



# **Access and Service Delivery 2 Committee**

## **Report to Judicial Council**

**December 14, 2009**

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# Access and Service Delivery 2 Committee Membership

Honorable John R. Rodenberg, Chair

Fifth District

Jeff Agre  
Eighth District  
Kandiyohi County Court Reporter

Honorable Kathy Gearin  
Second District

Judy Besemer  
Fifth District  
Blue Earth County Court Administrator

Tamara Halonen  
Fourth District  
Hennepin Court Record Coordinator

Honorable Tim Bloomquist  
Tenth District

Honorable Bill Johnson  
Third District

Sally Cumiskey  
Third District  
Winona County Court Administrator

Teresa Kingsley  
Third District  
Olmsted County, Deputy Clerk

Larry Dease  
Second District  
Judicial District Administrator

Honorable Mike Kirk  
Seventh District

Sue Dosal  
State Court Administrator  
State Court Administration

Honorable Dave Knutson  
First District

Shelley Ellefson  
Third District  
Judicial District Administrator

Teresa McDonnell  
Ninth District  
Roseau, Kittson and Marshall Counties  
Court Administrator

Dick Fasnacht  
Fifth District  
Judicial District Administrator

Honorable Jon Maturi  
Ninth District

Honorable Jim Florey  
Sixth District

Stacie Meyers  
First District  
Sibley County, Senior Court Clerk

Teresa Fredrickson  
Eighth District  
Meeker, Swift and Kandiyohi Counties  
Court Administrator

Tim Ostby  
Seventh and Eighth Districts  
Judicial Districts Administrator

## **Access and Service Delivery 2 Committee Membership**

**(continued)**

Honorable Charles Porter  
President MDJA

Honorable Jim Swenson  
Fourth District

Carol Renn  
First District  
Dakota County Court Administrator

Marsha Unthank  
Fourth District  
Assistant Judicial District Administrator

Tim Roberts  
Seventh District  
Stearns and Benton Counties  
Court Administrator

Jerry Winter  
First District  
Judicial District Administrator

Honorable Jerry Seibel  
Eighth District

Marnie Zak  
Tenth District  
Anoka County Law Clerk

Cindy Stratioti  
Sixth District  
St. Louis County Court Administrator

### Ex-Officio

Paul Carlson, J.D.  
MSBA Representative

Jeff Shorba  
Deputy State Court Administrator  
State Court Administration

### Staff

Nancy Dietl Griffin  
Human Resources Program Manager  
State Court Administration

Jessi Bienfang  
Human Resources Specialist  
State Court Administration

## **Executive Summary**

In its July 2008 report to the Judicial Council, the original Access and Service Delivery (ASD) Committee recommended creation of a committee to study longer term service delivery topics. In response, the Judicial Council created the ASD-2 Committee.

The Committee was comprised of over forty members representing trial court judges and a broad range of judicial branch employees, as well as court justice partners. The Committee met monthly from November 2008 to December 2009. The work culminated with a presentation of this report and findings to the Judicial Council in December 2009.

The service delivery topics of study by the Committee were largely of type not susceptible to easy or obvious solution(s). For this reason, and based upon the Committee's very thorough deliberations, there are a number of areas where multiple "options" are formulated for consideration by the Judicial Council. The options are described and the primary favorable and unfavorable rationale (pros and cons) are identified for each option.

This report is organized around five major themes discussed by the Committee: (1) Judge Unit; (2) Subordinate Officers; (3) Structure and Governance; (4) Workflow Reengineering; and (5) Judicial and Legislative Policy Reform. Background information on each theme is provided throughout the report, along with options or recommendations for consideration by the Judicial Council.

Following is a summary of options and recommendations detailed in this report.

### **Judge Unit**

The Committee considered models for taking the record and providing courtroom support, digital reporting, and identification of courtroom duties that could be performed by judge unit staff. Both sets of options below (district and systemic) outline judge unit changes designed to create cost savings and efficiencies.

#### **District Options**

The underlying premise of the district options is that judge units should "share the pain" of budget reductions and that the Judicial Council should consider setting a statewide goal for judge unit contribution. Several strategies were identified as options for implementation by individual districts including:

1. Judge Unit Vacancy Savings
2. Small County Model
3. Digital Reporting
4. Large County Model
5. Court Administration Duties to be Assumed by Judge Unit Staff or Abandoned

### Systemic Options

The systemic options are statewide strategies that identify ways the judge unit can contribute toward achieving cost savings and efficiencies to mitigate the resource shortages in court administration.

1. All Digital Reporting
2. Grandfather Judge Units into Eventual Exclusive Use of Digital Reporting
3. Implement Digital Recording with Remote Central Monitoring State-wide
4. Maintain Stenographic Option with Court Reporter Assuming Court Administration Duties

### Other Recommendations

1. The Committee recommends that, in cases where the record is taken digitally and there is an appeal involving legal argument only without testimony, the record on appeal should consist of the digital record only.
2. The Committee recommends that the file transmitted to the appellate courts should not be restructured by district court administration before submission to the appellate courts.

### **Subordinate Judicial Officers**

The Committee reviewed subordinate judicial officer topics to identify ways the Judicial Branch can achieve cost savings and efficiencies by using subordinate judicial officers at a lower cost without a significant decline in service delivery.

### Recommendations

1. The Committee recommends that the Judicial Council form a workgroup of judges and administrative staff to develop an implementation plan for using pro bono attorneys to hear conciliation court (and potentially housing court) cases via ITV.
2. The Committee supports moving forward the current ASD-1 initiative of reconfiguring the Ramsey County CAMPER software for statewide use and centralizing the review of the annual conservatorship accounts. In addition, it is recommended that an implementation workgroup be formed to study the potential for regionalizing or centralizing the account review hearings using ITV and subordinate judicial officers.
3. The Committee recommends the transfer of implied consent cases to the Office of Administrative Hearings only if there is no negative impact on the Judicial Branch budget.

## **Structure and Governance Issues**

The Committee discussed structure and governance issues to identify ways the branch can achieve cost savings through administrative restructuring and/or redistricting. The Committee also studied a future model employing trial and/or service centers.

### Options

1. Administrative Restructuring/Consolidation combining the Seventh/Eighth, Sixth/Ninth and Third/Fifth Judicial District Administration offices
2. Redistricting “Model Three” which creates seven judicial districts by consolidating Districts Three and Five, Six and Nine, and Seven and Eight
3. Redistricting “Model Ten” which makes significant changes to current judicial district lines, by creating seven districts
4. Status Quo
5. Trial/Service Center Model which creates new regional trial court service centers

### Recommendations

The Committee forwards models 1 through 3 above, which offer a continuum of changes ranging from consolidating existing judicial district administration offices to significant redistricting. The Committee recommends that the topic of Trial/Service Centers would benefit from ongoing discussion with an interagency group comprised of criminal justice partners such as the Criminal Justice Forum.

## **Workflow Reengineering**

The Committee considered the topic of workflow reengineering with specific regard to understanding the effects of technology on the work of court administration post implementation of ASD-1 initiatives.

### Recommendation

The Committee recommends tasking the State Court Administrator to form a workgroup to study court administration workflow following full implementation of ASD-1 initiatives, including workflow at the county, district, central and appellate levels. This workgroup shall report back to the Judicial Council on its findings.

## **Legislative and Judicial Policy Reform**

The Committee recognized that there are substantive policy and statutory impediments to operating efficiently, reducing costs and providing value to the citizens. As such, the Committee recognized the need to advocate for statutory changes.

### Recommendations

1. In June 2009, the Committee recommended to the Judicial Council that NEAC would be best evaluated by a group that includes broad stakeholder representation, such as



- the Criminal Justice Forum. In response to the recommendation, the Judicial Council approved that the Criminal Justice Forum determine if further action should be taken on NEAC recommendations
2. The Committee recommends that the Judicial Council review substantive law that impacts the efficient operation of the Judicial Branch and make recommendations to the Judicial Council for changes as part of the Branch's annual legislative proposals.

Further background information, including meeting agendas, minutes, and attachments are available on CourtNet. (<http://courtnet.courts.state.mn.us/0/?page=3420>)

# Report of the Access and Service Delivery-2 Committee to the Minnesota Judicial Council December 2009

## Committee Charge and Membership

In its July 2008 report to the Judicial Council, the original Access and Service Delivery (ASD) Committee recommended creation of a committee to further study longer term service delivery topics as a result of state governmental fiscal challenges expected to extend beyond FY10-11 and to continue into the long term driven largely by seismic demographic changes such as an increasing rate of retirees compounded by a shrinking pool of new workers creating competition for employees not seen in over fifty years<sup>1</sup>. In response to the recommendation, the Judicial Council created the ASD-2 Committee with the following charge and scope:

### Charge

*The ASD-2 group would focus on the list of longer-range service delivery topics. With direction from the Judicial Council, the group would be expected to study in more depth and develop more specific proposals in the areas identified below, recommend the order in which project development work should commence and the appropriate group to take the lead on developing the project plan for each initiative. This group would set timelines for completion of the preliminary work plans and bring the compiled results back to the Council for further endorsement and direction.*

### Scope

*It is proposed that the following initiatives will be adopted by the Judicial Council as those recommended options viable for the **longer term**. Evaluation efforts will likely begin for some initiatives in this fiscal year but others, especially aspects of the workflow re-engineering initiative, would not commence until FY 11-12; how far they will have progressed at the end of the FY 11-12 biennium cannot be predicted at this time. It is expected that implementation of these longer term initiatives would occur into future fiscal years.*

### Longer Term Efforts (future biennium)

- *Expand use of subordinate officers (Priority 3A)*

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<sup>1</sup> State Economist Tom Stinson reported that beginning in 2008, the State will face a 30% jump in workers reaching retirement age beginning in 2008, placing unprecedented financial pressures on government and shifts on spending priorities to issues of aging and health as well as reduced income tax revenues as the proportion of the retired population increases. At the same time, the number of new workers in the state will be shrinking.

- *Work flow re-engineering including consideration of courtroom duties, judge unit composition and responsibilities, and redesign of court administration workflow in the electronic environment*
- *Legislative and court policy reform to reduce workloads*
- *Structural/governance issues including redistricting*

The ASD-2 Committee, chaired by the Honorable John R. Rodenberg, consisted of over forty members from the following categories: district court judges, district administrators, court administrators, court reporters, law clerks, court administration staff and both union and non-union employees. Representatives of court justice partners including the County Attorney Association, State Public Defender, MSBA and MDJA were invited to attend meetings and provide input. In addition the Committee heard presentations from a number of outside organizations and individuals including the National Center for State Courts, Office of Administrative Hearings, Anoka Technical College, private practice attorneys and the State of Utah Court System, to name a few.

