

**HOUSE AND SENATE  
JOINT JOURNAL SUPPLEMENT**

---

**March 9, 2011**

**Wednesday**

**No. 4**

---

**\* \* \* \* \***

**State of the Judiciary Address**

**by**

**The Honorable Walter L. Carpeneti**

**Chief Justice**

**Alaska Supreme Court**

**Before a Joint Session**

**of the**

**First Session of the**

**Twenty-Seventh Alaska State Legislature**

**\* \* \* \* \***

**March 9, 2011**

**Juneau, Alaska**



**The following was submitted for publication**

President Stevens, Speaker Chenault, Senators and Representatives, and guests. On behalf of all of us in the judicial branch, thank you very much for the invitation to speak to you today. The State of the Judiciary address gives us a valuable opportunity to examine both the challenges facing Alaska's judicial branch and the successes that have resulted from the commitment we all share to improving the administration of justice in our state. I have served as Alaska's Chief Justice for nearly two years, and from where I stand I believe our mutual commitment to a justice system that is fair, efficient and effective is stronger than ever. So while I'm here to report on where we have been and where we are going, I'm also here to thank you—for your support, for your dedication, and, most of all, for your enduring vision of a government that gives true meaning to the promise of justice for all.

Before I begin my remarks, I would like to acknowledge my colleagues on the supreme court. Two colleagues, unfortunately, cannot be here because of prior commitments. Justice Craig Stowers had a long-planned anniversary trip with his wife, and Justice Dana Fabe is attending the National Association of Women Judges convention, the organization that she served as president for this past year.

Justice Morgan Christen, who is here, was appointed to the court in March 2009 by Governor Sarah Palin. She previously served on the Anchorage Superior Court, including several years as Presiding Judge of the Third Judicial District. She was an attorney in private practice before joining the judiciary. Throughout her legal and judicial career, she has contributed tirelessly to civic affairs in our state, and she currently serves on the boards of the Rasmuson Foundation and the Alaska Community Foundation, among other public-spirited endeavors.

Justice Daniel Winfree, a life-long Alaskan from Fairbanks, just completed his third year on the court after appointment by Governor Palin. He continues to chair the supreme court's Access to Civil Justice Committee, which focuses on removing barriers to justice

# **HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT**

---

**No. 4**

**March 9, 2011**

delivery, improving services to self-represented litigants, and expanding pro bono services. This year, he co-chaired the legal community's second annual Martin Luther King Day service project, in which over 175 volunteers staffed free legal clinics in Anchorage, Fairbanks, and Juneau that helped nearly 400 Alaskans with their basic legal needs.

The make-up of the supreme court has changed dramatically over the last three years, and most of my fellow justices are relatively new to the appellate bench. But I'm very proud to say that my new colleagues are as talented, as intelligent, and as committed to the people of Alaska as any I've ever worked with, and that we are all very lucky for their services to our state.

Next, I would like to recognize leaders of the court's administrative staff. Administrative Director Christine Johnson has worked for the court system for over twenty years, and assumed her current role as director in 2009. Her commitment to ensuring that the court system operates as smoothly as possible is apparent to all who have the privilege to work with her, and she is especially appreciated for her excellent work as Chair of the Efficiency Committee of the Criminal Justice Working Group. Deputy Director Chris Christensen is someone well-known to many of you, and he has served as the court's legislative liaison for over two decades. We all benefit greatly from the depth of his experience and expertise. Administrative Attorney Doug Wooliver evaluates a wide range of substantive legislation affecting the justice system and makes recommendations to all of us about possible impacts. His fine analytical and communication skills have served us well for many years. Chris and Doug are the face of the court system here in the legislature, and I would like to recognize them both today for the dedication they bring to their very important roles.

