

**HOUSE AND SENATE
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Wednesday

No. 3

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State of the Judiciary Address

by

The Honorable Susan M. Carney

Chief Justice

Alaska Supreme Court

Before a Joint Session

of the

First Session of the

Thirty-Fourth Alaska State Legislature

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February 12, 2025

Juneau, Alaska

The following was submitted for publication:

Good morning, President Stevens, Speaker Edgmon, members of the 34th legislature, and guests. I'm a bit amazed but pleased to find myself here to carry on the longstanding tradition of providing you with an update on the state of the judiciary. I am especially happy to speak to you as the chief justice of the first majority woman supreme court in Alaska history and to appear here before the first majority woman house of representatives! This has been a long time coming! And what a great example it provides for young Alaskans, that they really can aspire to these kinds of positions.

Before I turn to the details of my talk today, let me first introduce my colleagues. Justice Dario Borghesan, like me, hails from New England. He came to Alaska in 2008 to clerk for now retired Justice Dan Winfree in Fairbanks. He was appointed to the supreme court in 2020 and among his other duties leads the court's Access to Justice Committee, along with Justice Jennifer Henderson.

Justice Henderson came to Alaska to clerk for Justice Warren Matthews in 2001. After a brief foray back home to southern California, she saw the error of her ways and returned here. She served on both the district court and superior court before she was appointed to the supreme court in 2021. As I mentioned, along with Justice Borghesan, she leads our very busy Access to Justice Committee as well as our Judicial Education one.

Justice Jude Pate was appointed in 2023 after serving for 5 years on the superior court in Sitka. He lived in Sitka for 30 years before he moved way up north here to Juneau to assume his position on the supreme court. While in Sitka Justice Pate worked as the attorney for the Sitka Tribe, as an assistant public defender, and in private practice before he was appointed to the trial court. He leads our committee that provides support and hands-on assistance and education to the new and newer judges.

Finally, Justice Aimee Oravec, who is celebrating her 13th day on the supreme court here with you today. She was appointed in December and she has joined me in Fairbanks. She will soon be tasked with

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various committee and other assignments as we all are, but we decided to be nice and wait until we leave Juneau to let her know what they are.

In addition to members of the court, I would like to introduce and recognize several very valuable members of the court system. Stacey Marz is our administrative director. She and her staff oversee all of the "on the ground" operation of all 38 of our court locations. She is also recognized nationally for her innovative ideas about increasing access to our courts.

Most of you know our retired general counsel, Nancy Meade. Nancy has once again agreed to come out of retirement for the legislative session and we could not be happier. For many years, Nancy's "teammate" as it were here in Juneau was Doug Wooliver. Doug has retired more completely than Nancy. But we are very pleased that Noah Klein, who was previously a legislative attorney, has joined Nancy as our associate general counsel. He will continue to live in Juneau and will work with Nancy to ensure that you have a communication channel with the court system.

In addition to our staff, I would like to recognize Susanne DiPietro, the executive director of the Alaska Judicial Council. As you know, the judicial council was created by the framers of our constitution to ensure that judges of the Alaska Court System are selected based strictly on merit. As we have been recently reminded, that system has served us well – better than other methods of selection.

Finally, I want to introduce my family. My husband, Pete Braveman, has retired from 40 years devoted to Alaskan children and families in a variety of roles. With him is our daughter, Rebecca – a proud alum of West Valley High School who graduated from college with a culinary degree and is now a chef. Our son Sam, also a West Valley alum, is listening in from Kansas City. He came to Fairbanks last month when previous Chief Justice Maassen swore me in as his replacement.

Now let me turn to the state of our judiciary. First, I want to thank the judges and the 700 or so court system employees who continue to work diligently to make sure that our courthouses are open and

accessible to all Alaskans. I am deeply grateful for their continued commitment. That commitment carried us through the pandemic and now allows us to continue to work to fulfill our mission.

That mission is:

To provide access and an impartial forum for the resolution of all cases that come before us and to decide those cases in accordance with the law expeditiously and with integrity.

As you are certainly aware, we are not meeting expectations – our own or Alaskans' – about the expeditious part of our mission in criminal cases.

Several extremely delayed criminal cases have been featured prominently in recent media accounts. The delays in those cases are extraordinary and criminal cases naturally attract more attention. Criminal cases involve real people who have been injured and others who have been charged with causing those injuries. We must, and we will, improve how we handle criminal cases to prevent such delay.

Let me provide some context about the time it typically takes criminal cases to be resolved. I do this not to try to justify those terribly delayed cases, but to provide you with a bigger picture. The median time between filing a misdemeanor case and resolving that case is four months for a B level and six months for an A level misdemeanor. There are a lot of misdemeanor cases; we closed almost 15,000 misdemeanors in 2024.

