

# State of the J U D I C I A R Y

*2014  
State of Nebraska  
Chief Justice Michael G. Heavican  
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**Nebraska Supreme Court**

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Michael G. Heavican, Chief  
John F. Wright  
William M. Connolly  
Kenneth C. Stephan

Michael McCormack  
Lindsey Miller-Lerman  
William B. Cassel

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**State Court Administrator**

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Janice K. Walker

*“LB561 is one of the most influential and forward pieces of legislation to be passed by our State Legislature . . .”*

*“. . . as with any new program, details need to be worked out and refined, but in my 24 years of working in the juvenile justice system, it is my opinion that LB561 will be recognized as a ‘game changer’ in helping our youth.”*

*~ Dick Shea, Director of the Sarpy County Juvenile Justice Center and a long-time leader in juvenile justice in Nebraska*



## State of the Judiciary 2014

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Mr. President, Mr. Speaker, Members of the Legislature, and fellow Justices of the Nebraska Supreme Court. I would like to thank the members of this legislative body, and specifically thank Speaker Greg Adams, for once again inviting me to address you.

As always, it is an honor for me to report on the Court's accomplishments during the last year and to discuss the Court's future. First, let me introduce my fellow Justices.

To my immediate right is Justice John Wright of Scottsbluff. Next to Justice Wright is Justice Kenneth Stephan of Lincoln. To the right of Justice Stephan is Justice Lindsey Miller-Lerman of Omaha.

To my immediate left is Justice Michael McCormack also of Omaha. And to Justice McCormack's left is Justice William Cassel of O'Neill. Justice William Connolly of Hastings is unable to be with us today.

The core mission of our Judicial Branch is to do justice, resolve disputes, provide equal protection to all citizens, and ensure due process of law. That mission has not changed since Nebraska became a state in 1867, but how we carry out that mission has changed over the years. And 2013 was a year of especially significant change for Nebraska's courts.

Today I will speak to you about the change in the Judicial Branch's service to juveniles; sentencing alternatives in adult courts; guardianship reform; evaluation of Nebraska's Parenting Act; Judicial Branch technology; and the ongoing challenge of providing language access in our courts.

### **Service to Juveniles**

First, as you are aware, the Judicial Branch has embarked on one of its biggest challenges in recent years: The statewide expansion of juvenile justice within our probation system, which began with the passage of LB561 in May 2013.

Many people have been involved in this project. I would especially like to extend my gratitude to Senators Brad Ashford, Kathy Campbell, and Bob Krist for their considerable leadership efforts in seeing this reform materialize. I would also like to thank our probation staff. Upon passage of LB561, they immediately began working toward implementation of this important legislation.

To quote a long-time leader in juvenile justice in Nebraska, “LB561 is one of the most influential and forward [looking] pieces of legislation to be passed by our State Legislature [and] will be recognized as a ‘game changer’ in helping our youth.”

To implement LB561, the Office of Probation Administration is focused on four core objectives in the supervision of juveniles:

1. Fewer kids will be in detention or in foster care;
2. There will be earlier identification of the rehabilitative services needed for children and families;
3. Probation officers will proactively provide meaningful supervision for children and families to ensure access to appropriate services; and finally,
4. If out-of-home child placement is necessary, successful transition back into the family home and community will be a priority.

The implementation of LB561 has required skillful planning, scheduling, and cooperation with many of our local community and State partners. In addition to hiring and training 171 new Probation staff across the State, we have encouraged local communities to provide additional services for juveniles and their families.

We constantly seek updates from our judges, our Through the Eyes of the Child teams, and the Department of Health and Human Services. We have also taken advantage of community justice forums such as the one held in North Platte by Voices for Children and have participated at meetings of the Nebraska Association of County Officials and the State’s Regional Behavioral Health Administrators. We have found this community input to be a vital part of the system reform effort.

Likewise, I invite members of this Legislature, and all parties interested in assisting with the successful implementation of LB561, to contact our probation administration or local probation offices with comments, questions, or concerns.