I'm pleased next to introduce two key members of the court system's administrative leadership. Marilyn May is the clerk of the appellate courts. She joined the court system in 1998, after having served for ten years as an assistant attorney general, the last several as supervisor of the collections and support section. Some of you may remember, from last year's State of the Judiciary address, that Marilyn was elected

## **HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT**

**March 9, 2011**

**No. 4**

by her peers as President of the National Association of Appellate Court Clerks. We are all very proud of her for that honor. Finally, I'd like to introduce Rhonda McLeod, our Chief Financial Officer. Rhonda is justly famed for her encyclopedic knowledge of our budget and the facts behind it. We have a policy that when our budget is before the legislature for examination, Rhonda should be here to answer your questions, because among legislators familiar with her work, her word is gold.

Finally, I'm especially proud and happy to recognize current and past members of the Alaska Judicial Council, the constitutionally-created citizens' commission that nominates judicial candidates, evaluates judicial performance, makes recommendations to the voters about judicial retention, and conducts studies to improve the administration of justice: From the current council, attorney member Julie Willoughby of Juneau, and from a past council, public member Chuck Kopp, are with us today. Thank you for your service.

When I spoke before you last year, I emphasized the theme of inter-branch cooperation and collaboration—the need for all three branches to work together to solve the problems facing Alaska's citizens, and the many benefits gained when we do so. The past year has only underscored the value of working together, as we have successfully navigated a number of difficult challenges through common effort. I continue to believe strongly that our constitution places a responsibility on each branch of government to exercise its respective authority in a collaborative fashion. While we must always be mindful of our distinct constitutional roles, and while we must always guard our respective independence, we can do little to improve the administration of justice when we act alone. In many ways, we are the three-legged chair that cannot stand if one leg is missing. We simply function best when we identify common goals and seek common solutions to the extent we can. Today I would like to focus my remarks on our common goal of ensuring that decisions on justice delivery are intelligent, well-informed, and affordable, with outcomes that are measurable and positive. In short, I would like to explore the efforts we are making together to ensure cost-effective justice.

## **HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT**

---

**No. 4**

**March 9, 2011**

I have to admit that it has taken me a while to get comfortable with using the term "cost-effective" in the justice context, because I've associated it with cost-benefit analysis in the business world. In business, if the costs of a project outweigh the profits, the profit motive generally dictates that the project be abandoned. In our justice system, we can't make decisions based strictly on the ledger books because there is a broader purpose to be served. Justice is costly, but it is essential to who we are as a people. And the equation we apply to an evaluation of investment and return must be different. Yet keeping our justice system strong still means making the wisest and best use of the resources we are given. It still means regularly examining what we do, and how we do it, with cost in mind.

In the medical world, the use of limited resources is prioritized, especially in emergencies, through the process of triage. You expend services on those most likely to be helped, based on level of need. If a patient presents with knee pain, you don't send him or her to expensive surgery first—you direct the patient to lower-cost alternatives like medication or physical therapy. And often, problems resolve without the need for more intensive and costly care.

In our justice system, we are learning that many of the cases that fill our court dockets—on both the criminal and civil side—can benefit from a similar principle: We need to reserve the most intense (and costly) services for the most intense cases, and to fully explore alternative, less intensive problem-solving solutions for cases that don't demand full-throttle attention. By doing so, we not only foster cost-effective justice, but we also allow litigants to secure outcomes that are often more timely and satisfactory. Litigation of any kind is usually a win-lose proposition. But we're learning that there are wide possibilities for win-win resolutions—for both our citizens and for our justice system itself—when we offer models of justice delivery that adhere less strongly to the adversarial tradition.

In criminal cases, the Criminal Justice Working Group continues to take the lead in examining ways to ensure the highest and best use of limited resources across the agencies and institutions involved in the criminal justice system. The Efficiencies Committee of the working group has made remarkable progress in addressing a perennial vexing

## **HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT**

**March 9, 2011**

**No. 4**

problem that I mentioned to you last year: delay in criminal proceedings. We have all heard the phrase "justice delayed is justice denied," and we can all appreciate the far-reaching costs of delay, not only to those who stand accused and their families, but to victims and their families, witnesses, the attorneys and agencies involved, and the court system itself. So it's very exciting to learn that the committee initiatives I mentioned to you last year appear to be bearing fruit.

