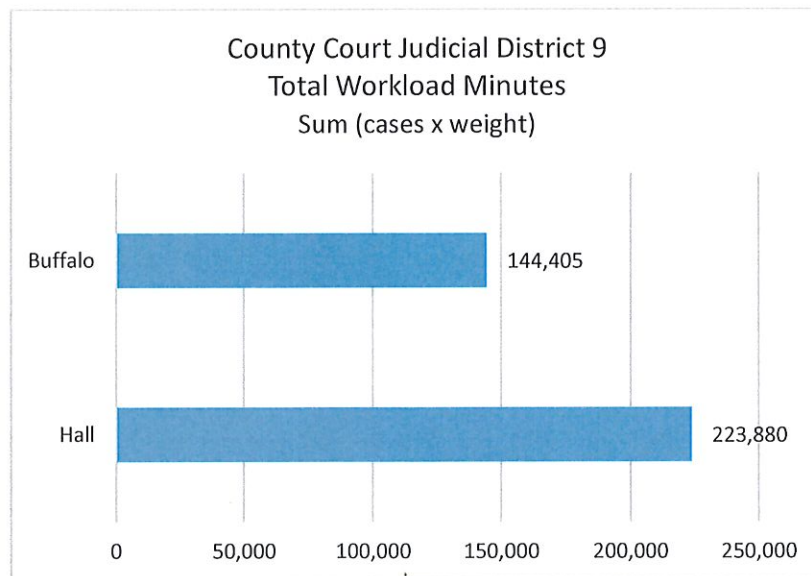
Additional judicial assistance provided to judicial district by judges from other judicial district(s): 0.10

Predicted judicial resources need by county



Judges Serving the 9th District

-  Corey Hall
-  Jorgensen Buffalo
-  Rademacher Buffalo
-  Hall
-  Wetzel Hall



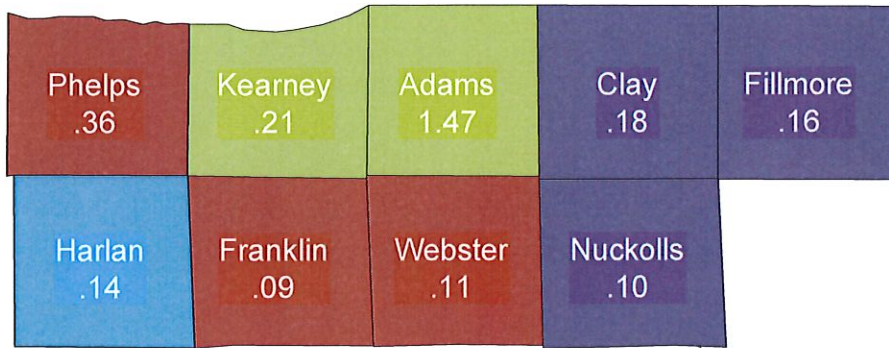


# Weighted Caseload Report

## 10<sup>th</sup> Judicial District – County Court

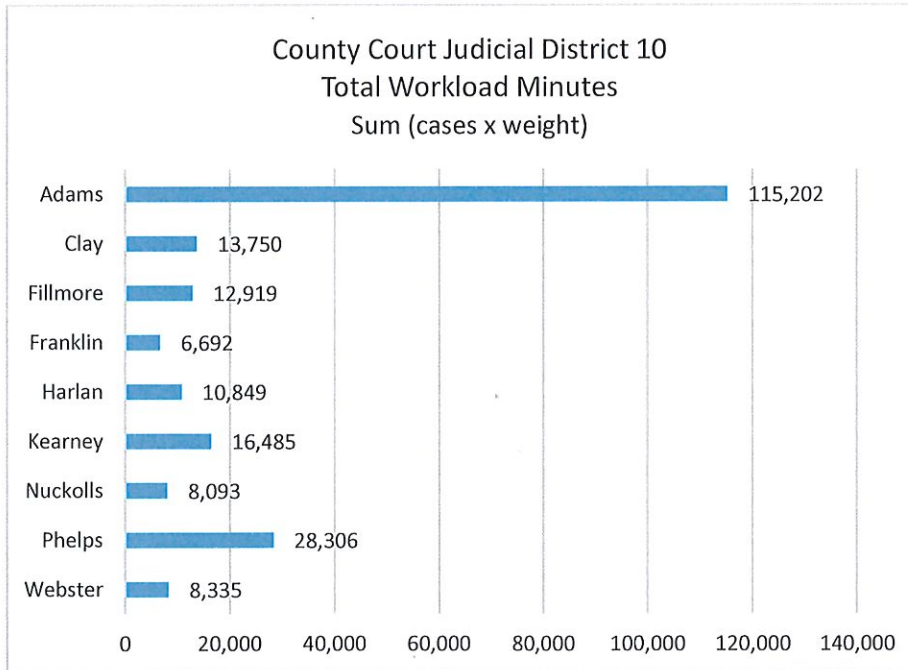
County court need for judges: 2.82  
 Current number of judges: 3  
 Workload per judge: 0.94

Predicted judicial resources need by county



Judges Serving the 10th District

- Burns**
  - Adams (38%)
  - Clay (90%)
  - Fillmore (90%)
  - Nuckolls (86%)
- Hoeft**
  - Adams (24%)
  - Franklin (50%)
  - Harlan (100%)
  - Kearney (54%)
  - Phelps (75%)
  - Webster (48%)
- Mead**
  - Adams (38%)
  - Clay (10%)
  - Fillmore (10%)
  - Franklin (50%)
  - Kearney (46%)
  - Nuckolls (14%)
  - Phelps (25%)
  - Webster (52%)

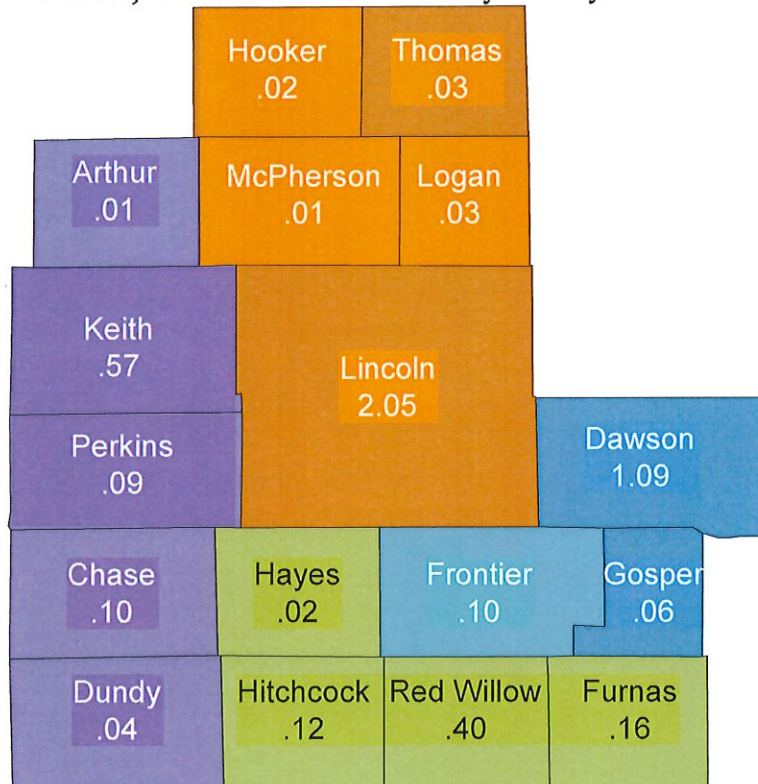


# Weighted Caseload Report

## 11<sup>th</sup> Judicial District – County Court

County court need for judges: 4.90  
 Current number of judges: 5  
 Workload per judge: 0.98

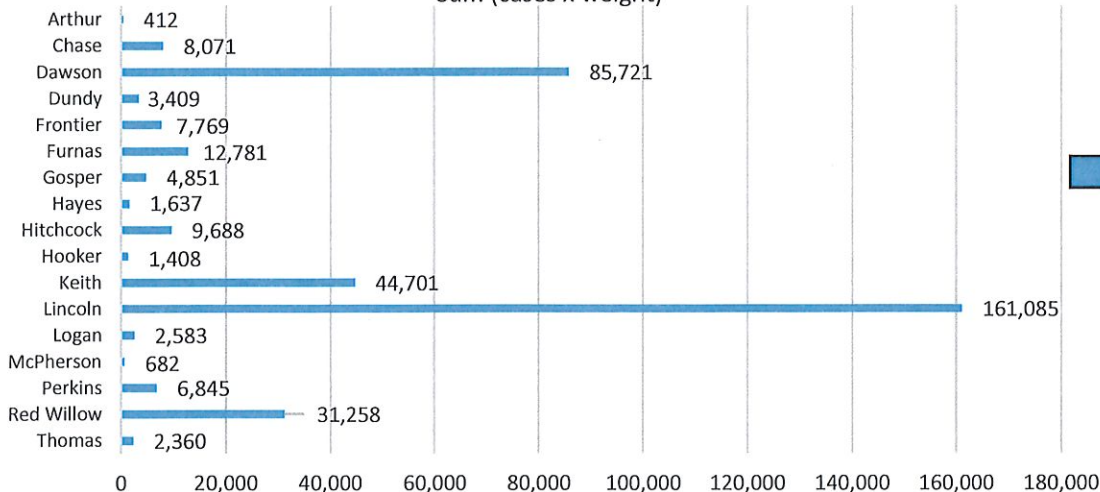
Predicted judicial resources need by county