Beginning in November 2008, the ASD-2 Committee held monthly one and two day meetings to study longer range options for service delivery identified in the original ASD report in order to address: (1) significant budget constraints facing the State of Minnesota in both the short and long term; and (2) smaller available workforce infrastructure with significant competition for a limited pool of workers. More information about specific meeting dates and topics, agendas and meeting summaries can be found on CourtNet. (<http://courtnet.courts.state.mn.us/0/?page=3420>)

Initially, it was anticipated that ASD-2 would make recommendations to the Judicial Council for implementation in FY12-13. In recognition of the ever-increasing budget deficits predicted for FY12-13 and as a result of the Judicial Council's decision to accelerate the allocation of trial court funding based on the lowest norm,<sup>2</sup> the Committee was directed to expedite its work and submit a final report by December 2009. The mounting effect of chronic under-funding, possible additional cuts in FY 10-11, and the predicted \$5.4 to \$7.2 billion<sup>3</sup> state deficit in FY 12-13,<sup>4</sup> created an urgent need for the courts to be well prepared for continued fiscal constraints and

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<sup>2</sup> The Council decided to amend the current formula used to allocate trial court resources by moving over a three year period to funding all courts at the lowest norm identified in the staffing study. This transition will commence at the beginning of Fiscal Year 2010 and conclude at the beginning of Fiscal Year 2012. The Council believes this change in the formula is necessary to allocate limited branch resources to better match branch workload. The effect of this decision will be to staff all court administration offices based on a single "norm," meaning in practice that counties with low weighted caseload numbers will see a decrease in court administration staff.

<sup>3</sup> As of November 2009, the Governor's Office and MMB staff estimate a \$5.4 billion deficit whereas legislative staff estimate a \$7.2 billion deficit.

<sup>4</sup> It is understood that several components of the FY10-11 budget solution—federal stimulus money and state accounting shifts-- will not be available in FY12-13 to mitigate the projected deficit. Testimony of the House Chief Fiscal Analyst to the Legislative Commission on Planning and Fiscal Policy Subcommittee on a Balanced Budget on October 19, 2009 indicated a projected FY12-13 deficit of as much as \$7.2 Billion or approximately 21% of the entire state budget.

almost certain additional budget cuts by instituting technology and business changes now that will result in cost savings and efficiency.

Many, if not most, of the changes being considered by ASD-2 are being suggested out of necessity and not because the Committee believes that these would be better business practices.<sup>5</sup> Some of the suggestions contained herein may adversely affect the quality of justice. However, if we do not make changes to the quality and quantity of our service now, the end result will likely be even worse.

Given the budget challenges and degree of necessary changes in service delivery methods to create greater efficiencies, the Committee acknowledges the level of impact on Judicial Branch judges and employees as well as the entire system. Due to this, the Committee recommends the Judicial Council undertake discussions with judges, employee groups, external stakeholders, and justice partners as an essential part of Judicial Council deliberations on the ASD-2 topics in this report.<sup>6</sup>

## **Report Structure**

This report is organized around the following major themes discussed by the Committee:

- Judge Unit Topics, including ways to create balance between the funding and workload of judge unit and court administrations staff, models for taking the record and providing courtroom support, and law clerk duties;
- Subordinate Officers, including the role of referees in conciliation court and potential transfer of implied consent hearings to the administrative law process;
- Structure and Governance, including redistricting and restructuring;
- Workflow Reengineering;
- Judicial and legislative policy reform focusing on the Non-Felony Enforcement Advisory Committee report.

For each of the major themes, the report includes background information about the research and best practice information the Committee considered including attachments in the appendix of this report, reference to discussions held, and either options or recommendations for the Judicial Council to consider.

In addition to the topics addressed in this report, the Committee considered a number of ideas that have merit, but did not garner enough support from the Committee to be included in this

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<sup>5</sup> The Committee recognizes the duty and obligation of the branch to seek adequate funding, particularly judges as set forth in Code of Judicial Conduct Canon 2, Rule 2.5 Comment (1), "A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities."

<sup>6</sup> This process adheres to relevant collective bargaining agreement provisions.

report as recommendations or options for various reasons, including implementation costs. Information on these topics can be found in meeting summaries and attachments located on CourtNet. (<http://courtnet.courts.state.mn.us/0/?page=3420>)

## **I. THE JUDGE UNIT**

The judge unit has historically consisted of a judge, court reporter and law clerk. Both the law clerk and court reporter are appointed by the judge and serve as his/her confidential employees. Traditionally, the work of the law clerk has focused on legal research and writing and the court reporter has captured the official record and performed some administrative support functions for the judge. The Committee noted that the duties of the law clerk and court reporter vary across the state based on the work of the court and local conditions.

The Committee targeted this topic for study because of the current funding constraints of the branch and how the trial court budget is allocated. Currently, by Judicial Council policy, the judge unit—judge, court reporter and law clerk—are fully funded at 100 percent of current judge unit complement.<sup>7</sup> The remainder of the appropriation is allocated to court administration.<sup>8</sup> Since the trial courts as a whole have been chronically underfunded, when the judge unit is funded at 100 percent of current judge unit complement that means, in the judgment of most but not all of the committee members, that court administration bears a disproportionate share of the budget shortfall.<sup>9</sup>

The Committee discussed at length the importance of each judge having a confidential employee(s) who serve at the judge's pleasure. Because of the nature of a judge's work, the Committee is recommending that the Judicial Council maintain a judge unit that includes a minimum of one confidential employee (law clerk or court reporter) who serves at the pleasure of the judge. Furthermore, the Committee strongly favors that each judge have two (2) confidential employees, yet recognizes in many places judges are operating with only one (1) confidential employee. The Committee strongly recommends that under no circumstance should a judge be required to operate with fewer than one confidential employee.

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<sup>7</sup> "Current Judge Unit Complement" does not necessarily equal 100 percent of Assessed Judge Need. As of the date of this report, the Branch is currently underfunded by 8 judges according to the Judicial Weighted Caseload study. Additionally, according to a 2001 Office of Legislative Auditor report, Minnesota judges carry caseloads that are 49% higher than those of comparable states.

<sup>8</sup> It should be noted, that while the Judicial Council allocates 100% of funding for the judge unit, individual judicial districts may be taking steps such as holding open court reporter and/or law clerk positions to achieve salary savings that are applied to mitigate budget shortfalls for court administration.

<sup>9</sup> Beginning in FY 10-11, the Judicial Council adopted as part of its budget plan the requirement to hold judicial vacancies open for four months.

## *Models for Taking the Record and Court Room Support*

As part of its charge, the Committee reviewed models used in varying court environments for taking the record and providing courtroom support, paying special regard to the importance of preserving the integrity of the record while increasing efficiency. The Committee studied a wide variety of practices from a number of sources, both within and external to the Branch. The following descriptions provide an overview of what the Committee heard and serves as foundational information for the recommendations and options with respect to the judge unit.

### 1. Overview of Digital Recording

Digital court reporting uses a digital audio recording system to record court proceedings and creates digital files to preserve audio and data.

Digital recording systems can be used in a variety of different configurations. The system can be utilized by a single staff in the courtroom who operates the equipment, monitors the proceedings and then stores the digital record to a CD, computer hard drive or server. Alternatively, digital recording can be set up to monitor multiple courtrooms from a remote location. Staff located in a central monitoring room with video preview capability operates the equipment and monitors, and records multiple courtrooms simultaneously. While monitoring the proceedings, staff perform several important tasks, such as “tagging” the case number, participant names and key events of the proceedings. The “tags” are saved digitally within the record and function as an index for the recording and creating the transcript. They also serve as bookmarks permitting easy location and instant cueing and play back of information within the recording.

Once a digital recording is made, it can be accessed from any location giving judges and staff easy access to court records. Additionally the digital file can be quickly duplicated, distributed by CD, emailed, or even made accessible online from the court’s website. Policies can be developed to ensure that access is given in conjunction with established protocol.

### Quality

The quality of a digital record is far superior to that of an analog system. Current digital recording technology has multiple channels which provide sound isolation when there are multiple speakers. The increase in quality has greatly reduced the number of indiscernible words or phrases in transcripts produced from digital recordings. Based on the ability to replay and re-listen to the digital recording and isolate a particular speaker’s comments, digital recording offers a reliable and accurate recording system.

In instances where parties speak over one another, or if there is a cough or other distraction, a digital recording system with multiple channels allows the opportunity to replay a segment and

isolate channels to better understand the proceedings. Background noise can be easily eliminated by focusing on a single speaker's microphone.

When it is necessary to have an off-the-record discussion, a tag can be entered indicating the status of the conversation so it would not be included in a transcript. In the event that a discussion should not be recorded, the recording can easily be turned off at the direction of the judge or judge's designee. Additionally, the court room's sound system can be programmed to automatically stop sending an audio signal during an off-the-record conversation. Additionally, a "noise masking" feature can send static over the room's P.A. system and can serve as a clear reminder that the conversation is not being recorded. A digital recording allows for independent verification of a written transcript in the event of a dispute.

### Storage and Archiving

Digital data can be stored and archived with more reliability and security by using multiple media types including fixed media (CD/DVD) or to a hard drive or network server. Digital data has a longer life expectancy than analog and allows for quick searches and retrieval of information. Digital records are easily copied and require minimal storage space allowing for centralization of the records. This allows requests to be managed timely from a central clearinghouse. To further ensure secure storage, many courts specify a minimum amount of server storage capacity to maintain online storage for a minimum period of time, such as six months. In the future, digital data will likely be able to integrate with the case management system. Because of these advantages, all of Minnesota's courtrooms that are set up for electronic reporting have implemented or are implementing digital systems.

### Integrity of the Record

While all proceedings may be captured either stenographically or electronically, the vast majority of time a transcript is not prepared. Therefore, it is critical that the records are secure until they are needed. Digital systems offer a reliable method of secure storage as well as safeguards to ensure recordings are tamper resistant after it has been recorded into the system, such as "record over" protection.

### Equipment Failure

Current digital technology solutions employ multiple safeguards to prevent system failure, the most significant of which is the active monitoring of recordings by an employee to tag information and verify the status of a recording. In addition to four audio channels, most systems include an additional channel for backup recording. The CourtSmart system, for example, has completely independent primary and backup recordings so there is never a single point for server failure. Although a network connection is required for transmission to the centralized data server, each individual server can operate independently if a network connection is lost. The record is, in fact, triple protected as data is stored to the network, simultaneously

downloaded to discs stored on site, as well as disks stored at a disaster-recovery facility. Since implementing CourtSmart, the Fourth District reports only one instance of digital equipment failure due to a power outage. Other digital systems offer similar safeguards such as automatic back up by simultaneously recording to a CD and computer hard drive.

Video preview capability also offers an additional protection against failure. In the central monitoring room, a staff is able to use video preview to observe the courtroom activities and start the recording session if the courtroom staff has failed to do so.

### Central Monitoring

Centralized monitoring offers additional flexibility and cost savings over current one-to-one stenographic or electronic models. With one court reporter able to monitor three to four courtrooms, either in the same building or miles away, if a court reporter is on vacation or medical leave, centralized monitoring ensures that court proceeds uninterrupted when a court reporter is not available. In addition, per diem court reporter costs can be virtually eliminated. Centralized monitoring offers further savings from reduced workers compensation claims, as the court reporter is not exposed to the physical stress of repetitive motion. Similarly, lost time due to injury is reduced as the central monitoring room can often accommodate medical needs or light duty work that a standard court room cannot.

## 2. The Fourth Judicial District's Court Record Project

Early in its work, the Committee visited the Fourth Judicial District's Court Record Project central monitoring room to observe operations and pose questions to the court reporters. Fourth District Chief Judge Swenson gave Committee members an overview of the Court Record Project. Marsha Unthank, Pam Kilpela, and Tammy Halonen provided information about the implementation, current use of the system, and policy and best practices guidelines.