Felonies are more complex matters and therefore take longer. But the median time frame for a C felony like vehicle theft or a lower level assault is still six months. As the charges become more serious, it takes longer to finish the case, but the median time for a B felony is still ten months. For an A felony – serious sexual assaults, manslaughter, some drug dealing, for example – the median time between filing and closing the case is 13 months. Unclassified felonies – the most serious sex crimes and murders – have a median time of three years. This time is certainly not satisfying to victims or others involved, but due to complex facts and evidence issues and the number

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of people involved in those cases, as well as due process concerns, it's a difficult issue to address. 283 of those most-serious cases closed last year – and yes, a handful were terribly delayed for many years. I hope that knowing these median time frames is helpful as you consider how cases are typically going in the justice system.

As the last few chief justices before me have explained, criminal cases make up a little more than 1/4 of the cases that are filed in our courts. And of that 1/4 of cases, only about 3% go to trial; the others resolve without trial. Meanwhile the other 3/4 of judges' work is in a large variety of civil matters. Matters like child custody, child protection when something has gone awry in a family, guardianships, probate of wills – all deeply important to the families who bring them to us – as well as less emotional issues such as small claims and other lawsuits.

Throughout the pandemic and through today, the court system has handled these cases. We hold trials, we decide the issues brought before us, and we issue decisions. We continue to work hard each day and we have improved our overall efficiency. Even in the midst of the pandemic, in fiscal year 2022, the superior court closed over 20,000 cases, and last fiscal year we closed nearly 22,000. We are now closing more cases than are being filed, which is good news because it means that the number of open cases is decreasing. We've worked hard to achieve that goal – as of last month, we had one-third fewer open criminal cases than we had on the same date one year ago. And we had the lowest number of open criminal cases since 2018 – showing that our strategies for closing cases and decreasing the backlog are working.

I hope that I've been able to provide some information so you can see that we are improving our handling of and timeframes for criminal cases, but we recognize that there is more work to be done. Reducing the number of open criminal cases is the court system's number one priority, and we continue to strive to do better with those cases to better serve Alaskans.

All levels of the court system, from all of us on the supreme court who are here today with you to trial court judges across the state and our administrative staff to the clerks in each courthouse, are working

together to reduce the backlog. Unfortunately, there is no quick or easy way to do that.

This is a multipronged problem that requires a multi-pronged approach. First and foremost, we remain committed to making judges and courtrooms available for any attorneys that want to start trials. This is not new. Previous orders from the chief justice and from presiding judges in each of our four judicial districts were issued during the pandemic – inviting attorneys to ask us to schedule trials – but that didn't happen.

Another prong is education and training. We are stepping up our training and communication throughout the court system about ways to attack this problem. We devoted a third of our annual judicial conference to training on ways to reduce the number of pending cases and to address cases more efficiently. Presiding judges in each judicial district have set limits on the number of continuances and the length of time that cases can be continued except in extraordinary circumstances.

We have also authorized overtime pay for courtroom staff and additional resources for pro tem judges (retired judges who will come back in order to allow us to hold more trials than there are judges in a given location) to do more trials at a time.

And we continue to look at alternative ways to address cases. I know that Fairbanks has had a restorative justice program for about 7 years, supervised by professor Jeffrey May at UAF. Professor May served as a magistrate judge covering Galena, Nenana, and Fort Yukon for several years before moving back to UAF. A variety of misdemeanor cases can be referred to the restorative justice program for resolution. In 2024 the restorative justice program handled 137 cases – cases that therefore do not have to be addressed in state court.

In addition, we have long had – and you have long supported – therapeutic courts throughout the state. These courts address various issues – some are for individuals whose mental illness has led to criminal issues, others for veterans, still others for substance abusers. While these courts require more resources "up front" – resources you

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have provided – they are proven to reduce recidivism. Therapeutic courts may not help in the near future with our backlog, but they promise to reduce the number of future cases.

There are two therapeutic courts that are run jointly with Tribes. The Kenaitze Tribe and Kenai superior court have collaborated on the very successful Henu wellness court for almost 10 years. More recently the Sitka Tribe and Sitka superior court have begun holding joint sessions.

Collaboration with tribes is another avenue we are exploring to help reduce the caseload. Tribes throughout the state have diversion agreements with Division of Juvenile Justice and with some DA offices. These types of agreements are particularly promising for young people charged with criminal offenses. Rather than having a court date in the future, often in a community far from where the offense occurred, the offender must answer to the tribal court or council in the same community to address the harm caused.

And Criminal Rule 11 authorizes communities to hold "circle sentencings" or similar culturally-appropriate gathering in order to come up with the community's recommendation for an appropriate sentence.

These are some of the efforts the court system is making to address the criminal case backlog. But we can only do so much. We provide the forum – the courtroom – for trials. But lawyers – the prosecutors and defense attorneys – must try criminal cases. And if the defendants are in custody, the Department of Corrections must make them available to be transported to the court. And Department of Public Safety – our Judicial Services officers and Alaska State Troopers – must bring them. Just about all of these people work for state agencies. And as you know all of these agencies have faced continuing difficulties hiring staff.

These approaches are focused on criminal cases. We are also looking at alternative ways to handle other cases to help all involved with our justice system to be able to address their disputes more effectively and efficiently.

Technology remains an important tool to provide access to justice. Across the state, Alaskans can make a phone call, browse a website, or engage with an online platform to get essential information to help them resolve their civil matters.