Judges Serving the 11th District

- **Jay**  
Hooker  
Lincoln  
Logan  
McPherson  
Thomas  
Conflict Cases in Keith
- **Paine**  
Furnas  
Hayes  
Hitchcock  
Red Willow  
Conflict Cases in Dawson
- **Roberts-Connick**  
Frontier  
Lincoln  
Conflict Cases in Dawson
- **Steenburg**  
Arthur  
Chase  
Dundy  
Keith  
Perkins
- **Wightman**  
Dawson  
Gosper

County Court Judicial District 11  
 Total Workload Minutes  
 Sum (cases x weight)

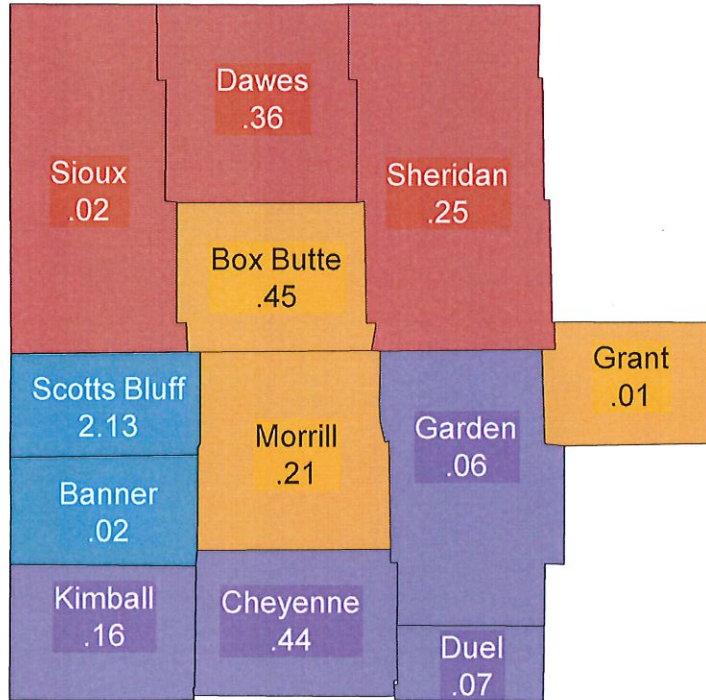


# Weighted Caseload Report

## 12<sup>th</sup> Judicial District – County Court

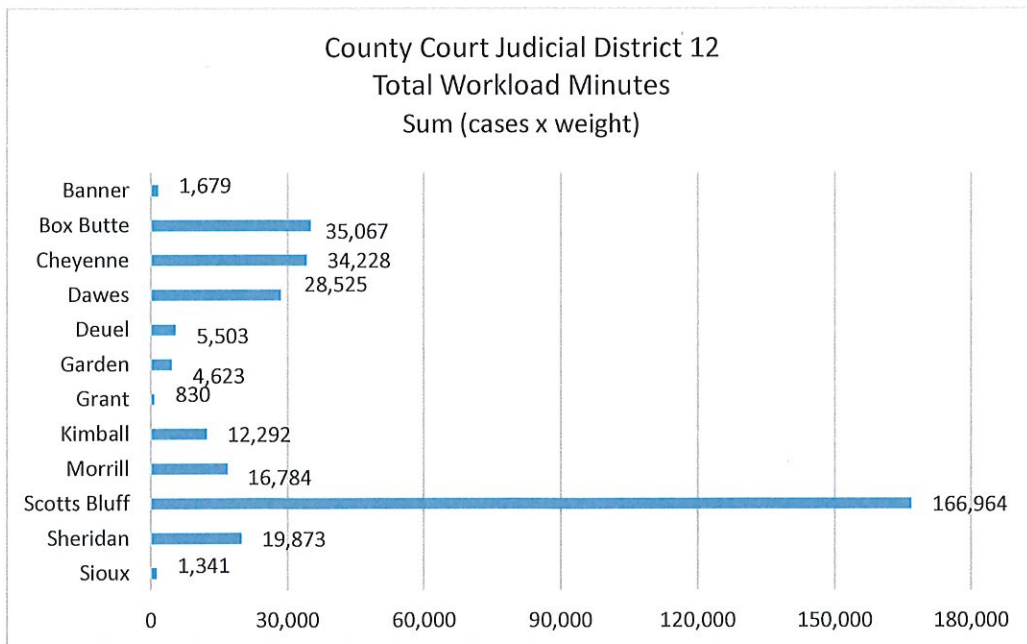
County court need for judges: 4.18  
 Current number of judges: 5  
 Workload per judge: 0.84

Predicted judicial resources need by county



Judges Serving the 12th District

- **Conn (Harford)**  
Dawes  
Sioux  
Sheridan
- **Mickey**  
Banner  
Scotts Bluff
- **Roland**  
Cheyenne  
Deuel  
Garden  
Kimball
- **Wess**  
Box Butte  
Grant  
Morrill
- **Worden**  
Banner  
Scotts Bluff



# Weighted Caseload Report

## Court Case Type Categories and Weights – Appendix

District Court Case Types	2021 Case Weight (minutes)
Problem Solving Court Cases	683
Protection Orders	32
Civil	219
Class I Felony	367
Other Criminal	149
Domestic Relations	97
Appeals	343
Administrative Appeals	540
County Court Case Types	2021 Case Weight (minutes)
Protection Orders	32
Felony	26
Misdemeanor	23
District Court: Adult Problem-Solving Court	683
Traffic	1
Civil	8
Probate	61
Guardianship/Conservatorship	133
Small Claims	30
Adoption	92
Domestic Relations	97
Juvenile: 3A Children	487
Juvenile: Delinquency	100
Juvenile: Status Offender 3B	37
Juvenile: Mentally Ill and Dangerous 3C	265
Juvenile: Bridge to Independence (B21)	58
Juvenile: Interstate Compact Hearings/Filings	2
Juvenile: Problem-Solving Court Cases	654
Separate Juvenile Court Case Types	2021 Case Weight (minutes)
Adoption	49
Domestic Relations	26
Juvenile: 3A Children	487
Delinquency	136
Status Offender 3B	54
Mentally Ill and Dangerous 3C	265
Bridge to Independence B21	36
Interstate Compact Hearing/Filings	2
Problem Solving Court Cases	654

# Nebraska Judicial Branch

## Weighted Caseload Report

# District Courts

Reporting Period  
Calendar Year 2022

Jan. 1, 2022 to  
Dec. 31, 2022



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**5<sup>th</sup> Judicial District ..... 7**

**6<sup>th</sup> Judicial District ..... 8**

**7<sup>th</sup> Judicial District ..... 9**

**8<sup>th</sup> Judicial District ..... 10**

**9<sup>th</sup> Judicial District ..... 11**

**10<sup>th</sup> Judicial District ..... 12**

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**12<sup>th</sup> Judicial District ..... 14**

**Court Case Type Categories and Weights - Appendix ..... 15**

# Weighted Caseload Report

## Nebraska District Courts Weighted Caseload Report

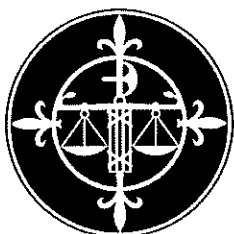
Nebraska has a district court in each of its 93 counties, organized into 12 Judicial Districts. Pursuant to Neb. Rev. Stat. § 24-301.02, the Legislature determines the number of district court judges who serve in each judicial district, and the geographic boundaries of each judicial district. An objective assessment of judicial workload allows informed decisions about district boundaries and the number of judges needed to timely resolve the cases in each judicial district.

To assist in evaluating judicial workloads, Neb. Rev. Stat. § 24-1007(1) requires the Nebraska Administrative Office of the Courts and Probation (AOCP) to compile judicial workload statistics based on caseload numbers weighted by category of case. These weighted caseload statistics are used by the Judicial Branch, the Judicial Resources Commission, and the Legislature to evaluate judicial need, and guide decisions and recommendations on how best to allocate judicial resources across the state.

To ensure the validity, uniformity and accuracy of the AOCP's judicial workload statistics, a statewide judicial time study was conducted in 2019-2020 under the direction and leadership of the National Center for State Courts. For a full description of the judicial time study and the recommended weighting methodology and standards, see *Nebraska Judicial Workload Assessment Final Report* (October 2020) on the Nebraska Supreme Court Website. Because this Weighted Caseload Report utilizes the methodology and standards from the 2020 workload assessment, direct comparison to archived reports is not recommended.

No quantitative judicial workload assessment method, including the weighted caseload method, can determine the exact number of judges needed within each court. For example, judges may be asked to assist non-home districts to ensure speedy trials for all involved and that one district is not unduly overburdened. However, in that case, the Full-Time Equivalent (FTE) estimate without a weight for cases heard outside of their home district may underrepresent the actual FTE of both those districts. Left unadjusted, not only adds artificial FTE to the districts being assisted but the FTE for judge assistance between districts is also left unknown. To address this challenge, the Research and Data Team has developed a ratio of assistance to overall FTE. The weight for the help provided or received will be denoted at the top of the page in red.