In the late 1990s and early 2000s, it was difficult for Hennepin County to arrange court reporter coverage for all court proceedings due primarily to the cost and unavailability of free lance reporters and to a limited supply of qualified official court reporter candidates caused by the closing of both local court reporter schools and competition from private sector companies that hire closed captioning reporters. Because it was not feasible to cancel calendars, a hierarchy was implemented to focus court reporter resources to the highest-priority calendars. Court reporters would not be present for those calendars unlikely to require a transcript; instead the proceedings would be recorded by other court personnel. This was not an ideal solution because transcripts frequently could not be produced due to poor tape quality. Malfunctions or other technical difficulties prevented a record from being made. A focus group consisting of members of the Bench, Administration and Court Reporters was formed to research possible solutions to this issue. The Court Record Project is the result of that group's efforts. In April 2005, the



Executive Committee approved a motion to adopt the Court Record Project proposal; installation and testing was performed and full implementation began in February 2006.

The Court Record Project utilizes CourtSmart, which is a system of digital recording with central video and audio monitoring capabilities where one court reporter monitors four courtrooms. CourtSmart has been installed in 49 of Hennepin County's 93 courtrooms including all suburban courts, the Family Justice Center, Public Safety Facility, and the Juvenile Justice Center. Additionally, two conference rooms have CourtSmart installed. Currently there are two and a half Official Court Reporters permanently assigned to work with the centrally-monitored digital recording system, as well as three to five Official Court Reporters who rotate through that assignment.

Use of CourtSmart is mandated by Fourth District executive policy. Initially, a few judges resisted using CourtSmart. In these instances, the Chief Judge discussed the reasons for cooperating with executive policy. Judge Swenson indicated that no such issues have been raised since he has been Chief Judge. Moreover, the benefit to the court reporters and system overall has been positive. The Scheduling Unit has been able to accommodate court reporters' medical and vacation time while providing judges with needed coverage. This has been accomplished while eliminating the need for per diem court reporters and generating approximately \$100,000 in savings to the Fourth Judicial District. Additionally, the Teamsters support the digital system because it provides flexibility to reporters for taking time off. Several reporters with various medical issues – ranging from recovery from a heart attack and cancer treatment to leg and shoulder injuries and carpal tunnel issues – have been able to continue working because the duties in the monitoring room are less strenuous and physically repetitive. The overall number of medical and time off requests has decreased since implementation of digital recording. The Fourth District identified their collaborative implementation process as key to the Court Records Project's success.

This type of record keeping works well in districts with large courthouses containing numerous courtrooms or in court locations with capacity for broadband connections. For the Fourth and Second Districts the use of CourtSmart has resulted in savings for district budgets in the areas of per diem costs and workers' compensation costs. It has also allowed those districts to achieve court reporter vacancy savings in order to adjust to budget fluctuations. Court Record Project documents which were provided to the Committee are found in [Appendix A](#).

### 3. Small County Models

The Committee heard from Court Reporters from the Fifth and Eighth Judicial Districts regarding methods of taking the record and providing courtroom support. Both examples demonstrate how one employee, a court reporter, can perform most of the courtroom duties traditionally done by two individuals, a court reporter and court administration clerk.

Terry Kolander, Fifth District Electronic Court Reporter, gave an overview of how she performs her duties using digital recording. Ms. Kolander has a broad background within the courts, which gives her a heightened understanding of what is required in taking the record. During court proceedings she performs the duties of both a court reporter and a court administration clerk. As a result, Ms. Kolander estimates an overall savings in court administration staff of .75 FTE. Additional information regarding Ms. Kolander's model is found in [Appendix B](#).

Cheryl Grundseth, Eighth District Electronic Court Reporter, is often the only employee in the court room besides the judge. Ms. Grundseth works with a judge who sits regularly in three counties and occasionally fills in at others. She records all hearings and trials while also handling administrative duties, including but not limited to, managing the courtroom calendar, speaking with attorneys, and filling out orders. Court administration staff is present during arraignment court and jury voir dire, and the law clerk is present as requested by the judge for various hearings. Multi-tasking is key to successful completion of her duties. This model works well because she maintains constant communication with court administration. Additional information regarding Ms. Grundseth's model can be found in [Appendix C](#).

#### 4. Hybrid Model

Jeff Agre, Eighth District Stenographic Court Reporter, explained his personal model for taking the record as a "hybrid model" which is flexible based on the proceeding. He takes the record in some hearings stenographically and in others electronically, determining his method of reporting based on the anticipated needs of each particular case. When using electronic reporting, he is able to perform courtroom clerking duties and avoid the need for a court clerk in those hearings. Documents illustrating his court reporting methods by case/hearing type are located in [Appendices D and E](#) .

#### 5. Real-time Reporting

The Committee received information and observed a demonstration about real-time reporting from staff and students of Anoka Technical College. For more information, see [Appendix F](#) . Benefits of real-time are that the judge, law clerk, and court clerk have closed captioning-type access in real-time to all testimony, with software that permits the judge to make private notes and comments for future use. Transcripts can be produced rapidly and testimony is searchable by key word and time stamp. In addition, real time reporting offers that ability to comply with ADA requirements.

#### *Law Clerk Duties*

The Committee dedicated considerable time and discussion to the use of law clerks, specifically their role as confidential employees and the practice of sharing law clerks. The following two sections describe information the Committee considered when making recommendations to the Council.

### 1. Law Clerk as Confidential Employee

Marnie Zak, Law Clerk in the Tenth District, presented a report to the committee focused on the importance of a judge having a confidential employee who is comfortable working and sharing differing opinions with the judge. Ms. Zak also presented information on law clerk functions. Additional information can be found in [Appendix G](#).

### 2. Shared Law Clerks-Best Practices

An Eighth District Law Clerk detailed his experience as a shared law clerk. He is one of two law clerks working for five judges in two-and-one-half counties. Sharing law clerks between judges requires cooperation, communication between the clerk, judges and court administration, and social acumen. Law clerks working in this environment must use the MNCIS calendar to determine where he/she is most needed. When hearings being conducted simultaneously require the presence of a law clerk, a shared law clerk must attend one hearing and listen to a digital recording of the other hearing using the Liberty system. Few conflicts are reported using the shared method, although he reports personalities can affect the success of this method.

Two shared law clerks from the Third Judicial District discussed the pros, cons and best practices associated with serving two judges. Both credit the success of law clerk sharing to the cooperation of the judges. Dissension or entitlement from one judge can complicate the arrangement. Chief Judge Bill Johnson stated that this model was implemented to spread out the pain of budget cuts in the Third District; each geographical quarter of the district lost one law clerk. Additional information regarding prioritization of case types for law clerk coverage and keys to success can be found in [Appendix H](#).

## ***Recommended Judge Unit Options for Judicial Council Consideration***

The next section describes three options relating to the judge unit. The Committee considered various ways to maintain the status quo. However, given budget shortfalls and the need to realize greater efficiencies and cost savings, the Committee unanimously agreed not to recommend maintenance of the status quo with regard to the judge unit. The Committee did not identify a consensus choice among the approaches and is therefore presenting the following three options, including pros and cons, for Judicial Council consideration.

## **A. District Option**

The premise of this option is that judge units should “share the pain” of budget reductions. Each district would have the flexibility to determine how the judge unit would contribute to generating savings. The purpose of this proposal is not to reduce any district’s allocation amount or take away funding from those who are already achieving savings through innovative judge unit staffing models. Rather, the purpose is to provide a statewide goal or expected contribution to be set by the Judicial Council and provide optional strategies to be considered by individual districts for how the judge unit will meet that goal.

The Committee considered two fundamental ways judge units can participate in this goal. First, targeted budget/staff reductions to the judge unit could be identified by the district and transferred to court administration to offset their staff reductions and shortages ease the transition to the lowest norm and probable future budget cuts. Second, the duties of the judge unit could be expanded to take on some of the duties currently performed by court administration.

The Committee agreed that limiting the options or strategies to one model to achieve this goal would be too restrictive and not likely to work for all courthouses across the state. This proposal provides a menu of strategies from which districts could choose to meet the “pain sharing” goal to be established by the Judicial Council. Districts could choose one or more strategies which best meet the local culture, needs and budget constraints.

The premise that the judge unit should “share the pain” of budget reductions so that all employees and judges contribute equally to the funding shortages was not accepted by all members of the Committee. Some members believed that this ignores both the fact that the branch is already under judged and that the most fundamental core function of the courts involves decision making by judges. To continue to reduce the budget allocation to the judge unit in the same proportion as the budget is reduced to court administration would be unwise. The essential function of “judging” cases cannot be streamlined through the addition of technology to the same extent as can purely administrative functions.

### **1. Judge Unit Vacancy Savings**

This strategy entails the use of planned or opportunistic vacancy salary savings in judge unit positions to mitigate some budget shortfalls within court administration. Judges would share law clerks or hold open positions vacated by attrition for a planned period of time. The ability of a judge to share a law clerk necessarily depends upon the nature of the Judge’s assignment.

The Committee considered a proposal ([Appendix I](#)) that would allow districts to offer shared law clerks an increased salary to serve more than one judge. The proposal was not

envisioned as a mandate to share law clerks, but rather as a tool to help districts accomplish a goal as set forth in the District model. The Committee members discussed other ways for the law clerk job category to share the pain beyond sharing law clerks and that this proposal could be expanded to allow increased compensation for career law clerks as long as there is savings among law clerk related costs on the back end. After reviewing a document illustrating potential shared law clerk savings from this proposal ([Appendix J](#)), the Committee ultimately voted not to recommend this proposal to the Judicial Council at this time.

## **2. Small County (e.g. Fifth and Eighth District) Model<sup>10</sup>**

This strategy would preserve the three-person judge unit (judge, court reporter, and law clerk), utilize digital reporting, and require the judge unit to assume some functions of court administration, thus eliminating the need for court administration staff in the court room for most hearings. See Appendices [B](#) and [C](#)

## **3. Digital Reporting<sup>11</sup>**

At the discretion of the district, this strategy would involve implementing digital recording district-wide with court reporters assuming court clerking duties to eliminate need for court administration staff in the courtroom for most hearings. This strategy does not necessarily include centralized monitoring of courtrooms. (For additional information see the discussion of digital technology on pages 5-7.)

## **4. Large County (e.g. Fourth District) Model**

This option would involve implementation of centralized and remote monitoring on a location-by-location basis using whatever method the judicial district chooses. It is modeled on the Fourth Judicial District's Court Record Project which utilizes CourtSmart.

## **5. Court Administration Duties to be Assumed by Judge Unit Staff or Abandoned**

In this approach, the judge unit assumes duties statewide that are performed in some districts by court administration staff. The Committee discussed issues involving the judge unit at numerous meetings. It is recognized that because of budget constraints, the

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<sup>10</sup> The Committee believes that an unmonitored record (where staff involvement is limited to simply pressing a button to start and stop the recording) would be detrimental to the quality of the record. Therefore, all models assume a court reporter would monitor the taking of the record, whatever the method. It should be noted that in some locations, a trained staff person, other than a court reporter, takes the record.

<sup>11</sup> Ibid

judge unit composition has already changed; not every judge in the state has a court reporter and a law clerk. This is true despite the fact that under present Minnesota law each judge has the authority to appoint both a court reporter and a law clerk.