The first year of the implementation process of LB561 is on schedule and will be completed by June.

## **Sentencing Alternatives**

Now I will speak to you about adult sentencing alternatives. In Nebraska, adult community corrections programs are staffed by probation officers. These officers are employed by the Supreme Court using State tax dollars, but they are stationed in our local county

courthouses. Community corrections alternatives to incarceration include drug and specialty courts and Probation's Specialized Substance Abuse Supervision programs, otherwise known as "SSAS."

Let me first call your attention to the Young Adult Court in Douglas County. Since 2004, the Young Adult Court has offered first-time, non-violent felons, who are between the ages of 16 and 22, a chance to avoid prison and work toward becoming productive citizens.

The program provides accountability through extensive supervision and frequent judicial oversight, while also offering a host of services such as employment, education, life-skills training, and adult mentors. The program's capacity was approximately 30 young adults, but because it was oversubscribed we have enlarged it to serve an additional 25 participants.

We are also working on improvements to Nebraska's drug courts. Since 1997, adult, juvenile, and family drug courts in Nebraska have served approximately 6,300 participants. At any given time, an average of 650 individuals and families are being supervised in drug courts across the State.

A recently completed statewide evaluation concluded that Nebraska's drug courts are cost-effective and are reducing crime and addiction. Additional information regarding problem-solving courts and our 5-year strategic plan for drug courts can be found on our Judicial Branch website.

We have also seen expansions and successes with other types of sentencing alternatives. As you may recall SSAS, a program I mentioned earlier, was initiated by our Probation staff. This program provides our courts with sentencing alternatives that combine intensive supervision with substance abuse treatment for felony probationers and parolees, but with less judicial involvement than drug courts.

A review of Probation's SSAS program in 2012 found that 91 percent of the individuals who successfully completed the program remained crime-free one year later. In 2013, 82 percent of SSAS probationers were gainfully employed upon successful completion of the program, up from a 78 percent rate in 2012.

SSAS programs utilize reporting centers in communities around the State. As of June 2013, reporting centers collectively offered 143 different rehabilitative and support services intended to promote behavior change and improve accountability. In the reporting centers alone, 65,925 drug tests were administered in 2013.

Last year this Legislature supported offering a “limited services” reporting center in Scotts Bluff County. You also supported adding a SSAS officer for the first time in Hall County -- and that officer’s caseload reached capacity within 60 days.

SSAS currently has a capacity of 336 probationers statewide. Due to the demand in the program, we are now 20 percent over that capacity and without further resources will not be able to accept more participants.

## **Guardianships**

Now I will speak to you about guardianship reform. A little over a year ago the Supreme Court established a Commission on Guardianships and Conservatorships. In spite of efforts by the Commission, our courts, and this Legislature, ensuring the protection of incapacitated adults continues to be a challenge.

In November the State Auditor released a report that included allegations of criminal activity by a person serving as guardian in a number of county courts across the State. These appointments were initiated by the State’s Department of Health and Human Services, the Federal Veteran’s Administration, family members, medical professionals, and nursing homes. The accused has since resigned or been removed from the over 200 active cases for which she had been appointed to serve as guardian.

I would like to thank our county court judges and staff for their responsiveness following the audit. I would also like to thank the many volunteer lawyers and community members across the State who stepped forward to meet the needs of protected individuals by accepting appointments as guardians ad litem and temporary guardians.

The judicial branch has identified these further reform actions:

- An internal alert system is being developed to notify all county courts when a guardian or conservator is removed for cause in any of our counties;
- County court staff will participate in further targeted judicial branch education on the implementation of additional safeguards;
- Government payors will be added as interested parties to receive copies of all reports filed by guardians and conservators in cases where those payors requested appointments; and
- Prospective guardians and conservators will be required to submit to the court, prior to appointment, a list of their other active guardian or conservatorship cases.

The lawyers, senators, judges, service providers, and accountants on our Supreme Court's Commission on Guardianships and Conservatorships have already begun to further review the issues that came to light during this most recent incident. It is crucial that we all continue to work together to create improved safeguards to protect those who might easily be harmed. We all have a responsibility to keep these individuals and their assets safe.