Weighted caseload statistics approximate the number of judges needed to handle the current caseload based upon the calculations of a three-year rolling average of case filing data. Therefore, when weighted caseload statistics are examined in conjunction with other compelling and critical metrics, they provide a vital part of an objective and standardized assessment of judicial needs and the fair allocation of judicial resources across juvenile courts in the State of Nebraska.



**Corey R. Steel | Nebraska State Court Administrator**  
**Nebraska Supreme Court**  
**Administrative Office of the Courts & Probation**

Rm. 1213 State Capitol | P.O. Box 98910 | Lincoln, NE 68509

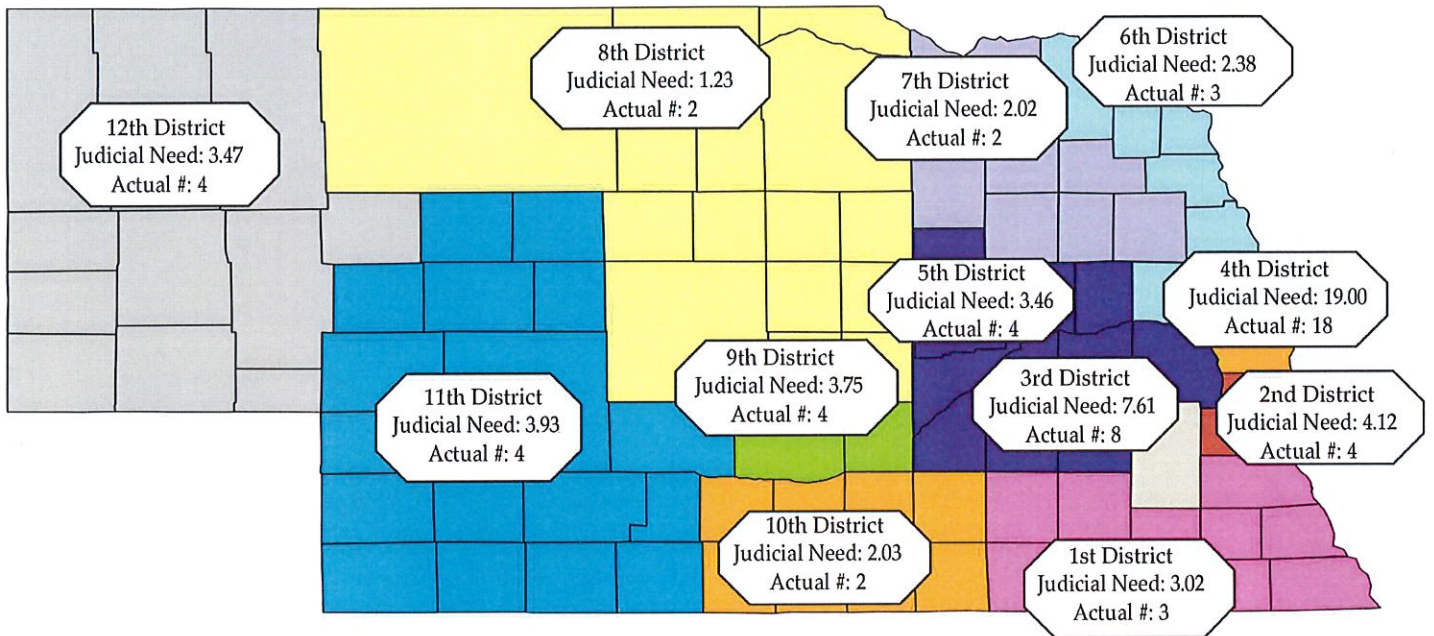
# Weighted Caseload Report

T 402.471.3730 | F 402.471.2197

[www.supremecourt.ne.gov](http://www.supremecourt.ne.gov)

## Nebraska District Court Judicial Needs

Calendar Year 2022 (Jan. 1, 2022 – Dec. 31, 2022)



Note: Differences between the total District Court Need for Judges and the sum of individual counties is due to rounding to the nearest one-hundredth.

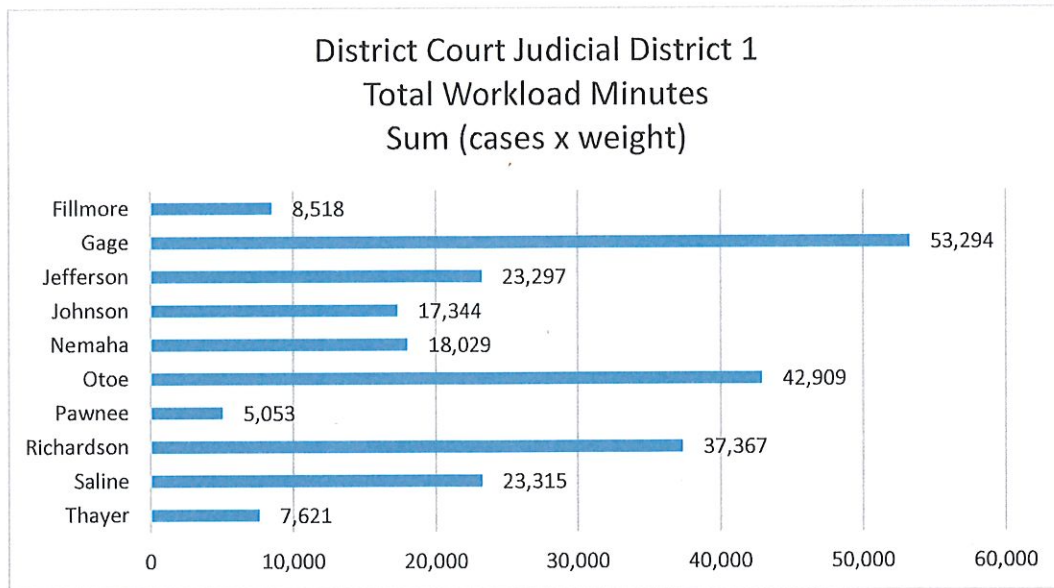
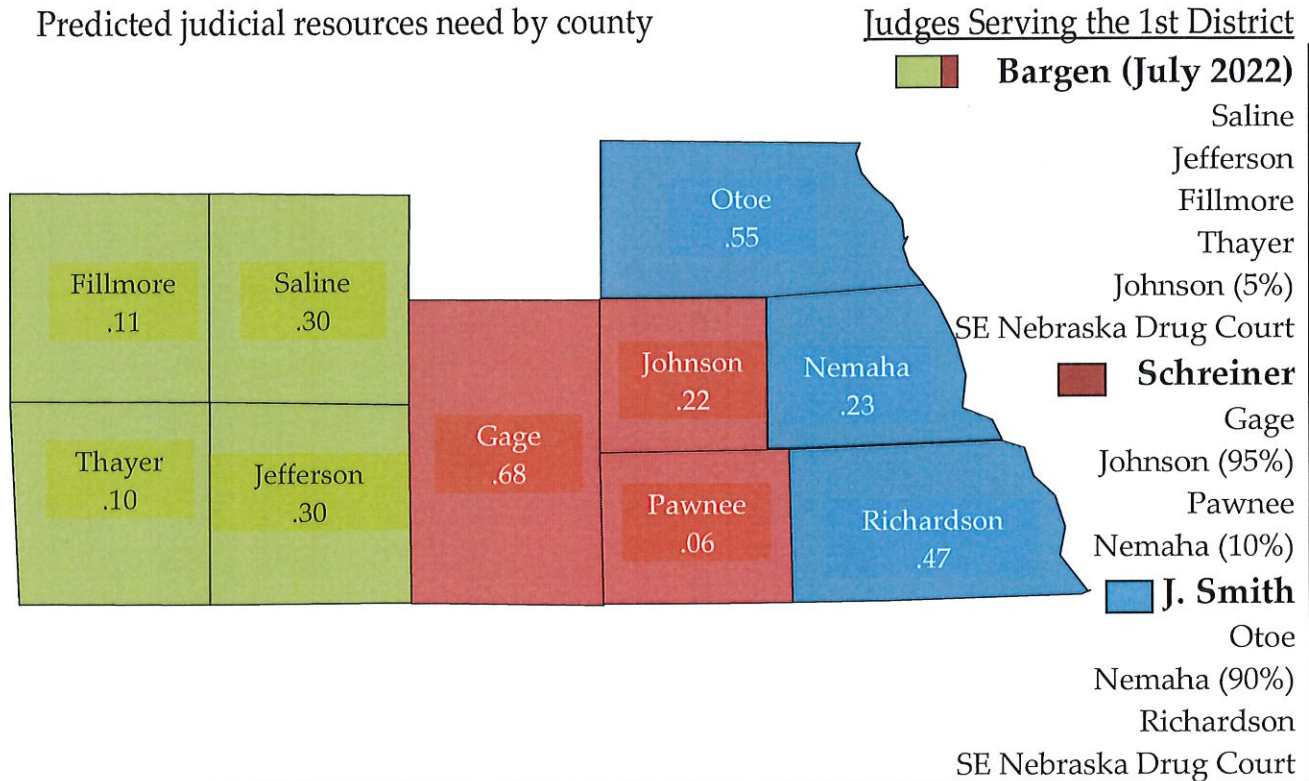


