



## CIRCUIT COURT OF THE STATE OF OREGON

FOR THE 2<sup>nd</sup> JUDICIAL DISTRICT  
LANE COUNTY COURTHOUSE  
125 E. 8TH AVENUE  
EUGENE, OREGON 97401-2926

Jay A. McAlpin  
CIRCUIT COURT JUDGE  
(541) 682-4240

January 29, 2023

The Honorable Floyd Prozanski, Chair  
Senate Judiciary Committee  
State Senator  
900 Court St. NE S-413  
Salem, OR 97301  
**By email:** [Sen.FloydProzanski@oregonlegislature.gov](mailto:Sen.FloydProzanski@oregonlegislature.gov)

Re: Senate Bill 235

Dear Chair Prozanski and Members of the Judiciary Committee:

Forty years have passed since the legislature last allocated a new Circuit Court judge to serve Lane County. Since then, our county's population has grown by over 100,000 citizens and the District and Circuit Courts have been consolidated. In addition, and perhaps, most importantly, the court's fundamental function has expanded to include work that simply did not exist in 1983. My name is Jay McAlpin and as the Presiding Judge of the Lane County Circuit Court I am asking you to support the Oregon Judicial Department's request for an additional Circuit Court judge to serve the people of Lane County.

For the first half of the history of the Lane County Circuit Court, the court's fundamental function was as the court of general jurisdiction hearing criminal and civil cases. At that time, judges were engaged in the "classic" view of judging that we are all familiar with. The judge sat passively, serving as an umpire over legal disputes and letting the jury make factual decisions. However, this role changed dramatically in the 1970s with the adoption of no-fault divorce and increased federal funding to states to investigate and prevent child abuse. With these changes to the law the number of family and juvenile law cases increased considerably. These changes challenged the "classic" view of judging. Judges could no longer simply call "balls and strikes." Now judge also needed to decide statutorily mandated questions about what is in the best interest of a child or whether a parent is likely to ameliorate a substance abuse issue in a reasonable time to allow for a family to be reunified. As you can imagine, this "new" style of judging was more intensive both in time and emotional investment. The legislature responded to this increased workload by adding a judge to Lane County's District Court in 1976 and to the Circuit Court in 1983.

The legislature's decision to add a judge to the Lane County bench in 1983 was both strategic and timely. That investment has, for the last forty years, allowed us to serve our community well even as the role of a judge has continued to evolve. In addition to presiding over "classic" civil and criminal cases and family and juvenile cases, the Lane County Circuit Court has been a

leader in finding innovative, cost-effective, and successful ways of serving the evolving needs of our community. These innovations have included Treatment Courts to serve a wide variety of different needs, a differentiated case management system for juvenile dependency cases and a Behavioral Health Docket. In addition, we have responded to the exponential increase in self-represented litigants by thinking outside the box to devise systems to reflect the reality that many families cannot afford the assistance of an attorney even when faced with the difficult questions surrounding divorce and child custody.

Our first Treatment Court (then called “Drug Court”) became operational in October 1994 and was one of the first 20 substance abuse treatment courts in the United States. Building on the success of that initial Treatment Court, we continued to innovate by creating a Recovery and Progress Court (RAP Court), which was the first juvenile substance abuse Treatment Court in Oregon. In the last decade we have added a Veterans’ Treatment Court to provide services focused on the unique challenges faced by those members of our community who have served in the military and may continue to bear the burden of trauma. And a Mental Health Treatment Court that seeks to divert members of our community from the criminal system who may be otherwise law-abiding but for the lack of mental health treatment. These Treatment Courts seek to address the enormous social costs of substance abuse, trauma and lack of mental health treatment while also diverting them from an increasingly strained criminal justice system.

In addition to the Treatment Courts, we have also instituted a differentiated case management system for our juvenile dependency cases. This ensures increased face to face interaction between our juvenile judges and families involved in the juvenile dependency system. This allows the court to monitor every parties’ progress toward resolving the problems that brought them before the court.