Finally, it is important to note that due to a rapidly aging population and smaller, geographically disbursed families, there are often no family members or interested individuals available to serve as guardians for our elderly, mentally ill, or developmentally challenged Nebraskans. Persons willing and able to serve as guardians are in very short supply. The courts, however, look forward to working with this legislative body and other interested parties to alleviate that shortage.

## **Service to Children and Families**

I now turn to matters involving the court's service to children and families each year in divorce and child support cases. Nebraska's Parenting Act, which governs divorce, underwent a significant legislative revision in 2007. Last year, a planned two-part evaluation of the Act was initiated to provide the Legislature, Judicial Branch, and the public with facts to determine whether the provisions of the Parenting Act are resulting in positive outcomes for children.

The first part of the evaluation began last May at the request of this Legislature. The Judicial Branch conducted a rigorous study of nearly 400 closed divorce and custody cases filed during the 10-year period from 2002 through 2012.

The study examined: rates of maternal and paternal custody and parenting time; whether mothers and fathers had lawyers; how many children were involved; rates of parental conflict; family income; court procedures; and the differences in custody before and after the 2007 Parenting Act revisions. This baseline study was released to the public on January 9th and is available on our Judicial Branch website.

This past October, the second and more in-depth part of the evaluation began. The results of this portion of the evaluation will provide us with an even more comprehensive analysis of program implementation, outcome results, and a cost-benefit study. Evaluators will seek input from legislators, family lawyers, parents, judges, and others as part of this intensive review.

## **Technology**

As I do each year, I will now give you a brief update on technology in the Courts. I am pleased to report that there were significant improvements to Judicial Branch technology during the past year. Bandwidth increases to enhance speeds at which courts can send and receive Internet data continue to be a focus. This year the cost of improving bandwidth to rural Nebraska courts was shared by the Supreme Court and the Department of Motor Vehicles, the Department of Health and Human Services, and the Secretary of State.

Most recently, courts in Cherry and Cheyenne Counties received a bandwidth upgrade which increased Internet speeds by nearly 60 percent. The use of increased bandwidth is important because courts are able to use video conferencing in more locations. Among other things, video conferencing allows us to provide remote interpreters and allows incarcerated individuals to participate in hearings without leaving correctional facilities. This saves money, increases access to justice, and lowers the risks inherent in transporting inmates and juveniles.

Good bandwidth is also necessary as we continue to expand our electronic filing system. Almost 65 percent of our 2012 county court civil filings were made electronically. By the end of 2013, that number was up to 70% of the nearly 91,000 civil cases filed.

Finally, over \$15 million in filing fees, fines, court costs, and other funds were electronically deposited in the courts last year. That represents over 195,000 financial transactions processed instantly, saving both time and money for the courts and our citizens.

## **Language Access**

I also annually report on language access issues in the courts. Ensuring justice to people with limited English language proficiency continues to be a challenge for Nebraska's courts. In 2013, the Judicial Branch provided interpreters in 38 languages for 21,000 persons in courts and probation offices across the State. We have hired two new interpreter coordinators to assist courts and probation officers in identifying, educating, and scheduling interpreters in hard to find languages.

Through video conferencing we provided Spanish interpreters for over 450 hearings, saving Nebraska taxpayers more than \$63,000 in travel and other expenses.

## **Conclusion**

In conclusion, Nebraska's Judicial Branch is growing, it's dynamic, and it's busy. Our dedicated judges, support staff, and probation employees are carrying out the Court's long-term mission to do justice, resolve disputes, provide equal protection to all citizens, and ensure due process of law in all 93 of Nebraska's counties.

The Supreme Court is very proud of the many accomplishments of our court family in the last year. We truly appreciate the support the Legislature has provided to the judiciary and we look forward to working with you in serving Nebraska's citizens in the coming year.

Again, thank you for the opportunity to speak with you today.