The Committee discussions were difficult and stressful. It is apparent that the actual composition and uses of court reporters and law clerks varies from district to district and even within districts from county to county. It has also become apparent that there are no standard work assignments for court reporters and law clerks statewide. In some districts, court reporters are used at every single in-court hearing except for conciliation court, which is not a court of record. Other districts have relaxed the practices involving courts of record so that some hearings are recorded without a court reporter in some limited circumstances. Sometimes that means that either the judge or a non-certified courtroom clerk starts a recording device.

Some people in the state have suggested that all court reporters be eliminated and digital-recording systems be used in all courtroom proceedings, including trials. This suggestion has been made in the belief that this would result in significant salary savings. Some believe this ignores the fact that a judge would continue to need a skilled administrative assistant and someone would have to be paid to keep the record and provide transcripts. Others have suggested that not every judge needs a law clerk and that law clerks should be pooled within a district. Judges believe that the existing law clerk vacancies have resulted in time delays and a painful drop in the quality and timeliness of orders.

The Committee heard information about the concept of eliminating court reporters, and specifically heard from Utah, which fully implemented this model in recent months. Ultimately, the committee was not in favor of wholesale elimination of reporter positions, and recommends, as an alternative, shifting administrative staff responsibilities to the judge unit.

Districts vary in the responses they have already made to the present budget issues regarding filling vacant positions for court reporters and law clerks. Some districts share law clerks either between two or three judges or by pooling law clerks within the district. In many districts, law clerks and court reporters have for years assumed some of the duties that were regularly done by courtroom clerks. In these districts law clerks, judges or court reporters already administer oaths, schedule hearings, manage juries during trials, and fill out form orders during low-volume criminal sentencing hearings, civil pretrial hearings, criminal pretrial hearings, family court hearings, and juvenile detention hearings.

The Committee recognizes that it must face the reality of anticipated state budget deficits and future budget cuts as well as the failure to increase the judicial branch budget to

handle future cost increases. Because almost the entire branch budget is allocated to personnel costs, no personnel component will remain unaffected.

Tensions between administrative staff and the judge unit have many roots.

Administrative staff fear that either they or a fellow worker will lose their job as the budget issues become tighter. This has resulted in growing resentment by administrative staff regarding the seemingly secure jobs of the judge, court reporter, and law clerk.

There are concerns that some judges do not adequately monitor the hours, workloads, or daytime, out-of-court activities of law clerks and court reporters.

From the perspective of judges, law clerks, and court reporters, the unique stresses of their jobs, their elected or at-will employment status, and the unpaid after-hours work that they are sometimes required to perform make them feel that their work is neither understood nor appreciated by administrative staff. Judges believe there's little appreciation for the decision-making process that must include time for reviewing written materials, trial notes, legal research, writing orders, and weighing the pros and cons of both sides.

At early meetings, the discussions regarding the judge unit focused on how the number of court reporters and law clerks could be reduced so that money could be used for administrative staff who are struggling to keep up with their duties with reduced staff. It then was suggested that it would be fruitful to look at the judge unit and non-judge unit employee issues from a different perspective. The Committee questioned whether there are duties presently done by administrative staff that will they be unable to perform in the future. Put another way, are there duties that the administrative staff presently perform that will either have to be absorbed by members of the judge unit, replaced by technology or eliminated?

Several duties are recommended to be assumed statewide by the judge unit. Many of these duties involve clerking and handling paperwork related to courtroom proceedings. The shift of these duties may be controversial and threatening to some of our present employees and to judges. However, it should be noted that many if not most of these tasks are already being done by the judge unit in many locations across the state. The following is an abbreviated list of duties that the whole committee agrees administrative staff cannot continue to perform in light of budget issues, and have to be eliminated, shifted, or replaced by technology.

- Pull and shelve files requested by the judge.
- Drafting or preparing complex and/or substantive orders which call for a legal conclusion such as: CHiPs, Commitments, OFP and HRO, Omnibus, and Civil/Family scheduling orders
- Clerking conciliation court

- Clerking court trials, jury trials, and criminal omnibus and civil motion hearings that are not on high-volume calendars when the number of matters scheduled is below an agreed upon number
- Managing court exhibits in the courtroom and after trial,
- Acting as the go-between for the judge regarding questions from probation officers, attorneys, and the public

The complete list of duties appears in [Appendix K](#).

If the responsibility for a significant number of the duties described above is transferred from court administration to the judge unit, it needs to be recognized that some proceedings will take more time, court reporters will need additional MNCIS training, and law clerks will have less time to do legal research and order writing. This may affect the quality of the work that the judge unit performs. It needs to be recognized that significant cuts to court administrative staff without a cut in the number of job tasks and responsibilities they presently have will likely result in delays and a decrease in quality.

### **Pros and Cons: Applies to All District Options Above**

#### Pros

- Better utilizes remaining resources following transition to the lowest norm
- Flexibility for districts to create their own mix of strategies to achieve targeted savings
- Flexibility for districts to address their own unique conditions and concerns
- Ability to be more responsive to local needs: geography, population, specialty courts, etc.
- Chief judges may benefit from the increased likelihood and level of bench cooperation as compared to other options

#### Cons

- Certain local strategies may require training
- May require chief judges to enforce changes for which they may have limited authority to affect
- Results in inconsistent practices and “have/have not” districts

### **B. Systemic Options**

The systemic options are intended as statewide strategies and identify ways the judge unit can contribute toward achieving cost reductions and efficiencies to mitigate the resource shortages in court administration.



## **1. All Digital Reporting**

In this option, digital reporting would be mandated statewide as of a date to be determined by the Judicial Council. The record would be stored on digital media and no transcripts would be generated, requiring a comprehensive indexing system and high-level search capabilities. Additional rationale for digital technology is also discussed in the next section on pages 14-16. Although this model recommends moving to all digital reporting, the Committee recognized that in some limited circumstances courts might be required to use realtime reporting when necessary to comply with ADA or other requirements.<sup>12</sup>

### **Pros and Cons: Digital Reporting**

#### Pros

- Better utilizes remaining resources following transition to the lowest norm, in that it frees up Court Reporters to assume other duties
- Uniformity of practice across the state
- Backups to all recorded proceedings available
- Potentially, the record could be integrated into case management system
- Record is accessible simultaneously by multiple users from any location
- Would be the first step in getting the appellate courts to accept a digital record
- Record is not proprietary and a transcript can be produced by any trained professional
- Digital record is available to many reporters in any event
- Potential for cost savings
- There have been good experiences in other states who have transitioned to digital

#### Cons

- Cost to equip a significant number of courtrooms in the second and fourth districts
- Training required for existing staff to become proficient in new technology
- In order to prevent the loss of realtime reporting, would need to spell out circumstances under which realtime would be used, e.g. ADA compliance etc.
- Portability, e.g. stenographic court reporters are wireless and can go anywhere to take the record, such as in a corn field
- Makes us more technologically dependent; what do you do when the system goes down? Need a backup plan to prevent cancellation of court when technology fails

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<sup>12</sup> The Committee discussed that some states utilize realtime reporting on a contract basis for complex cases requiring immediate production of the record.

- Rapid turnaround of transcripts (e.g. dailies) is more difficult or at least labor intensive
- Contradicts traditional approach where it leaves hiring decision to individual judges
- Possible labor relations issues
- Limited reports of negative experiences with digital transcripts in other states

## **2. Grandfather Judge Units into Eventual Exclusive Use of Digital Reporting.**

Similar to the option described in the previous section, this option describes a move to digital reporting. However, instead of recommending a switch to digital as of a specified date, this option outlines a gradual move to digital and builds in a series of conditions under which existing judges and existing stenographic reporters may continue to use stenographic reporting.

This option includes four key components:

- 1) Move towards an electronic digital record
- 2) Engage in discussion with Court of Appeals and Supreme Court about acceptance of a digital record as the official record
- 3) Grandfather existing judges- may use stenographic reporting if they choose
- 4) Grandfather existing stenographic court reporters-stenographic reporters presently employed may continue using stenographic reporting assuming there is a judge to employ them

This option proposes the transition to an electronic digital record by a date to be determined by the Judicial Council. After the transition date, new judges would be required to capture the record in an electronic digital format. Discussion should begin with the Court of Appeals and Supreme Court regarding acceptance of a digital record as the official record.

This proposal assumes that each courtroom will have digital capabilities, each person operating the digital equipment will be a trained, certified electronic court reporter<sup>13</sup> and that the court reporter continues to serve at the pleasure of a single judge and not as a pooled resource.

The option to transition to digital recording technology to capture the record was supported by a majority of the Committee for five major reasons.

First, digital recording maximizes the productivity of the court reporter position. Presentations to the committee by Minnesota court reporters currently using digital recording demonstrated

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<sup>13</sup> In some locations within the Branch the record is not taken by an official court reporter, but by a trained and certified staff person.

that this technology allows the electronic court reporter to also assume courtroom clerking duties for most proceedings. This eliminates the need for one court clerk in the courtroom for most proceedings and provides significant relief for overburdened court administration offices.

It should be stressed that this option calls for a change in technology only. It does not call for, nor contemplate, the elimination of court reporter positions. Minnesota currently has 37 electronic court reporters, working as confidential employees for individual judges and placed in the same pay range and bargaining unit as stenographic court reporters.

The quality and performance of digital recording technology has proven to be effective and reliable. Today, a number of judges use digital recording exclusively and 82 percent of courtrooms across the state are equipped with digital recording technology. As indicated earlier, the Committee agrees and this option assumes that a court reporter will monitor the taking of the record.

Second, even if the budget challenges were not as severe as they are, the future supply of stenographic reporters may not fill our need as large numbers of stenographic court reporters retire. Of approximately 300 court reporters working in Minnesota's trial courts today, 76 will reach retirement age<sup>14</sup> in five years. The presentation by the Anoka Technical College, the only court reporting school in the state, indicates a potential graduating class this year of eight (Appendix D). Minnesota's experience and future outlook with insufficient court reporters entering the profession mirrors the national trend. The National Association of Court Reporters (NCRA) conducted a survey of graduation rates and participation of educational institutions in the association's approval/certification program over an eleven-year period from 1996 through 2006. The data illustrated a downward trend in both number of students graduating and number of educational institutions participating. The number of educational institutions participating declined 41.5% over the eleven-year period. The number of individuals graduating dropped 61 percent.<sup>15</sup>

Third, digital technology allows the record to be accessed simultaneously by multiple users from any location and transmitted electronically. A judge can access the digital record from any court in the district as well as from home. The law clerk can do the same, which means if s/he was not able to be at the hearing, s/he can listen to the record at anytime. With an adequate log, which is assumed under this proposal, accessing the appropriate portion of the record is easily and rapidly accomplished. This option supports our strategic direction of moving toward an e-everything (full electronic record) environment. The needs and expectations of attorneys and the public, the

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<sup>14</sup> Retirement age of 62 as obtained from MJB human resources information system, SEMA4.

<sup>15</sup> Graduation Trends in NCRA-Certified Programs, 1996 to 2006, National Court Reporters Association, at [http://ncraonline.org/NCRA/pressroom/reporting\\_school\\_graduation\\_trends.htm](http://ncraonline.org/NCRA/pressroom/reporting_school_graduation_trends.htm)

increasing volume of court business, and limited budgets into the future call for movement in this direction.<sup>16</sup>

Fourth, moving to all digital technology would present the opportunity for the vendors of the digital recording systems and MNCIS to work together to integrate the systems so that the minutes taken by the reporter digitally could also feed the MNCIS minutes, further reducing the need for court administration clerks to staff the courtrooms.

