

**REMARKS BEFORE THE SENATE BUDGET AND
APPROPRIATIONS COMMITTEE
BY JUDGE GLENN A. GRANT, ACTING
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Hearing Date: April 17, 2018

Good morning, Chairman Sarlo and other members of the Senate Budget and Appropriations Committee.

With me today are Assignment Judges Ronald Bookbinder, Karen Cassidy and Stuart Minkowitz as well as the director of our Office of Management and Administrative Services, Shelley Webster, and the director of our Information Technology Office, Jack McCarthy.

We welcome this opportunity to appear before you today and update the Senate on the continuing efforts of the state's judicial branch of government.

As always, on behalf of Chief Justice Stuart Rabner and the Justices of the Supreme Court, I want to publicly acknowledge the outstanding work of the judges in all of our courts – the Appellate Division, Superior Court, the Tax Court, and the Municipal Courts – and all of our Judiciary employees who make sure our court system operates efficiently, effectively, and independently. On a daily basis, their collective efforts reflect our strong commitment to the core values and principles that guide the New Jersey Judiciary.

When I last appeared before you, we had just started out on a historic change to reform our criminal justice system, a change built on the partnership of all three branches of government, law enforcement and the public.

A year later, New Jersey sits at the forefront of a growing national movement. Together, we have created a fairer criminal justice system that includes comprehensive bail reform, preventive detention, a pretrial services program to monitor defendants on pretrial release, and speedy trial requirements made possible through technological capabilities that cannot be matched by any other state.

As a state, we modernized and transformed a centuries-old cash bail system that allowed money to dictate which defendants were detained until trial and which were allowed to go free. No longer do those accused of low-risk crimes sit in jail for weeks and months simply because they cannot afford to pay modest amounts of

bail. Defendants who present a significant risk of violence are no longer able to buy their way back out onto the street.

Together, we have eliminated those injustices.

What we now have is a system that allows judges to base pre-trial justice decisions on a fair and evidence-based assessment of the risk a defendant poses.

Through technological advancements, judges now have immediate access to a defendant's entire criminal history, including their juvenile history and any history of domestic violence. Judges also have the benefit of the Public Safety Assessment, or the PSA, a scientifically validated objective risk assessment tool that measures the likelihood a defendant will commit a new crime while out on release or fail to appear in court on the scheduled date.

Armed with this information, the judge then makes the final decision about pretrial release.

That does not mean the public will be happy with every pretrial decision made or that every decision will result in a satisfactory outcome. As I said well before Criminal Justice Reform ever began, no criminal justice system can guarantee that every defendant released pretrial will obey the law or show up for court. The former system of cash bail certainly offered no such guarantee. Under the old system, judges were not even allowed to consider the risk of danger the defendant posed to the community. Defendants who were able to post bail were released into the community without any monitoring whatsoever.

In evaluating Criminal Justice Reform, it is important to look at the overall picture and not simply individual cases.

Over the course of 2017, more than 8,000 defendants – essentially those found to pose the greatest risk to public safety - were detained pretrial. Uniform Crime Report statistics from the New Jersey State Police showed both crime and violent crime decreased statewide during the first year of Criminal Justice Reform.

More than 31,000 defendants were released until trial under various levels of monitoring conducted by our pretrial services unit. Only 44 defendants were ordered to post monetary bail as a condition of release.

Over that same time period, New Jersey's pretrial jail population dropped 20 percent.

So, our collective efforts have created a fairer system, a safer system and a more efficient system. The vast majority of defendants arrested on warrants appear in court within 24 hours of being transported to the county jail. Speedy trial requirements, which impose time limits on a defendant's potential indictment and trial, are also being met.

The addition of 20 new judges has been essential in that effort as the Judiciary has assigned more judges to the Criminal Division than it has in many years.

Finally, we've created a statewide pretrial services unit of 267 managers, supervisors and staff that operate on a 24-hour per day, seven days a week schedule to respond to emergent monitoring alerts, manage caseloads and monitor defendants who are issued conditions of release.

For all of those reasons, New Jersey has become a national model for criminal justice reform. In November, the Pretrial Justice Institute released a report card evaluating the pretrial justice systems of all 50 states. New Jersey received the only "A."

Yet even as New Jersey takes a leadership role, Criminal Justice Reform appropriately remains a work in progress that requires our continued commitment and analysis. We continue to refine the program in response to changes in technology and input from stakeholders.

The state statute governing Criminal Justice Reform continues to be clarified and defined through case law developed from appeals by prosecutors and public defenders. Changes made to both court rules and Attorney General's Office guidelines rules addressed concerns about gun crimes and repeat offenders.

Of course, significant challenges remain.

First, the continued success of the Pretrial Services program requires a stable and dedicated funding stream at an appropriate level. Funding such an important ongoing court operation through court filing fees is simply not sustainable.

Revenue from filing fees dropped again this year. Expenses are projected to exceed revenues by \$13 million in Fiscal Year 2019. Even with large carryover

balances and reserves, and strict controls over spending, our projections show the Pretrial Services program will run out of money by the fourth quarter of 2020.

We continue to urge the Legislature and the governor to fund Criminal Justice Reform from regular state appropriations, with fees collected for the program deposited directly into the State Treasury.

Second, the key to the success of pretrial services is the ability to offer necessary services that provide defendants with the means to ensure their own success. The lack of available and affordable community-based substance abuse treatment, mental health treatment, and housing assistance programs has been a significant challenge for pretrial services, and that challenge will continue absent additional sustainable funding. Defendants must have access to the services they need if they are going to turn their lives around.

The third challenge involves our ability to collect certain data measuring the performance of Criminal Justice Reform.