# Weighted Caseload Report

## 1<sup>st</sup> Judicial District – District Court

District court need for judges: 3.02  
 Current number of judges: 3  
 Workload per judge: 1.01

Predicted judicial resources need by county

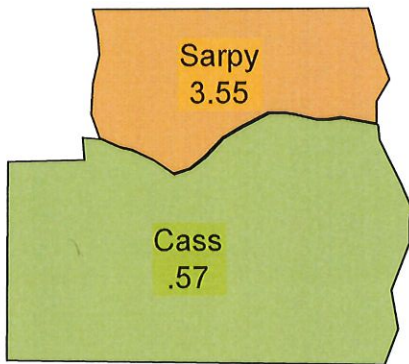


# Weighted Caseload Report

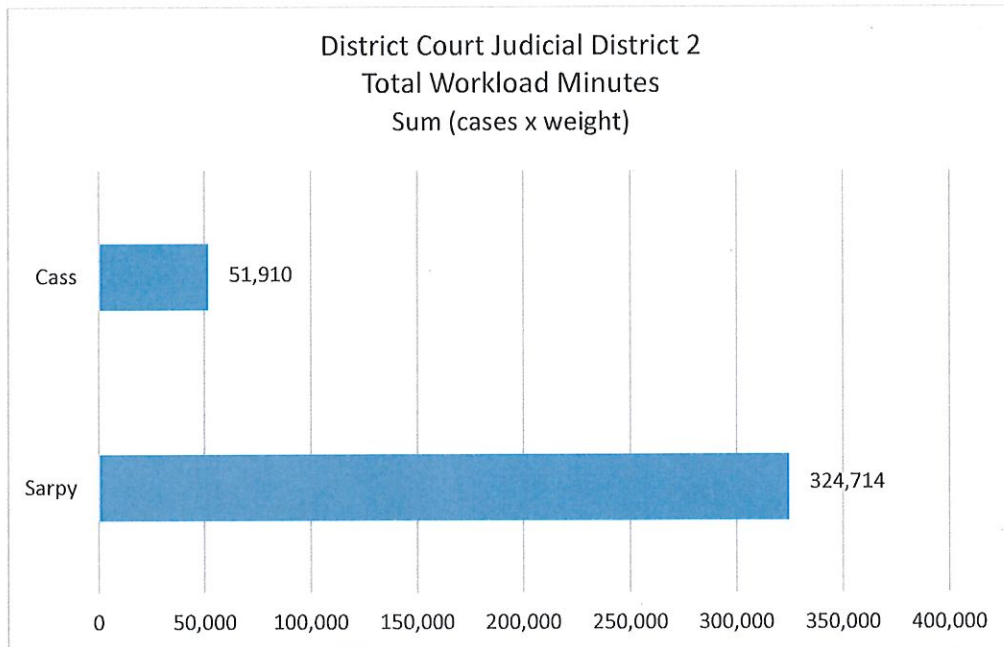
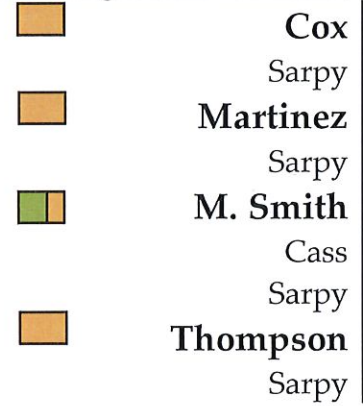
## 2<sup>nd</sup> Judicial District – District Court

District court need for judges: 4.12  
 Current number of judges: 4  
 Workload per judge: 1.03

### Predicted judicial resources need by county



### Judges Serving the 2nd District

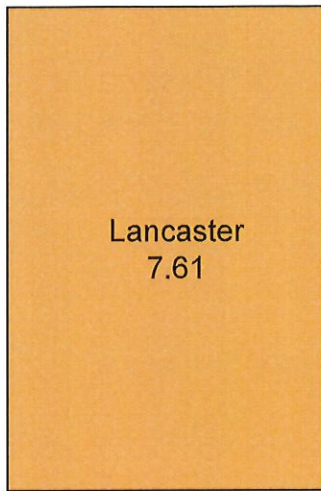


# Weighted Caseload Report

## 3<sup>rd</sup> Judicial District – District Court

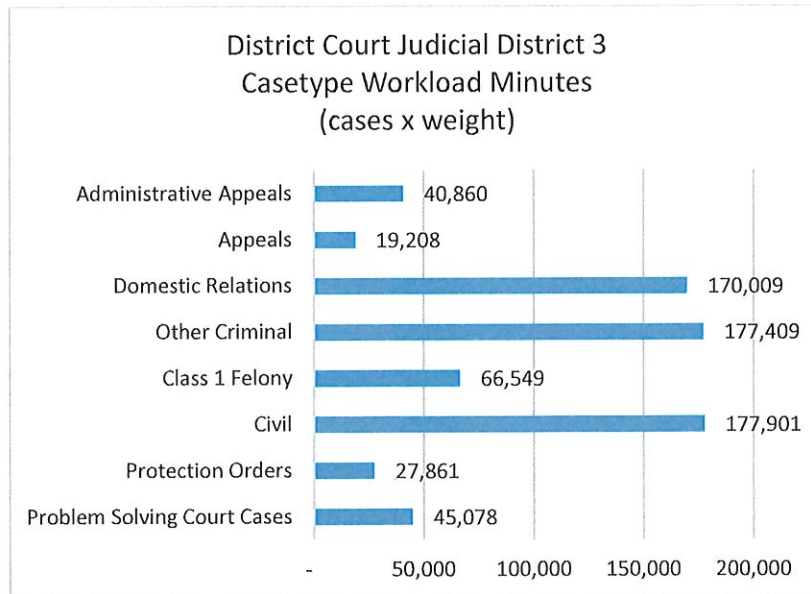
District court need for judges: 7.61  
 Current number of judges: 8  
 Workload per judge: 0.95

### Predicted judicial resources need by county



### Judges Serving the 3rd District

- Ideus**
- Jacobsen**
- Maret**
- McManaman**
- Nelson**
- Vacant (Otte)**
- Post**
- Strong**

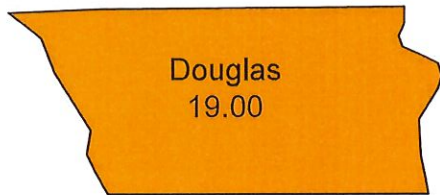


# Weighted Caseload Report

## 4<sup>th</sup> Judicial District – District Court

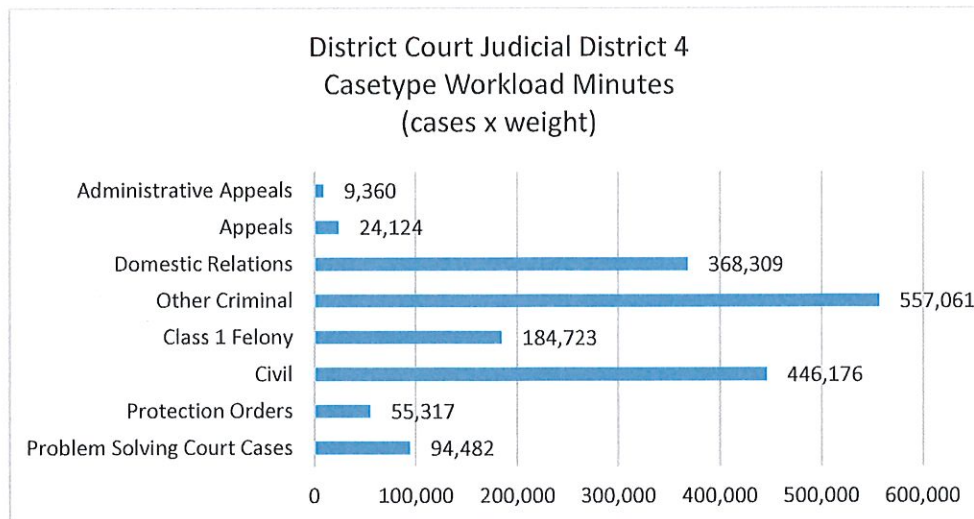
District court need for judges: 19.00  
 Current number of judges: 18  
 Workload per judge: 1.06

Predicted judicial resources need by county



Judges Serving the 4th District

- Alioth
- Bataillon
- Benson (July 2022)
- Bowie
- Burns
- Coffey
- Derr
- Dougherty
- Engleman
- Keane
- Lux
- Masteller
- Miller Pankonin
- Polk
- Retelsdorf
- Srb
- Stratman
- Wheelock