Finally, digital recording enhances accuracy and completeness of the record in cases involving non-English speaking witnesses by preserving the testimony in the witness's native tongue and the language translations. By capturing and recording the audio of the court proceedings, this technology allows for review of the accuracy of the translations. This method of making the record also accurately portrays the role and involvement of the interpreter. These issues have been the basis for appeals in Minnesota.

### **Pros and Cons: Grandfather Judge Units into Eventual Exclusive Use of Digital Reporting**

#### Pros

- All Pros listed from previous section on digital reporting above
- Workload reduction for court administration as digital reporting allows courtroom clerking duties to be performed by the court reporter for most hearings
- Record is integrated into case management system and accessible simultaneously by multiple users from any location
- Level of organizational buy-in required is less than a fixed date switch to digital
- Existing stenos would have ability to continue as stenos unlike under a fixed date switch to digital
- Able to phase in the costs
- The Judicial Council determines the phase in date
- Phase in is less disruptive to people and the system

#### Cons

- All Cons listed from previous section on digital reporting above
- Defers potential savings
- Limits flexibility in some locations
- Would require appellate court acceptance of the digital recording as the record
- Acceptance and utilization of the system

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<sup>16</sup> See April C. Artegian, *The Technology-Augmented Court Record*, CTC5 Education Session Article (1997), available at [www.ncsconline.org/D\\_Tech/ctc/showarticle.asp?id=87](http://www.ncsconline.org/D_Tech/ctc/showarticle.asp?id=87) (last accessed August 29, 2009).

- Creates two categories of judges and court reporters, those still able to use steno and those required to use digital

### **3. Implement Digital Recording with Remote Central Monitoring State-wide.**

This option would involve implementation of centralized and remote video monitoring state-wide using the CourtSmart or a similar digital system. Using a remotely monitored system, one employee can remotely monitor up to four court rooms. The record is still a transcript typed up by an official court reporter from the digital file. Cost savings would be realized as fewer court reporters<sup>17</sup> are required, per diem expenses are reduced, and there are fewer lost days due to court reporter repetitive stress injuries. More detailed information regarding costs and benefits of a centralized monitoring option using CourtSmart based on the Fourth Judicial District experience can be found in [Appendix A](#).

### **Pros and Cons: Digital Reporting with Central Monitoring**

#### Pros

- Pros listed under previous two options on digital recording
- Potential for cost savings
- Efficiency (four courtrooms simultaneously monitored by one court reporter)
- Record is not proprietary and a transcript can be produced by any trained professional
- Ease in providing coverage for emergency absences (e.g. snow day resulting in understaffing)
- Ability for judges to go back and listen to a digital recording of proceedings
- Regular work hours and breaks for court reporters
- Reduced reliance on per diem court reporters and potential FTE reduction
- A less physically demanding work environment, which has served to accommodate work restrictions and reduce sick leave usage and workers compensation claims
- Court reporter can focus on taking the record

#### Cons

- Cons listed in previous two sections on digital reporting

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<sup>17</sup> The Committee discussed whether the digital reporting options in this Report require pooling of court reporters. The Committee is not recommending pooling of court reporters, yet recognizes that some districts may choose to do so and that cost savings and efficiencies may be gained.

- Costs of implementation<sup>18</sup>
- Acceptance and utilization of the system, likely prompted by concern about the integrity of the record captured using CourtSmart<sup>19</sup>
- Broadband limitations and hardware and software inefficiencies in some locations<sup>20</sup>
- A court reporter monitoring multiple court rooms is not able to be physically present in any court room, necessitating the presence of court administration staff to perform routine court room activities

#### **4. Maintain Stenographic Option with Court Reporter Assuming Court Administration Duties**

The option for the creation and retention of the official court record preferred by a number of the committee members is to continue the tradition of entrusting the decision as to the manner of keeping the record to the district court judge, making the option of digital recording available throughout the state and encouraging the use of digital recording as part of the effort to have the judge unit do as many tasks as possible within the courtroom in order to assist court administration with decreased staffing due to budget issues and movement to the lowest norm.

Minnesota has a longstanding practice by both law and custom of entrusting the selection of the method for keeping the record to the individual district court judge. This practice and tradition has served us well.

Whereas it appears that Utah, for example, has assigned two (2) administrative/secretarial positions to each judge, Minnesota has, by statute, provided that the court reporter must, in addition to keeping the record, “act as the judge’s secretary in all matters pertaining to official duties.” This additional obligation, in practice, amounts to the court reporter preparing orders, handling mail and the like, and performing additional administrative duties as directed by the judge. These are extremely important functions of the court reporter. Those functions will continue to be necessary regardless of the manner of taking the record. Minnesota has but one designated administrative assistant to the judge, the court reporter. In this regard, Minnesota’s existing configuration of the judge unit appears *more* efficient than that in comparable “digital recording” states such as Utah.

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<sup>18</sup> Costs associated with using CourtSmart were identified as falling into three categories: (1) Technical Needs, (2) Software, and (3) Sound System. Technical needs require, at minimum, required wiring running from each court room to the central monitoring location. Software needs involve the purchase of CourtSmart for approximately \$10,000. Sound system needs may be fulfilled in some locations already, but if not, can cost up to \$40,000 per location.

<sup>19</sup> The Fourth District conducted an evaluation of transcripts from a sampling of court reporters using CourtSmart and traditional steno reporting and found no significant differences in quality.

<sup>20</sup> In some smaller jurisdictions, especially in greater Minnesota, where only one or two courtrooms would be monitored from remote locations, we would likely experience broadband limitations and current hardware and software inefficiencies.

The taking of the record is a professional responsibility and requires a person trained in the proper methods of capturing and retaining the record. A properly trained court reporter will ensure that all matters before the court which are “on the record” are in fact accurately and fully captured for the record. A properly trained court reporter will also ensure that no conversations which are “off the record,” such as communications between client and counsel or the like, are improperly made part of the court record.

This latter issue is not insignificant. While the ASD-2 Committee has at no time suggested or recommended that the record be kept by an “untended” recorder, the committee did hear from other states where digital recording equipment has been installed and “turned on” each day at the beginning of the court proceedings and that all sounds detectable by the microphone(s) be continuously electronically recorded throughout the day. In Utah, for example, the committee understands that digital recording equipment picks up and records everything detected by the microphone during the court day and that a disc with the digital recording is available for purchase. This approach ignores that there are many, many conversations within the range of microphones which are not intended to be, and should not be, a part of the court record. Examples include conversations between counsel and client and conversations between counsel concerning, for example, plea and settlement discussions. The presiding judge has a responsibility to ensure not only that the record is complete, but also to ensure that confidential communications are *not* recorded. The minority believes that the best way to minimize these risks and problems is to allow the presiding Judge to determine the mechanism for making the record.

The use of real-time court reporting also has significant advantages, which will be lost if digital reporting becomes universal or required. Real-time reporting allows the presiding judge who may not have heard a statement, or who wishes to go back and review a prior statement, to have immediate access to the court reporter’s notation. For those who have hearing loss, this can be very valuable, as the real-time transcript allows us to continue with a hearing uninterrupted where just a simple or relatively unimportant spoken word has been missed by the judge’s ear, but heard by the stenographer and captured in real time. Likewise, in ruling on objections, the availability of an immediate transcript allows reference back to a prior bit of testimony or a prior question, making evidentiary rulings more timely and accurate.

ADA certification is available for real-time court reporters. For the hearing-impaired, the capability allows court proceedings to continue without interruption while a sign language interpreter is located (in rural parts of the state this can result in significant delay).

Real-time court reporting should be *encouraged*, not *discouraged*.

A substantial number of committee members believe that the determination of the method for keeping the record should not be mandated by central policy, but should be entrusted to the presiding judge, consistent with existing practice.

**Pros and Cons: Pros**

- Little resistance from judges or court reporters

**Cons**

- Does not create cost savings
- Fails to provide budget or workload relief to court administration
- May limit flexibility in some locations

**Additional Court Record Recommendations**

The Committee recommends that, in cases where the record is taken digitally and an appeal is taken involving legal argument only without testimony, the record on appeal should consist of the digital record only. This would require substantial revision to the Appellate Rules and to tradition and practice.

The Committee further recommends that the file transmitted to the appellate courts should not be restructured before submission to the appellate courts. County court administration has been bearing the brunt of the changes necessitated by fiscal constraints. Changes in appellate practice must also be considered as part of a branchwide response to underfunding. There is no longer staffing at the local county administration level to continue to provide the same services to the appellate courts which have historically been provided.

**II. SUBORDINATE JUDICIAL OFFICERS**

The Committee spent a number of meetings discussing the role of subordinate officers with the aim of determining how subordinate officers, specifically referees, might be used instead of judges in certain case types. The central concept is that lower cost subordinate judicial officers could be used to provide workload relief at less cost than a judge unit could.

In order to gain understanding of best practices in this area, the Committee reviewed the use subordinate officers in other states, the Second and Fourth District use of referees and pro tem attorneys in conciliation court, and Minnesota's Child Support Magistrate Program. The Committee also examined the potential use of administrative law judges for implied consent cases. It should be noted that the Committee did not study the use of hearing officers in traffic and other minor criminal matters, as this topic is within the purview of ASD-1.

***Conciliation and Probate Court***



The Committee was presented with information on 2009 legislation that permits expanded use of subordinate officers to hear conciliation cases from beyond only Hennepin and Ramsey Counties to the entire state ([Appendix L](#)). Shawn Bartsh of Bartsh Law Firm was invited to speak to the Committee about her experience as a pro bono Ramsey County Conciliation Court Referee. Ms. Bartsh has served as a referee since 1991. She described the 2<sup>nd</sup> District's Conciliation Referee program as effective, with an incredibly low appeal rate of 1.5 percent because most defendants simply want a fair hearing and to be heard by an officer of the court. She explained that the typical calendar is approximately 20 cases but that a referee could easily hear 30 collection matters, which can be very fast if parties bring sufficient documentation. She estimated that 90 percent of the cases heard are landlord/tenant disputes, collections, and bad check matters.

The Committee also heard from the Second and Fourth Judicial Districts about the use of referees. The Second District currently has five referees – four in family court and one in housing court. Family court also has one judge who is required to cosign referee orders. The Second Judicial District estimates that it saves \$94,000 annually utilizing referees in lieu of a judge in conciliation court ([Appendix M](#)). Similarly, the Fourth Judicial District presented information on their use of referees in family, juvenile, probate/mental health, housing, and conciliation court. The Fourth District reports over \$1 million in savings from using subordinate officers ([Appendix N](#)). In addition to the cost savings and workload relief, the Committee discussed that subordinate officers can offer value to the system beyond monetary savings as their expertise is generally respected and often results in low appeal rates and high degrees of customer satisfaction.

The Committee also reviewed how other states utilize subordinate officers and volunteer attorneys ([Appendix O](#)). The Committee discussed that many states, in particular Arizona, have successful volunteer attorney programs that Minnesota could model to develop the necessary policy, selection, and training supports.