For years, we captured criminal data based on charges and cases. Just as we created a new pretrial services unit, we had to create a new paradigm to track individual defendants. We are currently in the process of collecting five years of pre-Criminal Justice Reform data so that we can make comparisons through a standardized unit of measurement. This is essential if we are to present an accurate picture of the progress of Criminal Justice Reform and its impact on both public safety and the protection of civil liberties.

Part of that picture will include rates for recidivism and failures to appear. They are important measuring sticks, but they take a significant amount of time to track because they require a case first be followed to conclusion. Statistics compiled and released before cases conclude would present an inaccurate and misleading picture. The anticipated life cycle of CJR cases is 270 days, which means a significant percentage of 2017 cases have not been resolved yet.

It is also worth noting that few other states have the technological capability to accomplish what we are attempting to achieve. New Jersey's ability to electronically collect, analyze and measure this type of data on a statewide level is unparalleled.

Technology plays a crucial role in just about everything we do in the Judiciary.

Through eCourts, we have automated most aspects of the pretrial process, creating efficiencies in case management and a streamlined process for court staff. We also established a virtual courtroom to hold hearings on weekends without draining county resources.

In the past year, we continued to expand eCourts to new areas, adding eFiling in Probation, Family and our Civil Law docket. As of January 2018, electronic filings through e-courts civil was mandatory in all vicinages for attorneys. Pro Se litigants can now register to view documents and receive electronic notices in our Tax Court.

I would like to address one other area that has seen great improvement in terms of efficiency.

The Judiciary's residential foreclosure process has often been cited as the primary cause of delay in moving foreclosure properties to sale. That quite simply is not the case.

The Judiciary's responsibility in regard to foreclosures involves only the portion of time required to move the matter from complaint to judgment. Both foreclosure filings and the time to judgment are declining dramatically.

In October 2012, active foreclosure filings reached a record high with more than 138,000 matters pending in the Superior Court. Today, there are less than 30,000 active foreclosure cases filed with the court. That's a 77 percent decrease in little more than five years.

The average days to judgment decreased 82 percent, from 1,350 days in 2010-11 to 248 days in court year 2016-17.

Those improvements would not have happened without significant measures taken by the Judiciary. Today, the Superior Court Clerk's office handles foreclosure mediations. There has been an increase in staff, more dismissals of cases that lenders failed to timely prosecute, and a greater emphasis on resolving old cases.

I want to thank Speaker Coughlin and Senator Oroho for their commitment to this issue. Both serve on the Special Committee on Residential Foreclosures, commissioned by the Chief Justice, which continues to look at the average length of time it takes to complete foreclosures. The committee expects to submit its report to the Chief Justice in the near future.

Criminal Justice Reform, technology and foreclosures are just three areas that serve as powerful testaments to our ability to work together among all three branches of government.

We also continue to work together with the other two branches on innovative solutions to some of the most intractable societal issues confronting our communities in New Jersey, such as, the opioid crisis; prison overcrowding; juvenile delinquency, and domestic violence.

New Jersey's Drug Court program has never been more important than it is today. The program continues to offer defendants an opportunity to make a fresh start and rejoin the workforce clean and sober and without the burden of a public criminal record. Mandatory drug court is now statewide and enrollment is currently at a record high.

A look at the facts shows drug court graduates are far more likely to improve their level of education, gain employment, obtain a valid driver's license, and acquire medical benefits. Graduates are also far less likely to reoffend. Only 2.7 percent of drug court graduates return to prison within three years of graduation as compared to the 30 percent of defendants who serve a prison sentence and then return to prison in that same three-year time frame.

The New Jersey Intensive Supervision Program provides another cost-effective alternative to incarceration. ISP permits carefully selected nonviolent offenders to serve the remainder of their state prison sentences in the community under rigorous

New Jersey's Juvenile Detention Alternatives Initiative (JDAI) program is a national model with several other states having visited to learn about our program. JDAI works to reduce the number of youth unnecessarily or inappropriately held in secure detention, while maintaining public safety and ensuring youth appear for scheduled court dates.

Currently, 19 of 21 counties operate as JDAI sites, with the two remaining counties expected to join the program this year. Hawaii is the only other state to serve as a JDAI site on a statewide basis.

Regarding the issue of domestic violence, the Judiciary continues to collaborate with stakeholders in the criminal justice system to develop technology to respond more rapidly to defendants who threaten the safety of victims or the community. The Judiciary also has an ongoing partnership with the Supreme Court State Domestic Violence Working Group, which includes members of the Executive Branch, prosecutors, victim advocates and the New Jersey State Bar Association.

Finally, the Guardianship Monitoring Program is a statewide, volunteer-based program that protects elderly and disabled New Jersey residents through the monitoring of legal guardians who have been appointed to handle their affairs. As the elderly and disabled populations continue to grow, we must work together among the three branches of government to ensure the program's effectiveness.

These are just some of the collaborative efforts underway, all designed to improve the lives of the citizens of our state. These achievements of the New Jersey Judiciary rely upon collaboration with the other two branches of government, including the support of this committee.

In that regard, I would be remiss if I did not extend thanks on behalf of the entire Judiciary for your leadership in supporting S1229 last week. An increase in judicial compensation is needed to enable our State to continue to attract the most talented lawyers to the bench and retain their service. Last week's Senate vote was very much appreciated."

I want to thank each of you for your partnership and for allowing me the opportunity to talk about the New Jersey Judiciary. We have an extraordinary organization comprised of dedicated professionals at all levels and we proudly embrace the privilege and responsibility of helping our state maintain an orderly and vibrant society.

With that, we are happy to answer any questions you may have. Thank you.