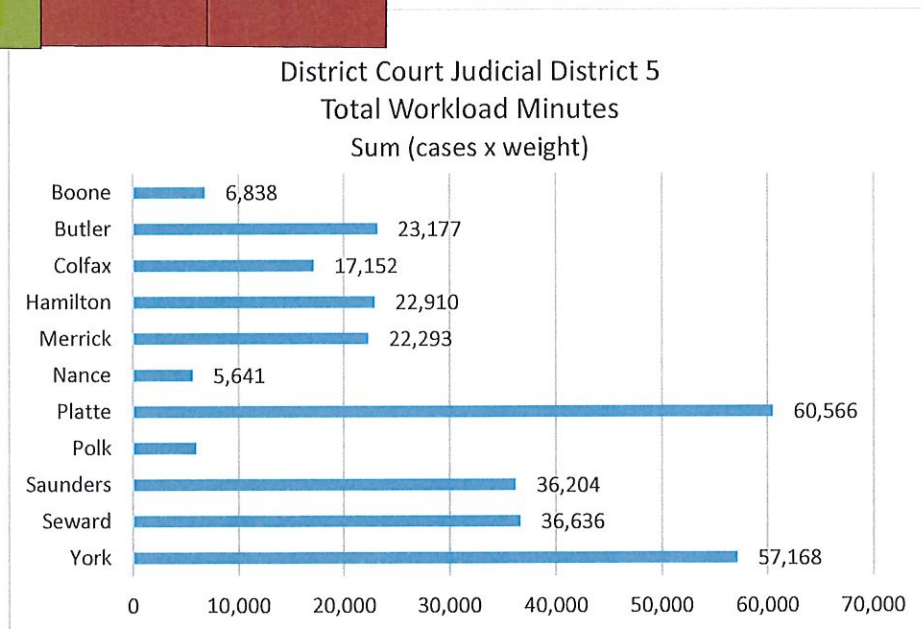
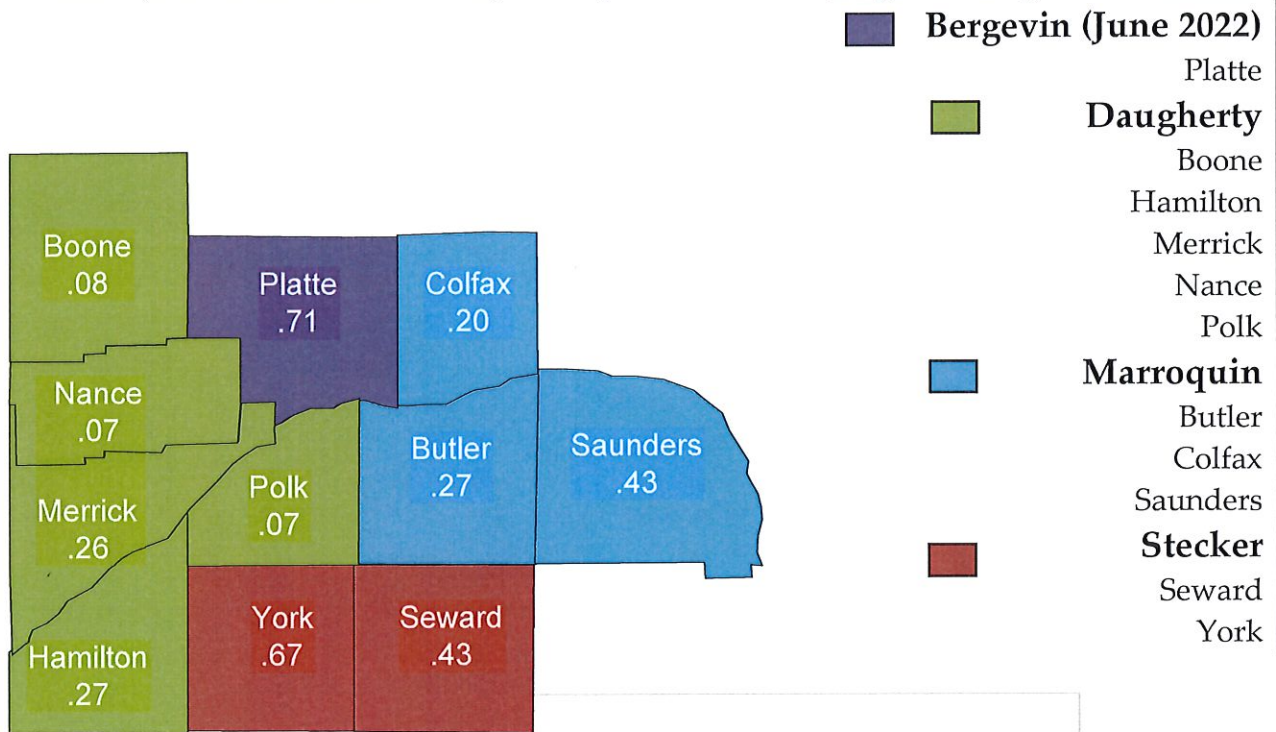
# Weighted Caseload Report

## 5<sup>th</sup> Judicial District - District Court

District court need for judges: 3.46  
 Current number of judges: 4  
 Workload per judge: 0.87

Predicted judicial resources need by county

Judges Serving the 5th District

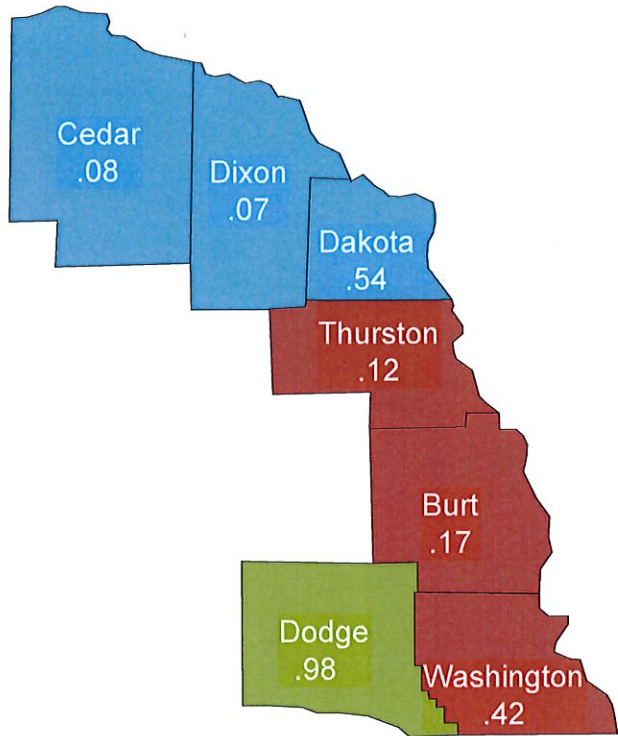


# Weighted Caseload Report

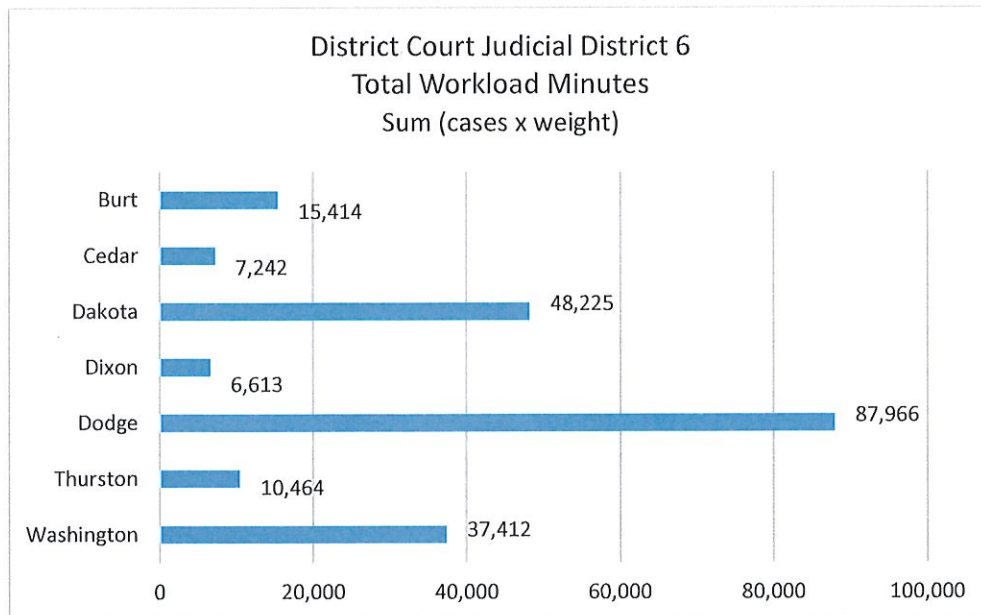
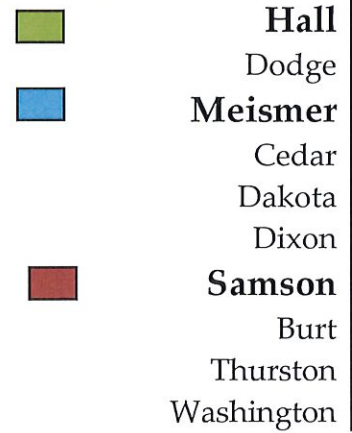
## 6<sup>th</sup> Judicial District – District Court

District court need for judges: 2.38  
 Current number of judges: 3  
 Workload per judge: 0.79