The Committee also looked to Minnesota's Child Support Magistrate Program as an example of how subordinate officers are successfully utilized. The Committee heard presentations from Jodie Metcalf, Child Support Magistrate Program Manager, and Kevin Holden, Child Support Magistrate in the Seventh and Eighth Districts. The discussion of the use of ITV was of particular interest to the Committee. Mr. Holden explained that he started using ITV approximately four years ago. He conducts hearings for the Seventh and Eighth Districts from Stearns County and is able to receive all necessary documents by a fax machine in the hearing room. He reports that it works well and saves travel time and expense. The end result is an effective hearing with few technical difficulties.

The Committee also heard information about the potential benefits of utilizing software, such as TurboCourt, to implement e-filing and convert to paperless conciliation court. Minnesota had over 140,000 conciliation filings statewide. The courts could realize substantial workload and records management savings by instituting e-filing in conciliation court, with the goal that all conciliation matters being filed electronically utilizing a uniform statewide system.<sup>21</sup> ([Appendix P](#))

### ***Recommendations***

Based on these presentations, the discussions of the cost savings realized in the Fourth and Second District, along with the new legislation permitting subordinate officers to hear conciliation cases, the Committee determined that conciliation court is an area where the Branch could offer regionalized services using pro bono attorneys hearing cases via ITV<sup>22</sup>. This would provide immediate workload relief for judges and would reduce the new judgeship request in the future. The Committee noted that in addition to conciliation court, housing court is an area where subordinate officers could be utilized effectively. The Committee recommends that the Judicial Council form a workgroup of judges and administrative staff to develop an implementation plan.

Additionally, the Committee supports forwarding the current ASD-1 initiative of reconfiguring the Ramsey County CAMPER software for statewide use and centralizing the review of the annual conservatorship accounts. In addition, it is recommended that an implementation workgroup be formed to study the potential for regionalizing or centralizing the account review hearings using ITV and subordinate judicial officers.

### ***Implied Consents and the Office of Administrative Hearings***

When the judicial branch faced a potential 10 percent budget cut for FY 10-11, case types were analyzed to identify potential case types that would not be processed with a reduction of that magnitude. One of the case types identified was implied consent. The original ASD Committee recommended consideration of the transfer of regulatory enforcement to executive branch agencies or administrative law system. To that end, the Committee considered diverting implied consent cases to the executive branch to be heard by an administrative law judge from the Office of Administrative Hearings.<sup>23</sup> Currently, 43 other states use an administrative rather than a judicial process to handle their implied consent hearings.

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<sup>21</sup> The Committee discussed that the costs of implementing this program could be covered by filing fee adjustments and negotiated fees with vendor(s).

<sup>22</sup> Pro bono attorneys serving as subordinate judicial officers should serve locations significantly distanced from the location of their practice to minimize possible ramifications on their business.

<sup>23</sup> Transfer of implied consent to OAH would likely result in faster adjudication (under 30 days).

The Committee examined whether this change would involve similar problems to those associated with administrative law judges conducting child support magistrate hearings, specifically regarding *res judicata* and collateral estoppels, as implied consent hearings have both a criminal and a civil component, but evidentiary hearings are required for both. Because it is already an administrative process and does not involve changing the judicial decision, and the implied consent piece is quite straightforward, there seem to be no issues regarding separation of power. It is important to note that some work would remain with the branch because per statute an administrative law judge would need judicial review (signature) in order for the case to be used as an enhanceable charge in the future which would require court administration to open a file for the judicial review.

The Committee also examined who would hear appeals from the administrative process and concluded that such appeals would go directly to the Court of Appeals, where almost all of the Office of Administrative Hearing appeals go currently.

### ***Recommendation***

The Committee noted that trial courts are already underfunded and under judged.<sup>24</sup> The Committee recommends the transfer of implied consent cases to the Office of Administrative Hearings only if there is no negative impact on the Judicial Branch budget.

## **III. STRUCTURAL AND GOVERNANCE ISSUES**

One of the principal charges of the original Access and Service Delivery Committee was to review structural and governance changes that would enhance access to trial courts while improving service delivery. Historically, judicial districts were created, altered and abolished in an effort to maintain some common size based on population. In the past twenty five years, redistricting has been reviewed two times (mid-1980s and mid-1990s). More recently, consolidating district and county administrative regions (district and county administration) has been used to streamline administration and reduce costs. In many respects, these changes have been invisible to all but management and support personnel in the respective districts and counties. In most cases the judges have only been minimally affected by these consolidations.

In the beginning of its deliberations, the ASD-2 Committee focused on understanding the purpose, function and evolution of judicial districts since their creation in 1857. Historically, judicial districts have served as judicial election districts. Judicial district offices have provided administrative support (e.g. finance, human resources, training, technology, etc.) to judges and court staff. Internal trial court budgeting is based on the judicial district model. The existence of districts also provides a backdrop for coordinating shared resources and balancing workloads. The districts have also facilitated implementation of statewide policies and procedures by

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<sup>24</sup> AJN for implied consent across the state is approximately 4.6.

providing ten focal points rather than eighty-seven. Decision-making at the district and county level has utilized local relationships with shareholders to achieve system improvements.

The Committee discussed whether the historic county based delivery system can survive as fiscal resources in small and medium sized counties become increasingly scarce and populations decline. In the future, it may be financially unrealistic to expect counties to provide and maintain separate jails, courthouse facilities, prosecuting attorneys and advanced technology.

The Committee noted that consolidating judicial districts will have an impact on the composition and character of the Judicial Council. On one hand, more judicial districts result in a greater number of perspectives in the decision making process. Conversely, disparities in population and district size give rural districts a disproportionately large influence over metropolitan and suburban districts.

As noted earlier, the Committee was charged with examining the number and size of judicial districts and the general trial court governance/administrative structure. In undertaking this review, the Committee examined two types of change: administrative restructuring and redistricting. Restructuring, which the Committee also referred to as “administrative consolidation,” involves consolidation of the administrative functions of judicial districts. This concept keeps intact the judicial election districts and the geographic boundaries of the existing judicial districts.

Redistricting, on the other hand, alters current district lines. It allows the court to redesign its organizational structure based on practical considerations, business needs and common demographics. One guiding premise used by the Committee in studying redistricting was the thought that creating an adequate volume of common workloads would allow for the development of greater expertise in both judges and court staff. This expertise would then produce improved system efficiency, effectiveness and consistency which in turn would reduce judicial branch costs while improving access and service delivery to the public.

The original ASD Committee felt that ten judicial districts could be reduced to a smaller number based on the experience of other similarly sized and populated states. This Committee asked “Why do we need districts, what function do they serve and what do they do differently now than when the current lines were drawn?” Judicial districts serve as a judicial election districts. They also serve as an administrative support region for judges and judicial branch employees (e.g. finance/budgeting, human resources, technology, planning, etc.). The Committee felt that dividing the state into judicial districts allowed for greater adaptability in providing services unique to the geography and demographics of the region.

The Committee also considered a new more radical and complex trial court/service center model. The Committee concluded that this concept, with its heavy reliance on inter-branch and justice partner cooperation, should be considered in greater detail with the involvement of all interested groups.

In beginning its analysis, the Committee identified various criteria for potentially evaluating redistricting and restructuring options.<sup>25</sup> The Committee ranked these criteria assuming that case venue would remain at the county level. The following priorities resulted from the Committee's evaluation of the criteria.

<b>Criteria</b>	<b>Tally</b>
Basic Workability: Number of Judges	30
Basic Workability: Geographic Size	29
Other Issues: Multi-County/Multi-District Consolidation	18
Common Demographics: Growth Rates	17
Other Issues: Inter-County and Agency Relationships (Public Defenders) Regional Relationship	17
Technology/Availability: ITV/Bandwidth Issues	13
Other Issues: Administrative Staff Specialization	11
Other Issues: Judicial Election District	8
Other Issues: Judicial Specialization	6
Common Demographics: Economic Character	3
Common Demographics: Transportation	3
Other Issues: Multi-County Community Corrections	2
Common Demographics: Cultural Diversity	1
Common Demographics: Population Centers	1
Other Issues: Unique Cross-District Issues	1
Other Issues: Collective Bargaining Units	0
Other Issues: Judge Residence	0

The Committee concluded that the six highest ranked criteria should have priority in its subsequent evaluation of redistricting and restructuring proposals. Additional information about the Committee's review process can be found in [Appendix Q](#).

Although a judicial district of 40-45 judges was used as a model size, little analysis was available to support this contention. It was noted that the lowest cost per judge need was found in the First and the Tenth Judicial Districts with current Weighted Caseload Needs of 38.2 and 44.4 respectively. Several district administrators on the Committee believe that a 40-45 judge model makes sense based on their experience. A complete analysis of potential cost savings from either administration restructuring/consolidation or redistricting is difficult at this time due to the various workload processing enhancements currently underway, i.e. the Centralized Payables Center.

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<sup>25</sup> ASD's original conversations discussed the best size for basic workability of a district, arriving at 40-45 AJN as optimum, and also considered the geographic size of a district.

### **Options for Judicial Council Consideration**

The Committee initially considered ten models for redistricting or restructuring, which were ultimately narrowed down to the three models described below. The option of maintaining the status quo is also included as is the trial/service center concept, which the Committee concluded is more appropriate for the longer term due to its heavy reliance on the cooperation of our justice partners.

#### **1. Administrative Restructuring/Consolidation (Combining the Seventh/Eighth, Sixth/Ninth and Third/Fifth Districts)**

If implemented, this option would extend the concept of combined judicial district administrative services (similar to the current Seventh/Eighth consolidation) to the Third/Fifth Judicial Districts and the Sixth/Ninth Judicial Districts. A single judicial district administrator position per paired judicial districts would be established. Although separate judicial district administration offices would remain; human resources, finance, technology support, planning, Guardian ad Litem program management and other administrative functions would be shared among the coupled districts. The Committee recognized that administrative redistricting/consolidation is not required to accomplish the sharing of resources between districts. Districts have, and continue to, share resources in the Mandated Services area (Interpreters and Psychological Examiners) and various tech support staff functions. However, administrative consolidation would provide a vehicle to facilitate this exchange.

This option would reduce the total number of judicial district administrators to seven, resulting in three of the seven responsible for overseeing two districts. The Committee recognized that, similar to court administrators with responsibility for multiple jurisdictions, judicial district administrators who oversee multiple districts require a unique skill set to meet the demands of leading staff distributed across vast geographic regions. The Committee recommends that as districts fill future vacancies, they are cognizant of the unique skills required.

Because in this model judicial district boundaries remain intact, the judicial election districts would remain unchanged and each judicial district would continue its separate chief judge and assistant chief judge. This proposal would not change the size and makeup of the Judicial Council. Within this alternative, the Committee identified two sub options.

##### **Option 1-A**

This is Option 1 with “tweaking” the existing districts to move border counties from one district to another if there are compelling reasons such as accessibility to

judicial resources or single jurisdictions that are geographically split between counties or judicial districts.

#### Option 1-B

Creates new administrative districts (Districts 3/5; 6/9 and 7/8 plus Districts 1, 2, 4 and 10) but retains the current ten judicial districts for election purposes. This option envisions a single Chief Judge and Assistant Chief Judge to parallel the single Judicial District Administrator in the consolidated administrative districts. Note that, if administrative teams are consolidated with a corresponding decrease in chief judges, the composition of the Judicial Council (both membership and metro-rural character) would change.