First, a pilot project to facilitate the exchange of discovery in criminal cases is being instituted here in Juneau. Once in place, the project will enable law enforcement agencies to provide discovery to defense attorneys electronically, through a server based in the Department of Law. By replacing the cumbersome traditional method of providing hard copies—from police agencies to the prosecution and from the prosecution to the defense—we hope to remove a chronic cause of case delay while reducing both the demand on clerical staff and the likelihood of discovery conflicts. Second, the committee began a pilot project in Kenai to implement a shorter pre-sentence report, which gives judges the information they need to sentence criminal defendants. Traditional pre-sentence reports are very resource-intensive to prepare, and the time required often leads to delays in sentencing and case disposition. As hoped, use of the new form has reduced time to sentencing significantly, and the short-form option has now been added in Fairbanks. We are hopeful that it may soon be implemented statewide. And third, over the past year the committee successfully addressed a long-standing problem at the Anchorage jail: the limited opportunities for defense attorneys to meet with their clients in advance of court proceedings. Through coordinated inter-agency effort, the visitation hours were increased and telephones added to the non-contact visitation rooms. With improved communication now available, we expect that requests for continuances based on lack of client contact will diminish, and more court proceedings will take place as scheduled. I should add that in every one of these projects the Judicial Council, under the leadership of Larry Cohn, did the groundwork: it crafted the RFP for the e-discovery project, it created the pre-sentence short form, and it coordinated the increased visitation at jail. As is so often the case, the Council's work is behind-the-scenes; it does the heavy lifting, others get the credit.

## **HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT**

**No. 4**

**March 9, 2011**

With these advances now under way, the Efficiencies Committee is beginning to address several other key challenges. A Minor Offenses Subcommittee, initiated by Colonel Audie Holloway, recently retired from the Alaska State Troopers, is examining how the justice system handles the routine, non-criminal matters such as traffic violations, fish and game offenses, and violations of municipal ordinances, in order to standardize procedures and increase efficiency. These, by the way, account for fully 49.5 percent—80,000 of 162,000—of the annual court filings statewide. Steve Williams of the Alaska Mental Health Trust Authority now chairs a Therapeutic Court Subcommittee that is working to better coordinate agency funding and maximize the effectiveness of these promising courts. Other challenges on the committee's plate include addressing the special problems posed by mentally ill defendants, especially the sharp rise in competency proceedings; the need for internet access to bail conditions by law enforcement; and a long list of other policies and practices under review for the hurdles they may pose to cost-effective justice delivery.

One could well wonder just how important discovery, pre-sentence reports, attorney visitation, and these other issues could possibly be to the big picture of ensuring justice for Alaska's citizens. Some of you may even be wondering why I'm mentioning them here, since they seem so minor when compared to the broader justice questions we grapple with. But through the cooperative efforts of the working group we've learned that simple systemic changes can have wide-reaching positive impacts. We've learned that the small stuff matters—in a big way. And we've learned that when you have all the players in the criminal justice system—DAs and PDs, Corrections and Troopers and Mental Health and everyone else in the system, all represented by their leaders—working together on smaller problems, it paves the way for cooperation on the bigger issues. The legislature's foresight in funding support for the working group helps ensure that there is a place where dedicated inter-agency leaders can quietly and effectively address issues like these—issues that rarely reach the limelight but always affect the quality and functioning of our justice system.

The Criminal Justice Working Group's second major group, the Prevention-Recidivism Committee, chaired by Commissioner of

## **HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT**

**March 9, 2011**

**No. 4**

Corrections Joe Schmidt, also had a productive and promising year. Since its inception, the committee has worked to identify evidence-based programs for both preventing crime and reducing recidivism. The committee's work is set against a sobering backdrop: incarceration rates in the U.S. that are now the highest in the world, and incarceration rates in Alaska that are among the highest in the U.S.; unprecedented rates of recidivism that hover at 64% nationally and 66% here at home; and rapidly growing costs for jails and prison expansions that show no signs of abating. Obviously, these themes have occupied public officials and researchers for some time and warrant far more attention than I can begin to touch on here today.

