

The Honorable Floyd Prozanski, Chair  
Senate Judiciary Committee  
January 29, 2023

**By e-mail only**

Chair Prozanski and Committee Members, my name is Robert S. Bain. I was an attorney practicing law in Josephine County for roughly 25 years before joining the bench in 2018. I have been the Presiding Judge of Josephine County since 2019. Thank you for taking the time to consider my testimony in support of this crucial piece of legislation- SB 235- pending before your committee.

**“Justice delayed is justice denied”**

This Nineteenth Century legal maxim is apropos our state judiciary in general and Josephine County in particular.

Josephine County has five judges serving approximately 88,346 citizens as of 2021. In 2017 when the legislature last funded a judge in our county, the population was 84,514, a roughly 4% population increase.

Of our five judges, Josephine County assigns one Judge to hear family court matters including cases involving domestic violence restraining orders, child custody and parenting time cases, divorces and juvenile delinquency and juvenile dependency cases, among others. Our family court judge is also responsible for overseeing the newly established Family Treatment Court.

In addition, we have one judge each devoted to Mental Health Court and Drug Court. These specialty courts have proven track records for reducing recidivism and removing behavioral health cases from the criminal court docket. As you well know, Specialty Courts

provide treatment rather than punishment, and they are effective. However, with three operational specialty courts, we have fewer judges available to hear trials.

As Presiding Judge, I often hear complaints from members of the public, who have civil cases pending before our court involving divorce, child custody cases, contract and property disputes and the like, that it takes far too long for their cases to go to trial. Further, I hear from attorneys who practice in other counties how Josephine County has a reputation for continuing civil cases multiple times before they can go to trial. These complaints have merit. That is because some cases take statutory priority- often criminal cases with incarcerated defendants and juvenile dependency cases. That means that those civil cases must be continued in the hopes of being tried at the next trial setting, usually in a few months. As the Presiding Judge, I know that this practice has real costs. It has both financial and emotional costs to the parties. It can have significant financial costs to parties because they must pay their attorneys to be prepared for trial only to discover the case must be reset, forcing the attorneys to prepare again at the next trial setting.

Delay also causes significant emotional costs to parties. Preparing highly charged personal matters for trial builds anxiety. This anxiety is exacerbated when the case is reset and no resolution results. The emotional costs to victims of child sex abuse cases, the elderly, and other vulnerable citizens is real.

Josephine County has made every effort to resolve cases without a trial. We have utilized Pro Tempore Judges to hear small claims and traffic trials. We have one Pro Tem Judge who assists in settling family court cases that do not involve child custody. Further, we have had Plan B Senior Judges help us settle both civil and criminal cases, large and small with great

success. We use mediation services in family court custody and parenting time cases and, beginning in 2021, implemented a mediation program to try and settle both landlord/tenant cases and small claims cases, also with great success.

Despite our efforts to resolve cases short of trial, many cases are routinely reset, often multiple times, as mentioned earlier. I strongly believe that the citizens in our rural judicial district would be well served by providing them with an additional judge available to resolve matters more expeditiously.

It is a matter of providing them with prompt access to justice!

Thank you for all you do for all Oregonians and for considering our request for additional judicial assistance in Josephine County.

Respectfully,

Robert S. Bain  
Presiding Judge  
Fourteenth Judicial District