Not only have we sought to better serve our community through Treatment Courts and better systems in juvenile cases we’ve begun innovating to better serve defendants who have been found unfit to stand trial. In response to the increase and complexity of Aid and Assist cases on our criminal docket we have created a Behavioral Health docket. Our goal is to manage Aid and Assist cases as they move from the court to the State Hospital and back more efficiently, create relationships with community partners and provide a structure in place to respond to any further legal changes to the restoration process.

Finally, the last 40 years have seen the number of self-represented litigants increase to numbers that judges couldn’t have imagined in 1983. To help manage this workload we have instituted status conferences and judicially led settlement conferences, especially for self-represented litigants in family law cases. We know that children fare better after divorce if parents are able to reach agreement rather than going through an adversarial process. Since offering these status conferences and judicially led settlement conferences we have seen an increase in amicable resolutions. However, due to competing needs for judicial resources, we are only able to offer 2 judicially led settlement conference slots a week. As a result, self-represented litigants must often wait months before a slot opens.

We are proud of the thousands of lives our court has positively impacted through these dockets in the nearly 30 years since their inception. But I want to be clear, treatment courts, self-represented litigant settlement conferences and dockets that allow active supervision of juvenile and behavioral health cases are no longer new or innovative. This is what judging looks like in the 21<sup>st</sup> Century. All of our judges receive training in how to try civil, criminal, family law, juvenile and treatment court cases. And these dockets are not a sideshow to our “classic” role

but rather an integrated and important service that we are duty bound to provide for our community in our role as Circuit Court Judges.

We still play the “classic” role that Judges Lawrence Harris and George Skipworth played in the old Lane County Courthouse in the early 1900s. In fact, the Lane County Circuit Court continued to serve our community throughout the Covid pandemic. We presided over civil and criminal jury trials in some of the most difficult times to face the court in 100 years. In 2022, our judges called “balls and strikes” in over 100 criminal and civil jury trials, including cases involving multi-million-dollar civil suits and the most serious person crimes, including murder.

Unfortunately, with our current number of judges, we are unable to provide the service to our community that we would like to provide and truly *should* provide. We know that Family Treatment Courts are effective in improving life outcomes for the participants and their children. These courts can provide focused substance abuse treatment and, when appropriate, mental health treatment, to parents. This treatment, combined with evidence-based wrap around family support means that parents stay in treatment longer, families stay together safely, and kids avoid growing up in the child welfare system. But we cannot provide this service with our current number of judges.

A Family Treatment Court isn’t the only service that we have not implemented due to lack of judicial resources. In addition to Family Treatment Courts, we’d love to increase the number of judicially led settlement conferences for self-represented litigants so parties wouldn’t have to wait for months to achieve the best outcome for their case. In addition, we anticipate that we’d save thousands of dollars for the Department of Justice and Oregon Public Defense Services by offering slots for judicially led settlement conferences in cases where the State is seeking to terminate parental rights. And, finally, we believe the most effective way currently available to manage the population crisis at the State Hospital is for active judicial supervision of defendants with behavioral health issues in community restoration placements.

You would be forgiven for thinking that this wish list of programs is an attempt to tug at your heartstrings as a way of loosening your purse strings. But these are all actual proposals that my colleagues and community partners have brought to me over my first year as Presiding Judge. We are currently unable to implement any of them without negatively impacting our current service. We are at the stage where any time utilized on one docket detracts from another docket and, as a result, our existing services suffer.

Forty years ago, a timely and strategic investment in the Lane County Circuit Court had long lasting benefits for the citizens of Lane County and for all Oregonians. I respectfully ask that you again invest in our community by authorizing a judicial position for the Lane County Circuit Court. We, like our colleagues forty years ago, will make good use of your investment.

Thank you for your time and for considering our proposal.

Sincerely,



Presiding Judge  
Lane County Circuit Court