But I think the good news is that there are promising new approaches to criminal justice that are achieving goals once thought impossible. Today, we're learning that jails and long jail terms—the most expensive tools in our corrections toolkit—can be focused on those offenders for whom other mechanisms to ensure public safety and accountability won't work. For other offenders, we're learning that alternative sentencing and corrections policies and practices, based on sound research and solid evidence, are effectively reducing crime rates at much lower cost.

Last September, some of you may have met Rep. Jerry Madden, Vice Chair of the Corrections Committee in the Texas House of Representatives, when he visited Alaska to speak about cost-effective justice at a program sponsored by Alaska Common Ground and Partners for Progress. Rep. Madden is widely credited with inspiring recent reforms in the Texas correctional system that led to both dramatic decreases in the prison population and the lowest crime rate Texas has enjoyed in over two decades. When officials in Texas analyzed the factors driving its growing prison population, they discovered some of the same patterns we're discovering here: a shortage of prison treatment programs, a high number of alcohol and drug addicts and people with mental health diagnoses in prison, poor service delivery systems for prevention and reentry, and a lack of programs designed to change prisoners' cognitive thinking.

In 2007, the Texas legislature approved \$241 million—in a state with a yearly budget of about \$90 billion—to expand the capacity of both

## HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT

No. 4

March 9, 2011

in-prison and community-based treatment and diversion programs. The impact of these reforms was immediate. Today, the Texas prison population is 7,000 below the 2007 projection levels—a savings of \$443 million over one year alone. And the crime rate in Texas reportedly *decreased* by 3% after the reforms were instituted, despite overall population growth of 4%. Now I know that as Alaskans we like to brag that you could split our state in two and make Texas the third largest state. But I do think we have something to learn from Rep. Madden and his colleagues down south. Their approach to the issues was bipartisan, inter-branch, research-based, and data-driven, and it is producing exciting results.

Judge Roger Warren, President Emeritus of the National Center for State Courts, has described promising trends in state sentencing reform that pay much closer attention to the issue of risk. According to Judge Warren, experts view the general offender population as divisible roughly by thirds: one-third of offenders will almost *always* reoffend and return to jail, one-third of offenders will almost *never* reoffend, and one-third could go either way. Under principles of cost-effective justice we should devote our attention most closely to this latter group—the group that is on the cusp—because they are the ones whose behavior can be changed with the right interventions and the right support. Devoting resources to the "always" group is not cost-effective because they are unlikely to change their behavior; devoting resources to the "never" group is a waste because they do not require public resources to make the positive changes required to get their lives back on track.

But of course the big question becomes, how do we identify the members of each group? How do we sort out the levels of risk? According to Judge Warren, new evidence-based sentencing practices provide a promising answer. Evidence-based sentencing follows three basic principles. First, the level of supervision or services should be matched to the offender's level of risk, with those at higher risk receiving more intense supervision and services. Second, any intervention should target those offender characteristics that most affect the likelihood of re-offending: anti-social attitudes, anti-social friends and peers, anti-social personality patterns, and family and/or marital factors. And third, most effective interventions involve

## **HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT**

**March 9, 2011**

**No. 4**

cognitive behavioral treatment based on social learning principles. Simply put, studies show that many offenders seem predisposed, almost hard-wired, to make anti-social choices—choices that perennially put them at odds with their communities and the law. The most effective treatment helps offenders re-wire the way they think by instilling the concept that in civilized society, behaviors have consequences.

Lena, a recent graduate of Anchorage Wellness Court, describes it this way in a photo exhibit on behalf of Partners for Progress, the Anchorage non-profit that supports services to therapeutic courts:

It was only after my fourth DUI when I entered into Wellness Court that I began to feel that change was possible. And it was the Moral Reconciliation Therapy that helped me most. Other treatment programs had focused on my drinking. I got through them, but I didn't change. MRT forced me to examine my whole way of thinking...