Predicted judicial resources need by county



Judges Serving the 6th District

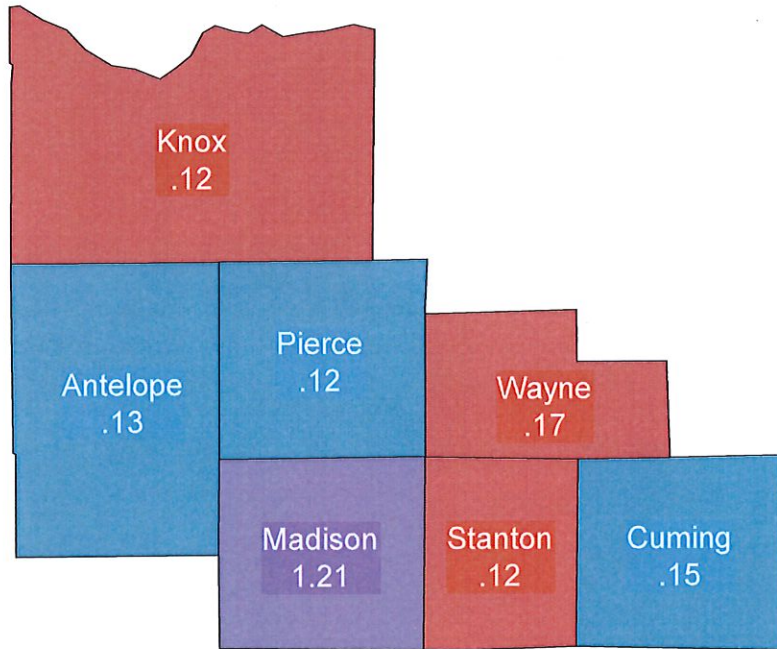


# Weighted Caseload Report

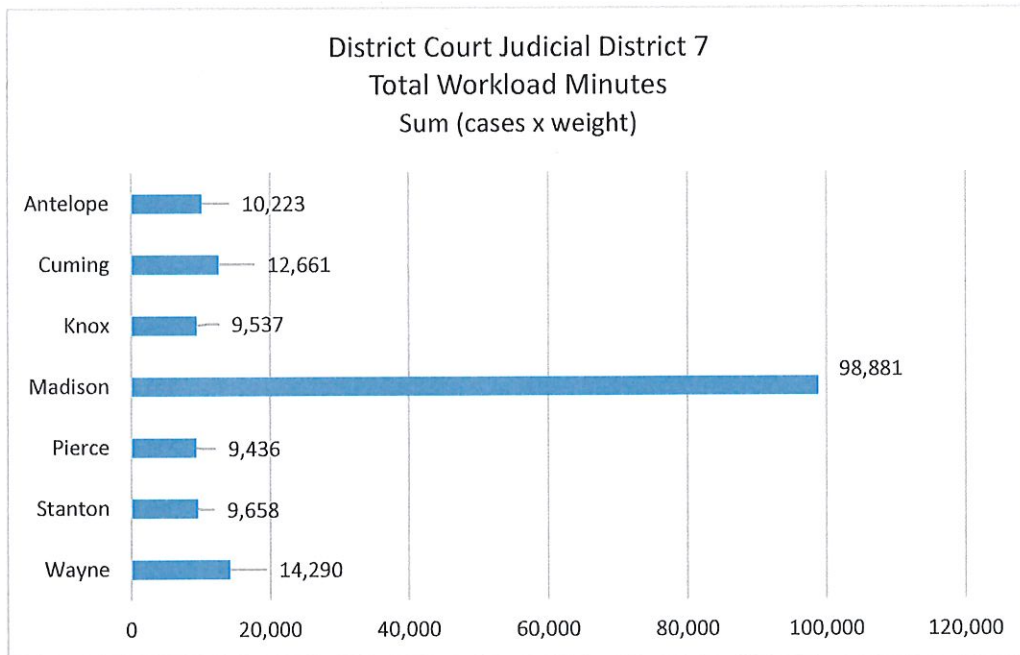
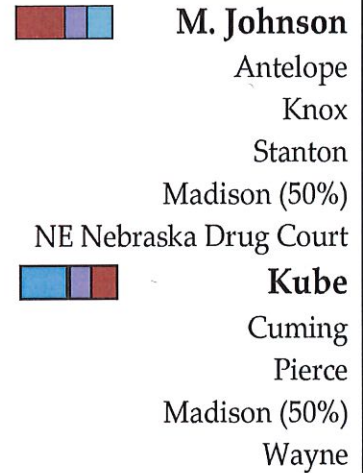
## 7<sup>th</sup> Judicial District – District Court

District court need for judges: 2.02  
 Current number of judges: 2  
 Workload per judge: 1.01

### Predicted judicial resources need by county



### Judges Serving the 7th District



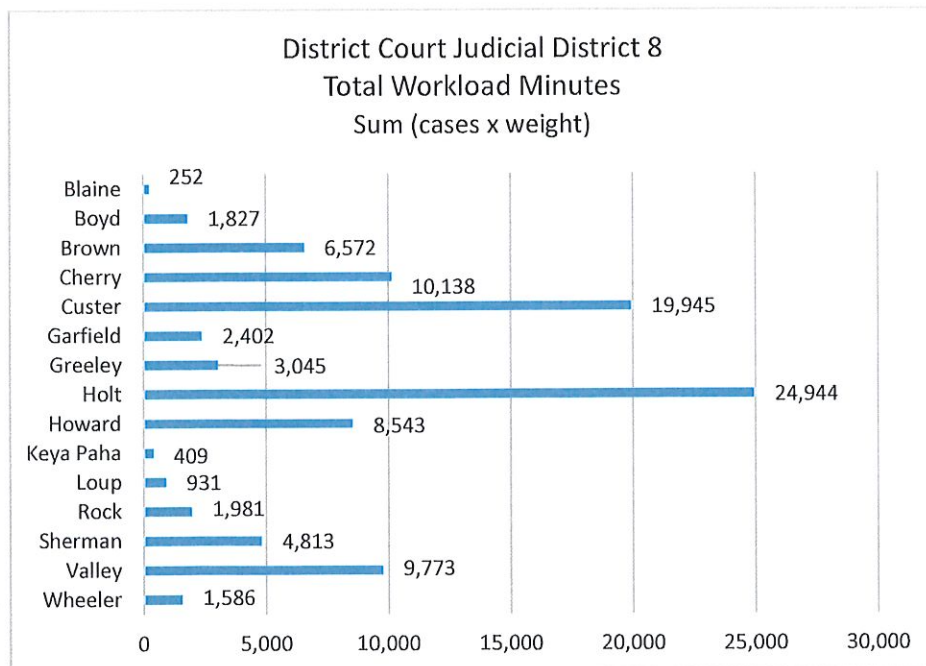
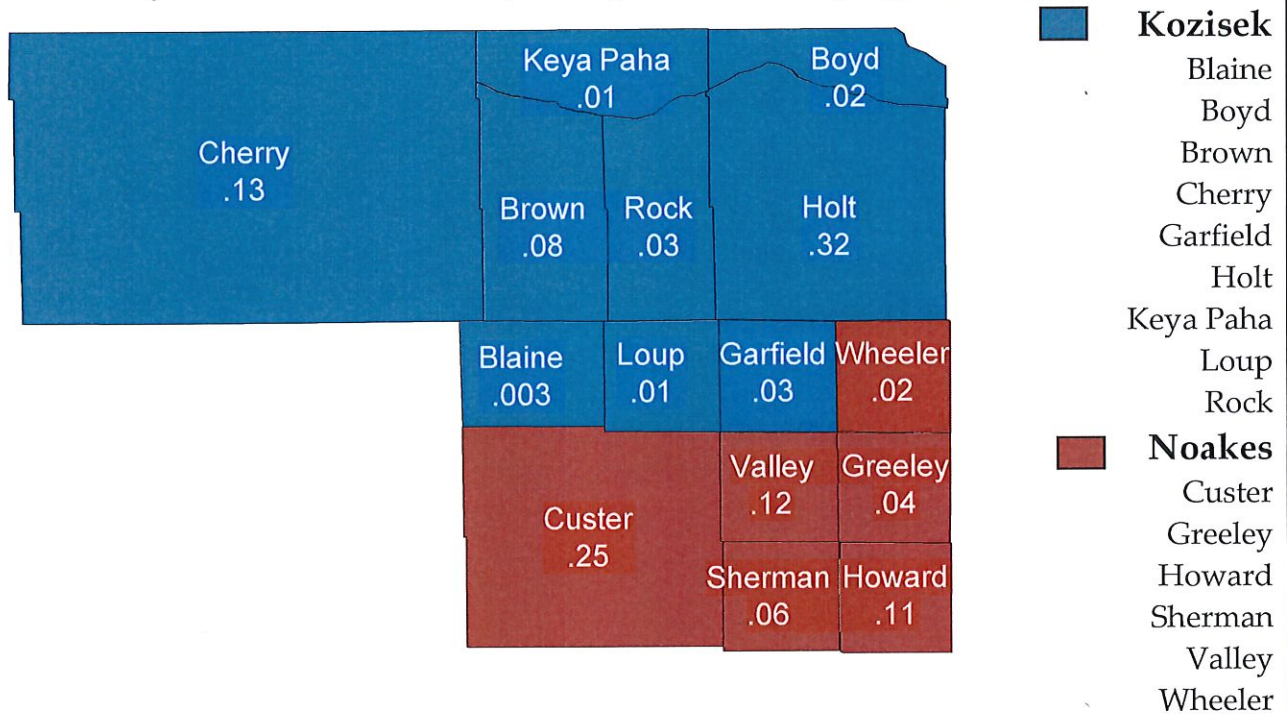
# Weighted Caseload Report