### **Pros and Cons: Administrative Restructuring**

#### Pros

- Relatively easy to accomplish
- Potentially achieves budget savings through judicial district administration reductions and inter-district staff sharing
- May enhance service provided to judges, court administration, and the public via expanded access to expertise

#### Cons

- Distances between the district administrator and judges and staff would complicate the development of necessary personal interactions and relationships
- If some counties are moved from one district to another, as in Options 1-A and 1-B, judges may have to relocate their residences.
- Potential for confused authority over district administrator and staff
- Potential for conflicts in approach to problem solving (i.e. technology)
- District benches need to be willing to share
- May reduce services to judges, court administration, and the public via decreased access to resources and expertise

## **2. Redistricting Model Three**

This model creates seven judicial districts by consolidating Districts Three and Five, Six and Nine, and Seven and Eight. As with Option One, the number of judicial district administrative offices would be reduced to seven. As with Option 1-B, if election districts are consolidated with a corresponding decrease in chief judges, the composition of the

Judicial Council (both membership and metro-rural character) would change. A map of this model is found in [Appendix R](#).

### **Pros and Cons: Model Three**

#### Pros

- Maintains judicial district alignment of state public defender, correctional delivery system partners and local bars association districts
- Potentially achieves budget savings through judicial district administrator reductions and inter-district staff sharing
- Consolidated court administrator positions are preserved within existing districts

#### Cons

- Judicial districts become extremely large geographically, resulting in less judicial bench and court administrator cohesion due to fewer or less attended meetings and interaction
- Large election district will potentially increase campaign costs and availability of judges during contested campaigns
- With increased district size, travel costs would increase
- Systemic resistance to change
- May be unnecessary in the event that the trial/service center model is implemented
- Perception that, with fewer districts, the power of State Court Administration increases

### **3. Redistricting Model Ten**

Model Ten also makes significant changes to current judicial district lines, by creating seven districts. The Fourth Judicial District would be the only single county judicial district. It creates a new east-metro district comprised of Ramsey and Washington Counties. Dodge and Mower Counties are moved in the new First-Third District with Dakota Scott, Goodhue Counties of the First and Wabasha, Winona, Houston, Fillmore and Olmsted Counties of the Third. The present Tenth Judicial District (less Pine and Washington Counties) combines with portions of the Seventh and Ninth District to make up a new Northern Metro/Central District of approximately the same judge size as the Fourth District and the new First District. The remaining districts are approximately the same size both in terms of adjusted judge need (30 to 35 judges) and district area with more weight given to the district area than to adjusted judge need. A map of this model is found in [Appendix S](#).



Most consolidated court administrator positions would remain intact. It partially considers growing versus decreasing county caseloads. Under this model, there are four large districts and three medium-sized districts.

As with Model 3, the decrease in Chief Judges would change the composition of the Judicial Council (both membership and metro-rural character).

### **Pros and Cons: Model Ten**

#### Pros

- If some counties are moved from one district to another, as in Options 1-A and 1-B, the use of judicial resources, previously in other districts, will be facilitated
- Potentially achieves budget savings through judicial district administrator reductions and inter-district staff sharing
- Most consolidated court administrator positions remain intact
- Partially considers growing versus shrinking county caseloads

#### Cons

- Judicial districts become extremely large geographically, resulting in less judicial bench and court administrator cohesion due to fewer or less attended meetings and interaction
- Large election districts will potentially increase campaign costs and availability of judges during contested campaigns, together with other election issues
- Does not equalize district size; creates four large judicial districts and three medium sized districts based on judge need
- Cause major disruption to current state public defender regions, correctional delivery system partnerships and local bar association districts
- Systemic resistance to change will be greatest with these proposed changes
- May be unnecessary work in the event that the trial/service center model is implemented
- Perception (or reality) that the fewer districts there are, the more the power of State Court Administration increases
- As counties are moved from one district to another, judges will have to relocate to be eligible for reelection
- Potential for loss of good judges

#### **4. Status Quo**

Make no changes to the current ten judicial district configuration and administrative structure. This option is not consistent with the ASD-2 charge to identify ways to

increase efficiency and reduce costs and the vast majority of the Committee was not in favor of maintaining the status quo.

### **Pros and Cons: Status Quo**

#### Pros

- Election districts remain unchanged
- Judicial Council composition remains unchanged

#### Cons

- Not consistent with the Committee's charge from the Judicial Council to review structural and governance changes
- Does not address outlier counties whose location lends itself to being part of another district
- Does not address counties that are currently located in two districts
- Potential cost savings and efficiencies gained from restructuring are not realized

## **5. Trial/Service Center Model**

The Committee examined a longer term, and as yet not fully defined option, which would create new trial court service centers in selected locations across the state. This idea would move us away from the traditional county-oriented justice delivery system structure that has existed in Minnesota since statehood. It is not intended to be mutually exclusive to the short-term options for redistricting and restructuring listed above, but rather an additional initiative that could be considered in the long-term. The concept would have to be reviewed in an inter-branch, interdisciplinary context because of the magnitude of its structural changes. A document addressing concepts associated with this idea is located in [Appendix T](#).

Implementing a trial and/or service center model would result in the creation of a reduced number of strategically located trial and/or service centers across the state to provide court services within the region. The current 95 full service court facilities across the state could be reduced to 40, or even 22, depending upon the criteria used to select the location of the centers. In one concept discussed by the Committee, the trial center would serve as a regional hub for courtroom activities, particularly complex or lengthy trials. Existing county court facilities could continue to be used for more routine matters or matters that could be handled by ITV. Other options for the trial center concept could include expanding to service centers which would provide all court functions for the entire region. The list below highlights some of the issues and concerns presented by

moving to trial or service centers. For a complete list, please refer to Appendix C of the Restructuring report ([Appendix Q](#)).

- Legal Issues- What constitutional changes, statutory amendments and rule modifications would have to be considered and enacted to execute this concept?
- County Issues-What collaborative agreements/statutory changes are needed to facilitate cross-county prosecution if regional prosecuting agencies are not established? Would county or district jurisdiction lines be eliminated?
- Judicial Election Issues-Would we retain existing judicial district lines for purposes of judicial elections? Could we move to retention elections? Would we move to an alternative appointment system akin to the federal system?
- Administrative Issues- Would this system contemplate a regional or district prosecutor system to go along with a regional public defender system? Which services would migrate to regional full service centers? How would the trial court funding formula be changed? From what region would jurors be drawn? What effect would this concept have on collective bargaining agreements and collective bargaining units?
- Facilities Issues- Would counties still build and maintain court facilities and security? Who would pay? Would counties share in the construction and maintenance?
- Technology Issues- What technological improvements would be necessary to have video and internet access from either limited court service centers or full court service centers? What role would electronic file management serve in operating a trial center?
- Access Issues- What is the reasonable distance a person could be expected to travel to get to a full service center (50, 60, 70 miles)? What impact would this have on local bar associations and law practices? Would using a trial center minimize ‘access to justice’ for indigent members of the public and those who do not have access to transportation? What is the impact on greater Minnesota?
- Political Issues- Would this reverse the “single tier trial court” concept? What impact would this have on court administrator assignments, classifications, and compensation? Does the current poor funding climate, combined with changing demographics give us political leverage to garner acceptance?

As would be expected, this concept encountered opposition from several county based justice partners. The Minnesota County Attorney Association attended several meetings and noted their opposition to the trial center concept. Expressed concerns related to a need to enact major changes in law, unsubstantiated savings, inconveniences to citizens of greater Minnesota wishing to view court proceedings, inconveniences to defendants, witness, jurors, lawyers and law enforcement officers

from greater Minnesota resulting from increased travel distances and costs. They cited the potential demise of small communities in out-state Minnesota due to judges, lawyers and other involved in the justice system moving to these “center towns.” Local communities would lose the ability to elect “appropriate personnel to reflect local values and concerns” to the extent that this concept affects district attorneys.

The Committee feels that there is little or no doubt that a concept of this magnitude will require great effort to fully vet the matter with all affected parties both within the justice system and the broader community it serves. However, with the ever decreasing financial resources available to government, coupled with the expanding availability of technology and its virtual ability to shrink space, distance and time, it may be an opportune time to step forward with a proposal that moves the system ahead by decades rather than months and years.

### **Pros and Cons: Trial/Service Center Model**

#### Pros

- Greatest potential for significantly reducing facilities and court/justice system costs in greater Minnesota
- Achieves economies of scale
- Centralizing or regionalizing operations would allow for development of expertise both among judges and staff

#### Cons

- Fewer local face-to-face judicial services in greater Minnesota
- Requires substantial legislative and constitutional changes
- Requires increased technology and bandwidth to greater Minnesota counties if increased reliance on ITV is included in the proposal
- Greatest political opposition from justice system stakeholders
- Adverse effects on small county seats

### ***Recommendation***

The ASD-2 Committee forwards to the Judicial Council three models which offer a continuum of changes ranging from consolidating existing judicial district administrator positions/staff in four additional districts (with no change in election district or judicial district boundaries) to a major county-based rework of the state’s current ten judicial districts into new and vastly different configuration of seven districts.

The ASD-2 Committee concluded that the trial/service center concept potentially offers significant cost savings. Given the on-going fiscal shortages, this is the type of change that warrants continued consideration. However, because of the magnitude of this type of systemic change affecting many stakeholders, the Committee recommends that this topic would benefit from ongoing discussion with an interagency group comprised of criminal justice partners such as the Criminal Justice Forum.

#### **IV. COURT ADMINISTRATION WORKFLOW RE-ENGINEERING**

As part of its charge, the Committee considered the topic of workflow reengineering with specific regard to effects of technology on the work of court administration.

Presently, a number of ASD-1 initiatives are in process of being implemented within trial courts across the state.<sup>26</sup> As a result, there will be a fundamental change in how court work is done. We envision a largely paperless (paper on demand) court environment in the next five to seven years. Utah's courts have already studied this in some depth and concluded that, as Utah's courts move to an all electronic environment, court staff of the future will likely be smaller in number but will need higher level of skills—more paralegal than clerical and more analytical.

##### ***Recommendation***

To address this coming reality, the Committee recommends tasking the State Court Administrator to form a workgroup to conduct a study of court administration workflow following full implementation of ASD-1 initiatives, including workflow at the county, district, central and appellate levels. This workgroup shall report back to the Judicial Council on its findings.

#### **V. LEGISLATIVE AND JUDICIAL POLICY REFORM**

##### ***Background***

The ASD-2 Committee considered possible legislative and judicial policy reform to reduce workloads and create efficiencies and focused primarily on the Non-felony Enforcement Advisory Committee (NEAC) recommendations ([Appendix U](#)). The committee heard a presentation of historical information about NEAC dating back to 1993 from Michael Johnson, Senior Legal Counsel. A significant component of NEAC was a complete recodification of the

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<sup>26</sup> Centralized payables, auto-assess, IVR/IWR, e-citations, e-charging, civil e-filing, and other measures supporting transition to staffing at the lowest norm.

criminal code to create better proportionality among the non-felony offenses which have grown substantially in type and number over the last 30 years ([Appendix V](#)). Mr. Johnson explained that there was significant opposition to the recommendations for the creation of a civil infraction offense for low level theft and other minor offenses resulting in no action on the recommendations.