As public officials who study the criminal justice system, members of the Criminal Justice Working Group know there is no one-size-fits-all response to the problems we confront. Offenders are all different, and communities are all different. But both our own experience and the national research give us new hope that we can slow down the revolving doors of our jails, and that this change can be lasting. We have a long way to go, but we are more confident than ever that we are heading in the right direction, with two new major initiatives now underway.

In July 2010, a pilot program was commenced in Anchorage to more effectively monitor probationers with substance abuse and addiction problems. Project PACE (Probationer Accountability with Certain Enforcement) operates on the principle that swift and certain accountability for probation violations by those in recovery leads to more successful completion of probation. For the first two months after release, probationers are subject to random drug testing at least four to six times per month and required to meet on short notice with their probation officer. A single missed appointment, or dirty urinalysis, leads to immediate issuance of a warrant, immediate arrest,

## **HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT**

---

**No. 4**

**March 9, 2011**

and immediate consequences. But if the probationer does well, supervision is gradually relaxed.

Using the coercive power of the courts to hold probationers responsible for even the most minor violations helps keep them on the path to recovery and ultimately makes them better prepared to succeed on their own. The first six months of the pilot program—headed by Judges Bill Morse and John Suddock in Anchorage—are now being evaluated, but early reports are extremely promising. It has more than doubled in size—to about 80 probationers now—and already we have received requests to institute PACE in Palmer and in Fairbanks, and we are hopeful that eventually it will come into use statewide. Of course, every probationer's success translates into fewer prisoner-days, less cost to DOC, and less crime.

Also new this year was the formation of the Reentry Task Force, a group charged with exploring ways to better ensure the successful reintegration of offenders back into their communities. The Task Force is chaired by Deputy Commissioner of Corrections Carmen Gutierrez, whose energy, enthusiasm, and wealth of experience is no doubt responsible—at least in part—for the fact that the newly formed group has already circulated a draft Five-Year Strategic Plan. The plan identifies ways to facilitate improved housing, employment, and educational opportunities for offenders in reentry, as well as ways to ensure better support for sobriety and mental health needs.

Both the PACE program and the Reentry Task Force reflect the recognition that Alaskans are not well served by a justice system that returns offenders to their communities with little hope or likelihood that they will succeed, and with every likelihood that they will again commit harmful acts of crime. These initiatives also reflect a recognition that the steps to success outside jail are not easy for people who have had little or no exposure to healthy and responsible living. Because the truth is that many criminal offenders who return time and again to jail do not fit the stereotype of the evil cold-hearted criminal. Instead, they are people who make mistakes, serious mistakes—over and over again—because of serious problems. Sometimes the problems stem from life situations that those of us blessed with peaceful upbringings and healthy role models find very difficult to

comprehend. Often these offenders—even those well into adulthood—must learn how to be appropriate members of society for the very first time. Often the problems stem from the self-destructive path of alcohol and drug addiction. For these offenders, drugs and alcohol have long buried what lessons they may have learned from the positive people in their lives. Regardless of the root of their problems, many offenders in reentry are at the bottom of a very steep learning curve on the road to becoming a responsible human being, and many face a long and tough journey to the top. Inspiring them to embrace this journey—and complete it—is at the heart of the challenge before us.

There are plenty of reasons to be hopeful. Every day, offenders across the state make the commitment to the painful process of change. Last Saturday I was privileged to participate in the Success Inside and Out program that Justice Dana Fabe started at Hiland Mountain for women about to be released from prison. It has spread to Juneau under the leadership of Judge Tricia Collins, and is now open to both men and women. I heard inspiring stories from five courageous people—ex-offenders who have beaten the odds and who came back inside the walls to tell their former cellmates that recidivism was not inevitable and that the tools were available to succeed outside. I was so moved by their comments on the ex-offenders' panel that I looked each one up afterwards, told them about this speech, and asked each what they would have me tell you, the state's leaders, about beating recidivism. Each one, in separate conversations, repeated the same theme: "The program works, you hate it at first, I hated it every day, you fight it hard, but you've got to change your thinking, and this is the way to do it. We need that program." I found they were referring to RSAT, the Residential Substance Abuse Training program, a year-long, intensive, cognitive therapeutic program that forces offenders to confront the flawed thinking that leads to their repeated law violations and incarcerations.