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## Judicial Branch Website Resources

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[www.supremecourt.ne.gov](http://www.supremecourt.ne.gov)

### **Nebraska State Probation (click on “Programs”)**

- Juvenile Services
- Reporting Centers
- Specialized Substance Abuse Supervision (SSAS)

### **Problem Solving & Drug and Courts (click on “Courts”)**

- Problem Solving & Drug Courts

### **Guardianships (click on “Programs”)**

- Guardianships/Conservatorships

### **Technology (click on “E-Services”)**

### **Language Access (click on “Programs”)**

- Access to Courts & Justice > Interpreters

### **Judicial Branch Education (click on “Programs”)**

- JBE – Judicial Branch Education

### **Judicial Branch Publications (click on “Administration”)**

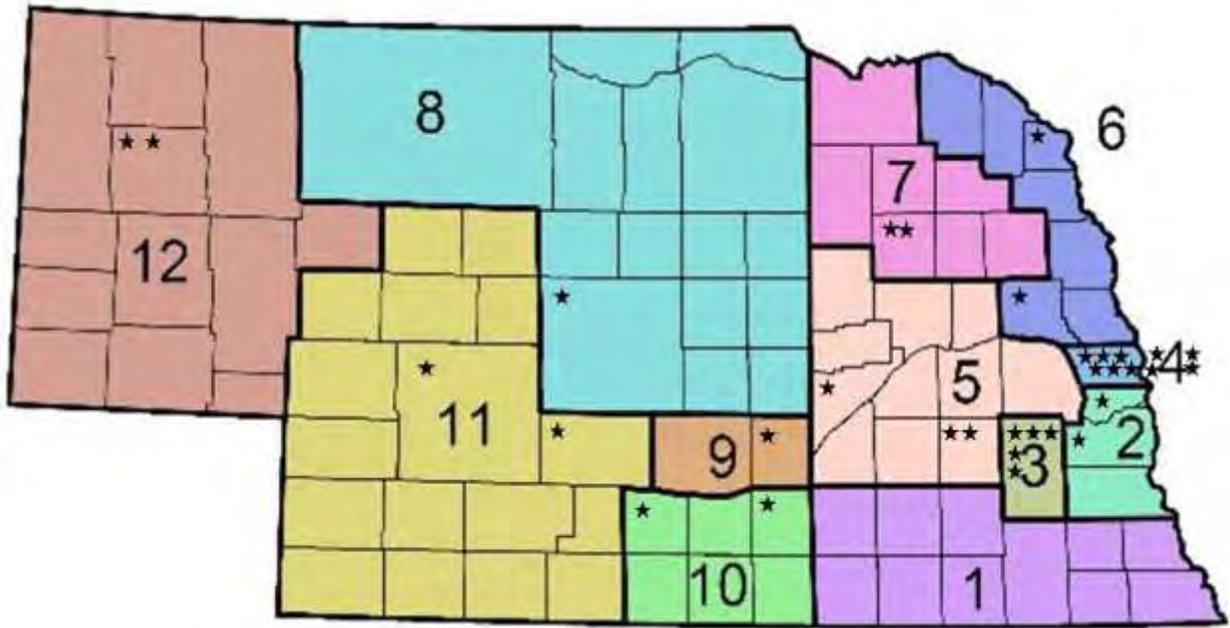
- Publications and Reports
  - Problem Solving Courts
    - 2012 Evaluation of Nebraska’s Problem-Solving Courts
  - Miscellaneous
    - 2002-2012 Custody Research Study

*Contact Administrative Office of the Courts & Probation, 402-471-3730, Room 1213 State Capitol*

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## Judicial Appointments 2011 - 2013

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The Judicial Branch has experienced a 25% turnover in judges since 2011. The map shows the home courts for 32 new trial court judges. In addition, Justice William B. Cassel moved from the Court of Appeals to the Supreme Court. The Court of Appeals has welcomed three new judges: Michael W. Pirtle, Francie C. Riedmann, and Riko E. Bishop.



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Cover Photo Courtesy of Bobbi and Steve Olson

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NEBRASKA SUPREME COURT



*Public Information*

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