

COURTS

With their budget affected by the pandemic, Kansas courts are asking for pay raises

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Proper funding of Kansas' judicial system, or lack thereof, has been a longstanding issue for a number of years. But advocates are saying the effects of the COVID-19 pandemic have underscored the need for full funding even more.

"The pandemic disrupted our procedures. It disrupted our budget," said Kansas Supreme Court Chief Justice Marla Luckert to state legislators earlier this month.

As the Kansas Legislature goes through its annual review of the state budget, Luckert is asking for an increase of around \$25 million for the next fiscal year. Of that, \$9.4 million will be for judges' salary increases, \$10.8 million for pay raises for court staffers and \$4.3 million will go to hiring more court services officers.

The ask, especially when all other state finances have also been affected by the pandemic, "is a pretty sizable increase from the previous fiscal year," said Steven Wu, a fiscal analyst at the legislative research department.

But the request is necessary, not only to battle chronic underfunding but also to make up for the fact that courthouses have been shut down hard since COVID-19 first hit, said the chief justice.

Between March and June of last year, courts received \$2.7 million less in docket fee funds than expected, a 10% loss. From July through November, it was another \$2 million decline in docket fee revenue, a 16% loss from the year prior. For context, the docket fee fund accounted for a fifth of all judicial expenditures last fiscal year.

"Such things as fewer traffic tickets being written and the disruptions of lives of attorneys and their clients resulted in a drastic drop in filing fee revenue," said Luckert.

Because of that loss, the travel budget was virtually eliminated. And with nearly 90% of the judicial branch budget being personnel costs, the system had to implement a hiring freeze and cut into salary and benefits.

Understaffed

As of January, 11% of positions were vacant. It didn't help that the pandemic has caused more adjustment and work to be done for day-to-day operations.

"That understaffing has led to considerable stress on our employees and our judges," said Luckert. "And that stress has been exacerbated by the reality that taking steps to reduce the number of people coming into a courthouse has multiplied the work of already hard-working judges and employees in many ways."

Lea Welch, courts administrator for Shawnee County's 3rd Judicial District, said that has real, on-the-ground impacts.

"Phone calls aren't answered or returned as promptly as they once were. Documents aren't being processed as quickly as they normally would be," she said. "That could also lead to delays in possible criminal sentences because we don't have adequate staff to get pre-sentence investigation reports completed as quickly."

Acknowledging the state's tight fiscal situation, the branch isn't asking for funding for more judicial positions like last year, but it wants to add 70 court services or probation officers, a category many said was extremely understaffed.

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Lawmakers in the Kansas House sympathized and have given initial approval for that specific request.

It "is kind of our fault. We've been adding more and more programs, diversion programs, substance abuse programs and treatment that rely upon CSOs," said Rep. William Sutton, R-Gardner. "It's almost like an unfunded mandate; we have passed on responsibilities to employees that don't exist. So we're trying to make up for that in this budget."

Proponents noted the pandemic put a long pause on jury trials. When the state's COVID-19 emergency declaration ends, a huge influx of cases is expected to overwhelm the system.

"Now is the time to think about what's going to happen when the court needs to start picking up post-pandemic. Huge backlog," said Callie Denton, of the Kansas Trial Lawyers Association. "This isn't really the time to have shortfalls in staffing."

Raising pay

Beyond adding employees, raising pay for court staffers and justices is just as important in fighting the understaffed situation, advocates said.

Luckert wants judges to see a 25% pay raise, with judges seeing new salaries, ranging from \$161,245 to \$182,651 depending on the position. She also wants court staffers to see raises to market level, whose pay currently is under market 2.7% to 18.9% depending on position.

Since 2018, the Legislature gave 2% to 5% pay increases per year to both judicial and non-judicial staff, which were "much appreciated," said the chief judge. But those increases mainly just offset increased pension costs, higher insurance premiums and higher cost of living.

"The reality is we are still really under market," said Luckert.

Kansas district judge pay ranks 48th in the nation in actual pay and when adjusted for cost of living, according to the National Center for State Courts. The relatively low pay for both staffers and judges makes staffing difficult. It takes about 54 days to fill a position, which can put strain on operations.

"Court work is not easy. It requires a great amount of knowledge across a broad number of subject areas. It's very specialized and requires a significant amount of training," said Welch. "The pay we're able to offer these employees does not match the legal consequences our staff face on a daily basis."

Welch said low pay is the most commonly cited reason for leaving the judicial branch, and in Shawnee County, almost 20% of staff have at least one additional part-time job.

It's also a big reason recruiting folks is hard, as there are higher-paying opportunities with other governmental entities and private practices.

Judge David Ricke, of Butler County's 13th Judicial District, said when his court put out a call for a deputy clerk position recently, there were zero applications.

"I have to believe that the low starting salary is part of it. After all, the starting salary for a deputy clerk is significantly under what the starting salary is at Target stores," he said.

Judgeship also faces difficulty in attracting candidates, as many anecdotally noted how there have been fewer and fewer people applying for open court positions.

"At least one nominating commission recently had to extend the deadline for applications because so few applied," said Luckert. "The last opening on the Kansas Supreme Court attracted only 11 applicants, nine of those 11 were public servants."

Lawmakers in the House gave initial approval for increasing court staffers' pay, phased in over two years. But they weren't down with increasing salaries for judges, with some citing how the pandemic has financially wrecked the state's coffers.

"You know, I believe that 25.9% across the board. This is probably not the year to do that," said Rep. Shannon Francis, R-Liberal.

Others didn't like the optics of giving judges big pay increases while the rest of America suffered under the pandemic.

"I don't care if they had nine years without [a raise]," said Rep. Kristey Williams, R-Augusta. "They're still doing better than the average in the U.S."

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What's next

The debate over the judicial branch's staffing and pay needs is not over, as the branch's budget will be looked at on the House floor and the Kansas Senate.

The 25% pay increase for judges, however, doesn't seem likely to come to fruition.

The future for Kansas courts is still uncertain as many courthouses are yet to be fully operational and the pandemic remains very much here.

"Docket fee revenue continues to be below what we estimated, and predicting future revenue is difficult given the unusual circumstances," said Lisa Taylor, spokeswoman for the judicial system.

The underfunding and the problems it poses is more than just the pandemic, said Welch. It was an issue before the pandemic and likely will be after.

"We're not a state agency, like the Department of Labor or Department of Transportation," she said on the need to fully fund. "We're the third branch of government."