These comments from the former offenders who ventured back inside Lemon Creek here in Juneau are borne out by those of ex-offenders across the state:

## **HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT**

---

**No. 4**

**March 9, 2011**

Sheryl, a former cocaine addict, put it this way in the Partners for Progress exhibit:

Before I was accepted to Wellness Court, my record reflected that I wouldn't be successful at anything. In the beginning, it was very difficult and uncomfortable. Drinking and drugging was all I knew, and I had a lot to learn. But I graduated in May 2009, and I've been sober for over three years. Now I can stand up and feel proud of who I am, not hide in shame because I used to drink and do drugs.

Raye, a former drug dealer who now works as a counselor for people in reentry, echoed the importance of the learning process:

So many of the guys in prison had no idea what to do when they walked out those doors, and they kept coming back. The key is taking responsibility for what they've done and learning to bounce back from life's knockdowns without running for drugs. With drugs you want instant gratification. In recovery, you have to understand that life's rewards don't come instantly. But they do come, and they last much longer than a drug.

People like Lena, Sheryl, and Raye—as well as the five panelists at the jail here in Juneau last Saturday—illustrate something that is becoming increasingly apparent to those who study criminal justice systems across the country: evidence-based treatment and support services, targeted at the right offenders, can work. And when they work, they not only reduce recidivism and protect public safety in a cost-effective way, but they return people to the fold of their communities as sharing and productive citizens and neighbors more inclined to help than to hurt those around them. We remain profoundly grateful to the legislature for funding our continued work and to the Alaska Judicial Council for providing critical staffing and support. Together, we can continue to make a difference.

Criminal cases are not the only ones seeing innovations to improve cost-effectiveness: recent developments in the vital domestic relations

area are promising just as broad an impact. Domestic relations or "family law" cases—primarily divorces, child custody disputes, and child in need of aid proceedings—account for over 38% of the superior court's annual caseload. Over 8200 family law cases were filed statewide in the last year alone. Of these about 67% involved at least one party without a lawyer. The commitment of judicial resources to these disputes is enormous, especially when couples have no legal counsel to help them navigate what is inevitably an emotional and stressful process. So against this backdrop, two new projects of the court's Family Law Self-Help Center offer to not only provide improved information and assistance to self-represented litigants, but to significantly increase the number of cases that settle before trial, alleviating the strain contested proceedings place on court resources.

First, the center will soon be making its popular Hearing and Trial Preparation Course available online through YouTube. In cooperation with the Anchorage School District, the center has produced 30 video vignettes on a wide range of topics, including how to prepare forms, how to present exhibits, and how to examine witnesses. Now I recognize that video how-to clips about the family court process may not go viral, but we anticipate that they will be much used. Every day, Alaskans across the state face the confusion and worry of appearing in court with no prior experience and no prior training to litigate the most intimate issues of their lives. Helping these litigants present their cases in a smooth and orderly fashion not only reduces the stress of their experience, but ensures that cases proceed without undue delay and the significant cost delay poses to both litigants and the court.

A second promising initiative of the Family Law Self-Help Center is the new Volunteer Lawyer Assisted Early Resolution Project. This pilot program screens all domestic relations case filings where litigants on both sides are self-represented. If screening determines that settlement may be possible, cases are placed on a special early resolution docket conducted once or twice monthly. At the docket, volunteer attorneys recruited through the Alaska Pro Bono Program meet with individual litigants for free consultations to address the range of issues at stake. Since its inception, 70% of the cases placed on this special docket have settled without further proceedings—an amazing success record given how long contested family cases often take.