## 8<sup>th</sup> Judicial District – District Court

District court need for judges: 1.23  
 Current number of judges: 2  
 Workload per judge: 0.62

### Predicted judicial resources need by county

### Judges Serving the 8th District



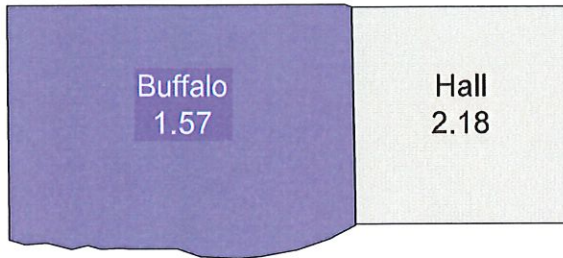


# Weighted Caseload Report

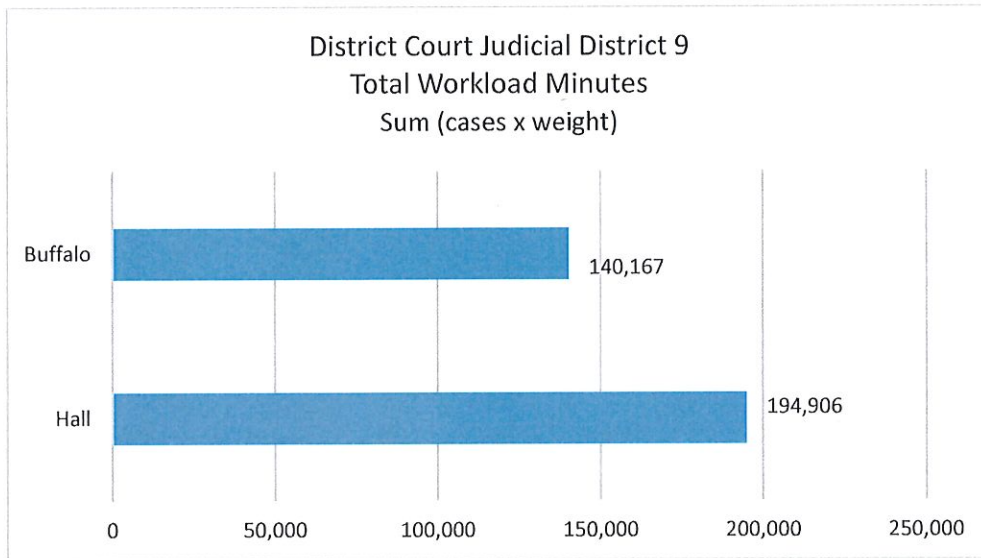
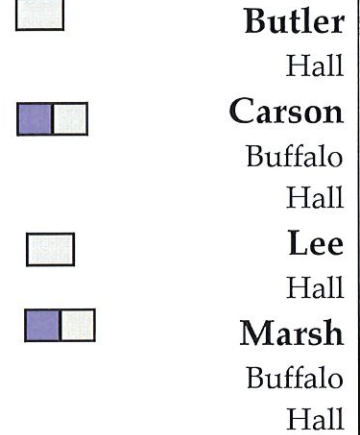
## 9<sup>th</sup> Judicial District – District Court

District court need for judges: 3.75  
 Current number of judges: 4  
 Workload per judge: 0.94

### Predicted judicial resources need by county



### Judges Serving the 9th District



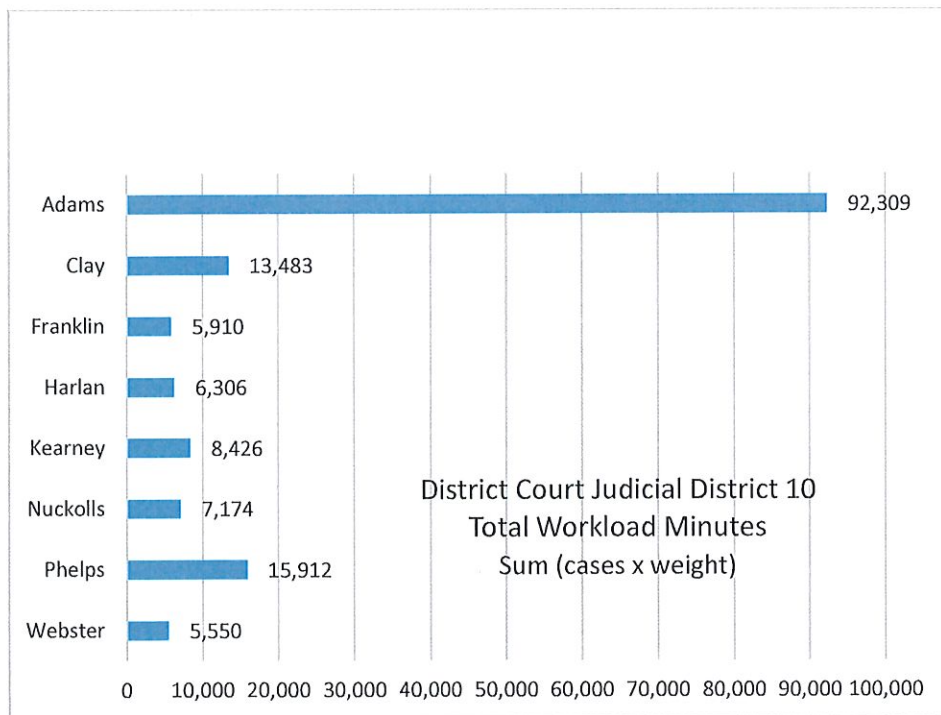
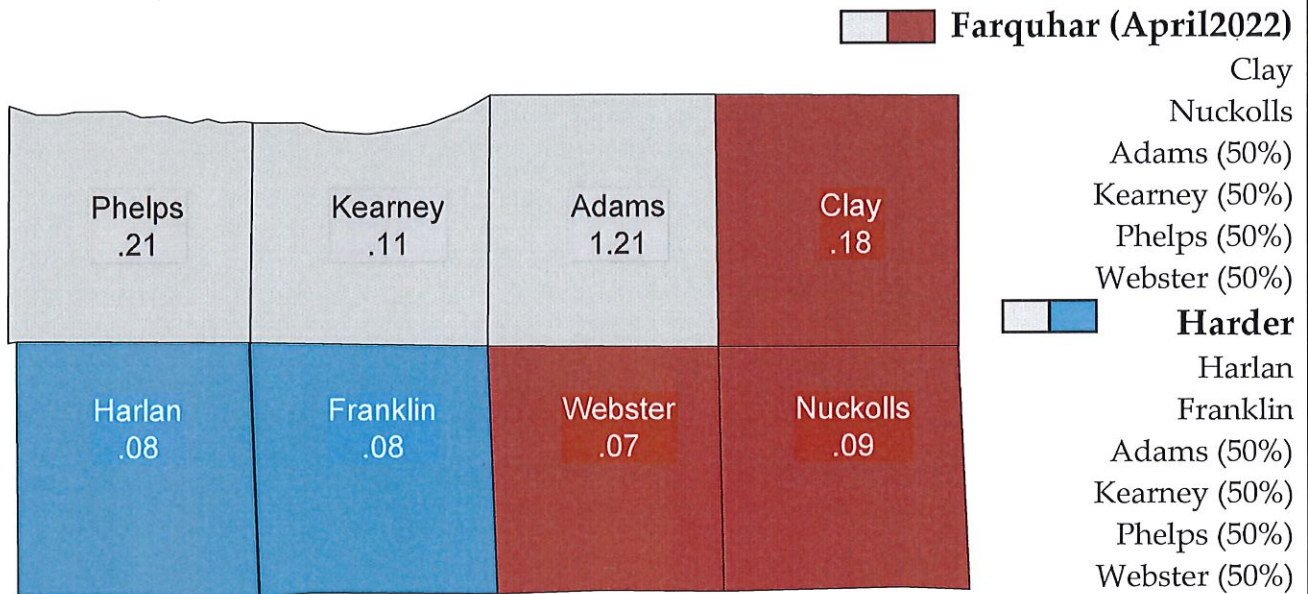
# Weighted Caseload Report

## 10<sup>th</sup> Judicial District – District Court

District court need for judges: 2.03  
 Current number of judges: 2  
 Workload per judge: 1.02