Our Self-Help and Access to Justice departments provide a variety of online resources in most kinds of civil cases. They range from help with parenting plans to address child custody, filing a small claims action, or probating an estate when a loved one passes away. Over 1,500 plain language forms can be filled out without a lawyer's help. People can also call the Self-Help Center to talk to a trained facilitator to get procedural information and forms for family law and guardianship matters. Our Early Resolution Program now covers all courts statewide. This program involves about two-thirds of all divorce and custody cases with parties who are representing themselves. They participate in an expedited process, often by videoconference, using volunteer attorneys, mediators, and a settlement judge to help them resolve their disputes. Approximately eighty percent of these cases resolve by agreement in a matter of weeks and receive their final orders usually at the end of just one hearing.

In the past year we launched an online dispute resolution platform for debt matters. This convenient online forum allows parties to negotiate their disputes or work with a mediator without needing to come to a courthouse or even see each other in person. Recently a three-month negotiation between a fisherman and a processor resolved through the online platform.

We are soon going to use grant funds to launch a cutting edge chatbot on our website. It will use generative Artificial Intelligence to help Alaskans navigate the process of dealing with an estate after someone dies.

We offer mediation in Child in Need of Aid cases so that parents and the state and tribes, if involved, may be able to reach an agreement without going through a lengthy trial. And we are working with tribes to make it easier for them to intervene or take over jurisdiction in cases that involve tribal children. We are also working to ensure that tribal domestic violence protective orders are quickly registered in our

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courts so that they can be enforced the same as those from state courts. We are grateful that you funded four monitor positions in guardianship cases. These positions have been hired and trained to support family guardians across the state to report the required information judges need. These positions allow us to help ensure that guardians continue doing the important work for which they have been appointed to safeguard our most vulnerable citizens.

Let me now turn to our funding requests. This year's operating budget requests are modest – truly a "maintenance budget." We are asking for funding only for the concrete increased costs of continuing what we already have. These are things like lease cost increases due to landlords, costs to pay existing court visitors in protective proceedings, costs to keep the therapeutic court staff that we've had for many years. I hope you look favorably on our modest requests, and allow us to keep working efficiently in those areas.

The supreme court's capital budget request is more substantial this year. Our most basic obligation is to provide the forum – the courtroom – in which cases are addressed. And we are asking you to support that by providing the funds for more courtrooms in Palmer.

You will hear more details about this project from Mr. Klein and Ms. Meade in the coming weeks, but as you know, the Mat-Su area has the fastest growing population in Alaska. The Palmer courthouse does not have enough room even for the judges who currently work there. Palmer superior court judges are now handling the highest number of cases per judge anywhere in the state. We need more judges to serve the Mat-Su, but first we need the physical space for them to sit. Chief Justice Winfree and Chief Justice Maassen each explained the situation to you in their addresses in past years. Last year, you agreed to provide phase one of the funding to expand the courthouse by adding three more courtrooms and space for the judges and staff to use them. We are grateful for the capital funds you've already provided. We are using those funds for the final architectural design work and permitting. And we hope to break ground for utilities as soon as the groundwork is possible. Now we are asking for the capitol funds for phase two, the actual construction project for the Palmer courthouse.

I recognize that you have many requests for funds and that you must balance the state's needs and wants against the realities of the state's fiscal picture. I do not envy you that job, but I want to stress that this project is the supreme court's number one priority. I thank you very much for giving serious consideration to this request.

Closer to here, we also need to do something about the courthouse in Sitka. The complex ownership of the building has made it challenging to obtain funds to do major deferred maintenance projects like a new roof or mechanical upgrades. And additional issues recently have forced us to close the court for number of days. Our staff has worked admirably to provide needed services despite these problems. But we need a long term solution and we appreciate your efforts last session to help us buy a new building. For now, we are continuing to explore options to see if we can find an adequate facility in Sitka.

Far from Sitka we are continuing to work with executive branch agencies, Bethel Native Corporation, and the Lower Kuskokwim School District to finalize a plan for the Bethel Justice Center. That center would house all the agencies that regularly appear in our courts in the same building with us, so that area residents can have "one stop shopping". I am actually not requesting funds from you this year. Instead we are currently exploring funding options to address justice needs in the Y-K delta, and hope to have a plan in place to share with you by the next legislative session.

As you are aware, all of our court locations throughout Alaska require security. While we have thus far been spared the terrifying violence against judges and court staff that we see Outside, we have prioritized our security projects and related training. In the wake of the cyberattack that took us offline for weeks a few years ago, you agreed to provide funding to upgrade our cybersecurity. We remain deeply grateful for your support for that phase of our ongoing program to upgrade security. In addition to technological improvements, we are working to upgrade materials for courthouse doors, lobbies, clerks' office counters, and the courtrooms to keep everyone who comes into our buildings safe. I know that you share our concern and I hope that we can count on your continued support as we improve security.

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Finally, on behalf of all of the hundreds of court system employees throughout our great state, I want to thank you again for the invitation to speak to you today and for taking time from your very busy days to listen to me.

Please report corrections to the Chief Clerk's office.