## **HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT**

---

**No. 4**

**March 9, 2011**

Early resolution gives parties the relief they seek months or years ahead of the traditional timeline, with an outcome that is likely more satisfying; it gives volunteer attorneys a way to help in a focused manner that is rewarding and not unduly burdensome; and it gives courts a fair and effective way to resolve cases early, before they enter the lengthy course of full-blown civil litigation. Even the 30% of cases that don't settle during the early resolution docket have received appropriate interim orders and court dates—not small achievements in cases where these steps can languish because neither party knows how or when to pursue them. The early resolution project owes its success to many people, but I would like to take a moment to recognize Judge Stephanie Joannides, the judge who founded and presided over the docket until her retirement in January; Stacey Marz, the director of the Family Law Self Help Center; Katherine Altener, the first director of the FLSHC who now serves as Outreach Attorney for the Alaska Pro Bono Program; James Stanley, the center attorney who screens incoming cases; and the many volunteer attorneys without whose support this program would not be possible. These professionals are pioneers when it comes to designing and implementing new approaches to justice delivery, and each has made a tremendous difference in the lives of the people served.

Innovations in the family law area extend beyond the Family Law Self Help Center as well. Many hearing these remarks have known the agony of a child custody dispute personally, and certainly all of us know someone who has gone through the experience. As many of you know, the court system has long advocated expansion of mediation services for parents engaged in child custody disputes. Mediation affords parents the opportunity to craft their own co-parenting plans in a confidential and informal setting, with the aid of a neutral mediator. The court system's Child Custody and Visitation Mediation Program has been tremendously successful in helping families reach amicable settlements. But today, as it celebrates its tenth anniversary, it is becoming a victim of its own success. In recent years, referrals to the program have risen dramatically, causing a 250% cost increase that exceeds available federal grant funding. Referrals to Child in Need of Aid Mediation—another program with a remarkable track record—have also increased tremendously. But our staff is undeterred, and with your help we hope to continue to meet the increasing demand for

these services, because the benefits to Alaskan families in crisis—and the court system as a whole—are hard to ignore.

Where mediation of child custody disputes is not likely to be successful, we are hoping to pursue two other approaches to early resolution with great promise. Often, the potential for early settlement is undermined by high conflict between parties and sharply different views about the likely outcomes of their cases. Emotions run high, and it's easy to lose sight of the careful evaluation the court must make, and the factors that must be considered. The first program, the Early Neutral Evaluation project, aims to give parties the benefit of an impartial assessment by an experienced child custody evaluator who can help them focus on their children's needs and negotiate a positive way forward. The second program—Judicial Settlement Conferences—offers parents the opportunity to weigh the relative strengths of their case with a retired pro tem judge who can provide a "reality check," temper hostilities, and explore mutually agreeable outcomes. Both of these new approaches give parties the benefit of professional and judicial expertise at early stages in a custody dispute, before positions harden and unnecessary damage is done to the relationships of all concerned.

If there is a common theme to our recent family law efforts, it is one of matching family cases with the appropriate level of judicial intervention. Just as not every knee pain needs surgery, not every family dispute needs a full contested trial before a superior court judge. We are learning that screening and assessment procedures, early in a case; special early dockets for pro se litigants; mediation; early neutral custody evaluations; and judicial settlement conferences with retired judges offer alternative routes to resolving family cases that are more timely, more effective, and far less costly to the parties and the court. With your support, we can continue to reassess the way we do business in these cases. When troubled families must rely on the legal system to resolve painful conflicts, we must ensure to the extent we can that we add no unnecessary anguish and disruption to their lives. Borrowing again from the medical analogy, we must continue to strive to "do no harm."

## **HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT**

---

**No. 4**

**March 9, 2011**

Apart from the improvements we are pursuing in both the criminal and civil areas, I'm delighted to report to you recent achievements in the technology arena that serve the goal of cost-effective justice. About ten years ago, the court system began the very tough job of implementing a statewide computerized case management system. At the time, there was no statewide network for disseminating case information, and important data could be obtained only by searching individual case files by hand in each court location. Many court employees had no computers. With the legislature's support, we began expanding the court's statewide network and converting local courts to the "CourtView" case management system in 2002. Over the years, new court locations were added to the network, and by last fall—on September 27, 2010—we celebrated the completion of the project. Today, all 44 court locations statewide are connected to the network through CourtView, which has revolutionized not only the way courts communicate with each other, but the way courts communicate with the public. For the first time since Statehood, case information is available online to anyone, anywhere, at any time.