Predicted judicial resources need by county

Judges Serving the 10th District

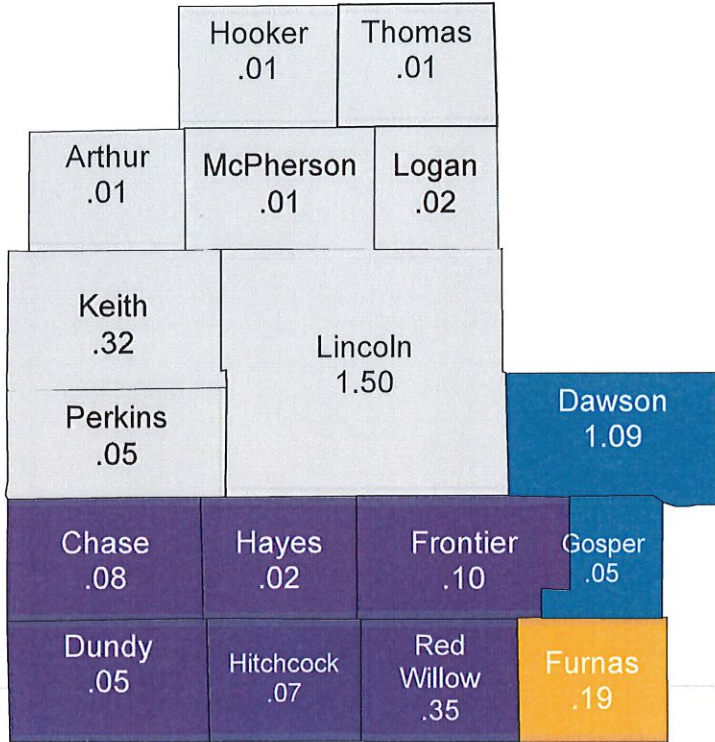


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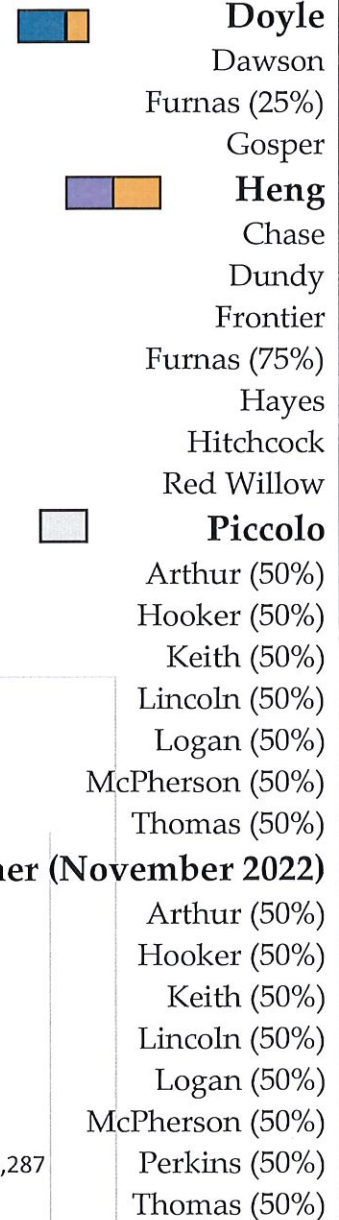
## 11<sup>th</sup> Judicial District – District Court

District court need for judges: 3.93  
 Current number of judges: 4  
 Workload per judge: 0.98

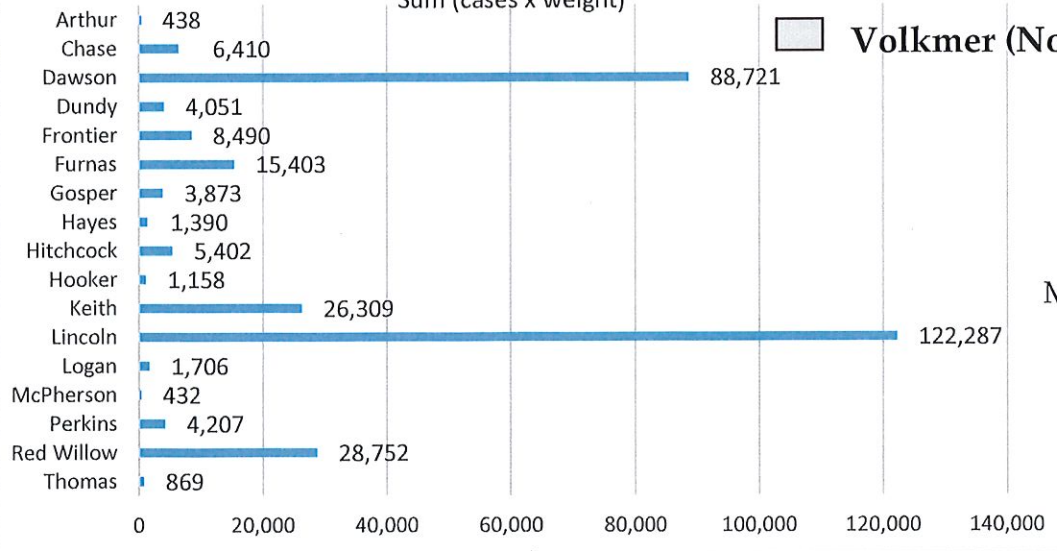
Predicted judicial resources need by county



Judges Serving the 11th District



District Court Judicial District 11  
 Total Workload Minutes  
 Sum (cases x weight)



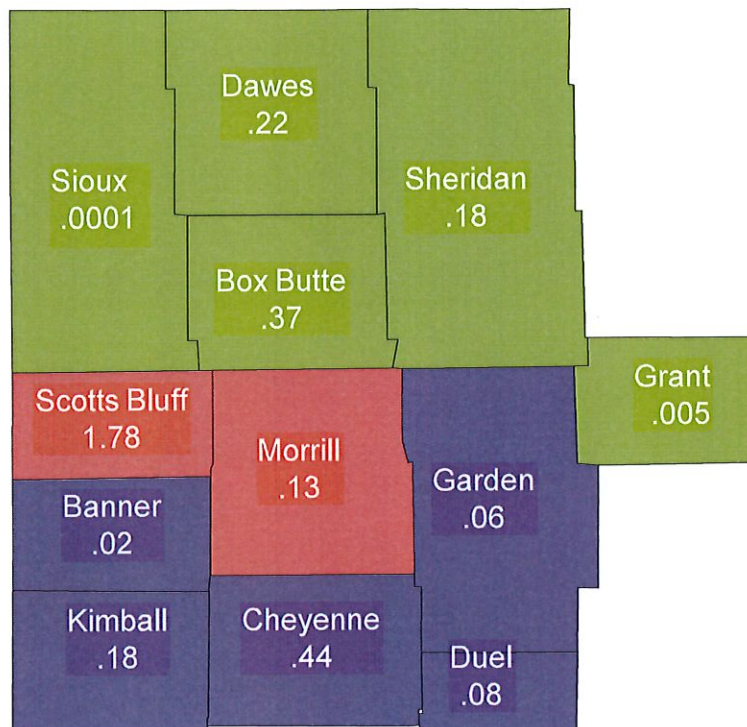
**Volkmer (November 2022)**

# Weighted Caseload Report

## 12<sup>th</sup> Judicial District – District Court

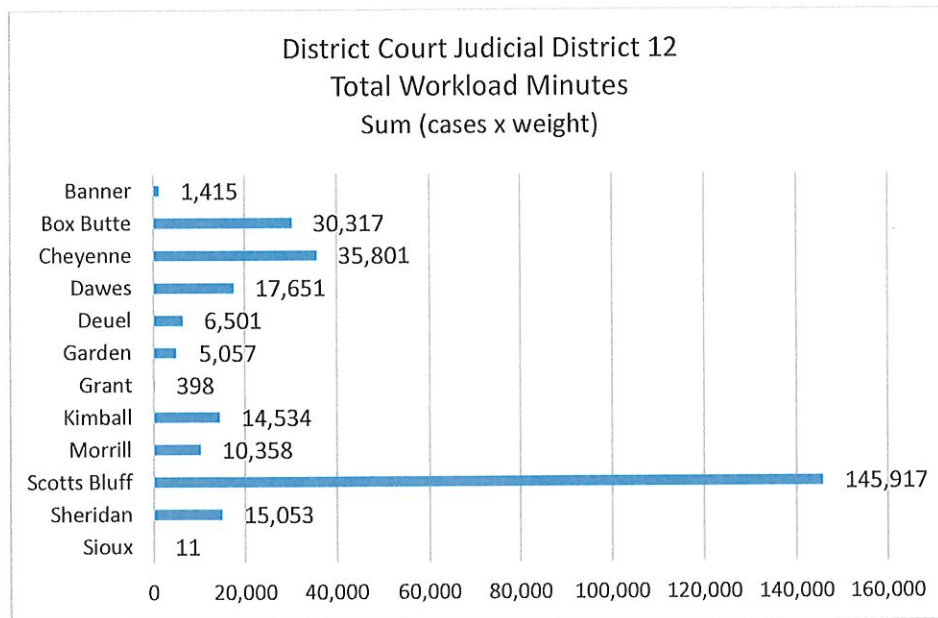
District court need for judges: 3.47  
 Current number of judges: 4  
 Workload per judge: 0.87

### Predicted judicial resources need by county



### Judges Serving the 12th District

- **Dobrovolny**  
Morrill  
Scotts Bluff
- **Miller**  
Morrill  
Scotts Bluff
- **O’Gorman**  
Box Butte  
Dawes  
Grant  
Sheridan  
Sioux
- **Weimer**  
Banner  
Cheyenne  
Deuel  
Garden  
Kimball



# Weighted Caseload Report

## Court Case Type Categories and Weights – Appendix

District Court Case Types	2021 Case Weight (minutes)
Problem Solving Court Cases	683
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