The impact of these developments cannot be underestimated. Today, a court employee in Unalaska can check a court record in Ketchikan almost instantly; a resident of Barrow can pay an Anchorage traffic fine online, from the privacy of home; employers statewide can do background checks themselves; and both public and private agencies can obtain directly from their offices information that used to require frequent staff visits to the courthouse. This is a major achievement, and I'd like to thank Charlene Dolphin, Brenda Axtel, and Narissa King of the court system's IT department who worked so hard, along with their colleagues, to make this happen.

One final word about court system employees. Last year you may recall that I took this opportunity to note that five court system leaders held leadership roles in five national court-related organizations, a truly outstanding statistic considering that Alaska accounts for less than one quarter of one percent of the national population. This year I planned to bring you stories of excellence of our rank-and-file employees. But time is short, and in preparing these remarks I ran across one sentence, in legislative hearings on our budget, that said it all, and said it shorter, and said it better, than I ever could. Last

## **HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT**

**March 9, 2011**

**No. 4**

April 14, near the end of a hearing of the House Finance Committee, after Co-chair Mike Hawker had said some complimentary things about court system employees, Co-chair Bill Stoltze said this:

I will just close, in echoing these comments, about my appreciation for the contributions of court employees, the unsung heroes of . . . our administration of justice system.

Thank you, Representative Stoltze, for acknowledging what I've come to realize in these past two years as chief, working with court system folks all over the state: Our court system employees, our "unsung heroes," are the best.

I would like to close these remarks with a note about a topic that in recent years has become, I believe, central to our democracy: the need to foster civic education and engagement in America—not just for the adults who face the responsibilities of citizenship today, but for the young people who will carry them forward into the future. As citizens in a democracy, we all have a responsibility to understand how our government functions and the role we each play in the success of our country. Yet a recent national poll found that while over two-thirds of Americans can name at least one judge on the TV program *American Idol*, less than one-third can name the three branches of government! James Madison, the founding father often hailed as the father of the U.S. Constitution, anticipated the challenge of educating for democracy by reminding us that "knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power which knowledge gives."

When Justice Sandra Day O'Connor retired from the U.S. Supreme Court, she identified improving civic education as her foremost goal. She has since taken steps to ensure that every young person in this country has a real opportunity to learn about both the rights and the responsibilities of citizenship. Her efforts have led to the founding of *iCivics.org*, a free, web-based, game-based, education project for middle and high school students ([www.iCivics.org](http://www.iCivics.org)). When Justice O'Connor asked me to serve as state chair of *iCivics.org* in Alaska, I readily accepted. But advancing civic learning and engagement is something I can hardly do alone. So I would like to conclude today

## **HOUSE AND SENATE JOINT JOURNAL SUPPLEMENT**

---

**No. 4**

**March 9, 2011**

with an invitation to each of you—legislators and others within this legislative hall, and anyone watching this speech—to join me in the effort to instill in our young people the same knowledge and respect for the laws and institutions of our country that we are all privileged to share. Log on to *iCivics.org* and check out the games, webquests, and lesson plans for yourself. And after you've done that, let the educators in your communities know about the opportunity and urge them to visit the website and use it in their classrooms. (And a note for principals and teachers: The curriculum found there meets Alaska's statewide curriculum requirements.) Check it out.

As I mentioned at the beginning of my remarks, the three branches of government can do little of lasting benefit working alone. This is as true with civic education as it is with justice delivery. Ensuring a strong future for this great country and great state of ours is a goal that we must pursue together. Thomas Jefferson said that "the qualifications for self-government are not innate . . . [T]hey are the results of habit and long training." As we work together to advance cost-effective justice, we must remember that the greatest guarantee of a strong future for all three branches of government is a citizenry that understands and embraces the fundamental principles of democracy.

Mister President, Mister Speaker: Thank you for the opportunity to talk with you here today.

**Please report corrections to the Chief Clerk's office.**