The Committee discussed the potential efficiencies of NEAC proposals to the justice system. However, it recognized the continued opposition to such proposals including the branch's effort in the 2009 session to seek legislative approval for treating low level payable misdemeanors as petty misdemeanors for purposes of collecting old debt. As a result, the Committee concluded that broader support from criminal justice partners statewide would be needed in order to make progress on NEAC-type proposals.

In addition to NEAC, the Committee discussed broader policy and legislative issues. Increasingly, the Judicial Branch has identified substantive policy and statutory impediments to operating efficiently, reducing costs and providing value to the citizens of the state. Traditionally, the Judicial Branch has avoided proposing substantive law changes in recognition of the separation of powers between the branches and legislative prerogatives in establishing statutory law.

If the courts continue to be under funded due to significant budget constraints, the Judicial Branch must make the other branches aware of the statutes that impact the efficient operations of the Judicial Branch. The Branch should review statutes that inhibit efficient operation and unduly burden court staff and advocate for the modification of those statutes.

### ***Recommendation***

In June 2009, the Committee recommended to the Judicial Council that many of the original NEAC concepts have merit and potential for generating cost savings and efficiencies, but because NEAC concepts such as recodification of the state's criminal and vehicle provisions cannot be accomplished by the Judicial Branch alone and necessarily involves the other branches, NEAC would be best evaluated by a group that includes broad stakeholder representation, such as the Criminal Justice Forum. In response to the recommendation, the Judicial Council approved removing the NEAC report from the ASD-2 Committee's list of action items recommending that the Criminal Justice Forum determine if further action should be taken on NEAC recommendations.

With regard to other legislative reforms, the Committee recommends that the Judicial Council should task a committee to specifically review substantive law that impacts the efficient

operation of the Judicial Branch and make recommendations to the Judicial Council for changes as part of the Branch's annual legislative proposals.

## **CONCLUSION**

At its November 18, 2009 meeting, the Committee heard the most recent Minnesota budget forecasts predicting a \$5.4 to \$7.2 billion deficit. The Committee recognizes the critical need for the Judicial Branch to consider measures to achieve significant cost savings and efficiencies through changes to the judge unit, including models for taking the record and providing courtroom support; increased utilization of subordinate judicial officers; structural and governance issues, including administrative consolidation and redistricting; and legislative and judicial policy reform. This report provides the Judicial Council with a series of viable recommendations and options to meet the mounting fiscal challenges and seismic demographic shifts which will constrain funding for the foreseeable future and fundamentally alter the way the Judicial Branch must do business from this point forward.

## APPENDIX A

# ASD2 MEMO

### FOR DISCUSSION ONLY

October 15, 2009

TO: Access and Service Delivery Committee  
RE: Options for Capturing the Record

#### INTRODUCTION AND BACKGROUND:

The ASD-2 Committee has extensively discussed the roles and responsibilities of the Judge Unit. This memo specifically addresses some of the options for capturing the record, and compares it to the role of the Official Court Reporter with regard to their responsibility to capture a verbatim record using traditional methods and the current judge unit model.

If money and personnel resources were unlimited, this discussion wouldn't be necessary. However, budgetary issues and projected personnel shortages are of paramount concern to our organization (see addendum 1). While Anoka Tech's court reporting Program Director made assures during her presentation to the ASD-2 Committee, she is unable to guarantee that there will be sufficient number of stenographic court reporters graduating to fulfill the projected future needs of the courts under the current judge unit model. Thus, this look into possible future change is good planning.

A number of judicial officers believe that a stenographic court reporter is the best option to capture a verbatim record. It should be noted that in the State of Minnesota, Official Court Reporters are employed *regardless of method*. Court Reporters in Minnesota are successfully utilized with stenographic and electronic certifications. Active attempts have been made to hire court reporters with steno-masking skills as well.

In the following pages, information will be presented on quality, protection of the record, record recovery and equipment failures, flexibility and timeliness to transcript access, medical/vacation/retirements, transcript costs, options regarding MNCIS integrations and a cost analysis.

#### QUALITY:

In the past, when there were court reporter shortages, other less-than-reliable options have been tried. Clerks and deputies have been asked to record court proceedings on analog tape systems that are unreliable and obsolete. The antiquated equipment was upgraded to more modern digital systems, but those too proved unreliable as the recordings were not being monitored to ensure that a quality



recording was being made. Because a verbatim record is a vital part of our justice system, other options had to be explored.

In a centrally-monitored digital recording environment, Official Court Reporters continue to act as the “guardians of the record,” as they have been for hundreds of years. While the method has moved from pen shorthand to machine shorthand to modern technology, the basic duties have remained consistent. The Fourth District has close to four years’ experience with a centrally-monitored digital recording environment. The benefit of this system is spotlighted in areas that may be considered intangible, but are vital nonetheless. The quality of the recording is state-of-the-art. The digital system uses a multi-channel configuration which gives the court reporter the ability to isolate channels to hear every word spoken. In a real-life setting, one is not able to reverse time to ensure everything was heard accurately, but that is possible with this digital system. In the past we had to rely on an individual to make a judgment on which speaker’s comments are most important, but this system has the ability to record everyone simultaneously.

#### **PROTECTION OF THE RECORD:**

The main function of a court reporter is to make a verbatim record of court proceedings. While all proceedings may be captured initially, the majority of time a transcript is not immediately prepared. Therefore it is critical that the records are secure until such time as they’re needed in the future. Currently, individual court reporters are required to file their steno notes or electronic recordings, but there is no mechanism in place to ensure the due diligence of each reporter. Because of the difficulty involved with monitoring individual court reporter’s compliance, the courts leave themselves open to public criticism when records are lost or irretrievable.

Regardless of the method used by a court reporter, the written transcript is only as good as the person who prepares it. One concrete measurement of the high quality of transcripts prepared from a digital recording is the ability for independent verification. Parties often allege that a judge’s at-will court reporter may alter the record to protect their boss, but those allegations fall flat when the point is made that transcripts from digitally-recorded hearings can be checked for accuracy compared to the recording. This scenario has occurred on several occasions in the Fourth District and the digital record has been able to provide verifiable protection for the judge

#### **RECORD RECOVERY / EQUIPMENT FAILURE/SECURITY:**

It is true that court reporters with realtime capabilities and CAT (computer-aided transcription) systems have their notes on disc, but there is no requirement that those discs be filed with the Court. Even if there were such a requirement, the Court doesn’t have a way to read said discs because court reporters’ dictionaries are not included in the filing rules. Therefore, there are warehouses filled with steno notes that can only be read and understood by the individual reporter who wrote them.

A current technology showcased by stenographic court reporters involves the use of paperless machines. For reporters utilizing that equipment, there is no longer the back-up of paper notes for the times that hardware or software fails. It is impossible to track the number of times a transcript is unavailable when an individual court reporter has experienced equipment failure, has lost or discarded notes and/or discs, or otherwise fails to produce a transcript.

A centrally-monitored digital recording system, when properly utilized, has full accountability for the security of the record. The CourtSmart system, as an example, has completely independent primary and backup recordings so there is no single point for server failure. Although the network connection is required for transmission to the centralized data server, each individual server can operate independently if a network connection is unavailable. The verbatim record is protected by the fact that data is not only stored on the network, but it's simultaneously downloaded to primary discs stored on site as well as backup discs stored at a disaster-recovery facility. Equipment failures are a possibility and plans should be put in place to handle those unexpected situations. Since digital recording began in early 2006, only one instance of equipment failure surfaced; one suburban location had an overnight electrical problem which caused the local encoder to short circuit. The vendor provided express delivery for a new encoder and that location was able to resume recording operations the next day. Human error is also a possibility with a digital system. When court proceedings are ready to begin in a digital courtroom, the court clerk calls the central monitoring room to initiate the recording session. Utilizing video preview technology, court reporters are able to observe courtroom activities and can initiate a recording if they detect the proceedings are about to begin and the clerk has not called. An additional safety step is in place in the event the clerk and reporter fail to initiate the system, an independent back-up recording is in place to automatically record all courtroom activities. Prior to implementation of digital recording, procedures and policies were formalized with the Bench.

#### **FLEXIBILITY AND TIMELINESS W/ REGARD TO TRANSCRIPT ACCESS:**

Under the current model of "one judge, one reporter," there is very little that can be said for flexibility and timeliness with regard to the retrieval of the record. If a court reporter is on vacation, medical leave or has retired, the record is theoretically secure, but there is no immediate way to access the record or obtain a transcript. Each reporter is responsible for their own work product, and there are no rules requiring alternate arrangements to be made. There are also no statistics to prove that realtime or CAT reporters provide transcripts faster than electronic reporters. Utilizing central monitoring, there is always a contact person immediately available for assistance to obtain a transcript. Additionally, if a courtroom clerk has a question about the proceedings, it is not necessary to contact a specific court reporter and rely on their availability and ability to retrieve their notes or tapes.

#### **MEDICAL / VACATION / RETIREMENTS:**

In the Fourth District's Court Record Project, there are 2.5 OCRs permanently assigned to work with the centrally-monitored digital recording system, as well as 3 to 5 OCRs who rotate through that assignment. The benefit to the court reporters and system overall has been positive. The Scheduling Unit has been able to accommodate court reporters' medical and vacation time while providing judge units with needed coverage. We have been able to accomplish this while eliminating the need for per diem court reporters. The elimination in per diem court reporters has provided a \$100,000 savings to the Fourth Judicial District. This time-off flexibility provided to reporters is one reason why the digital system has been supported by the Teamsters. Several reporters with various medical issues – ranging from recovery from a heart attack and cancer treatment to leg and shoulder injuries and carpal tunnel issues – were allowed to continue working because the duties in the monitoring room are less strenuous physically. Decreases in the overall number of medical and time-off requests have been experienced since the implementation of digital recording. Concerns regarding medical issues will increase in relation to the age of our existing pool of reporters.

There are similar benefits with regard to transcript production. Unfortunately there are situations where a court reporter has retired, died, or is otherwise unavailable or unwilling to prepare a transcript. Having the record captured in a non-proprietary method ensures flexibility in being able to produce a transcript in the future. Utilizing the traditional stenograph method, the only recourse is to try to find a court reporter willing to attempt to read notes unfamiliar to their own with varying degrees of success, assuming the notes were properly filed and are able to be retrieved.

#### **TRANSCRIPT COSTS / NON COSTS:**

Although the Court isn't responsible for paying the majority of court reporters' transcript fees – IFPs being the main exception – transcript costs are a significant consideration for other state agencies (see addendum 2). The State Public Defender's Office has a significant line-item specifically for transcript fees for appeal purposes. If the Minnesota Court of Appeals and State Supreme Court were to emulate models which use a 100 percent digital record, those transcript costs would be eliminated.

#### **MNCIS INTEGRATION:**

At the direction of State Court Administration, vendors could be asked to work together to coordinate data for efficiency and effectiveness. It is quite conceivable that in the near future MNCIS and CourtSmart could be integrated whereby court reporters could enter tags that would update MNCIS, and/or audio of hearings could be connected to MNCIS entries and instantly accessed by a clerk in the courtroom. That technological advancement would provide great flexibility for the court with regard to access to service while remaining mindful of budgetary concerns.

**COST ANALYSIS:****4-year Costs: Court Reporters**

4 Court Reporters : 4 Courtrooms

EXPENSES	QUANTITY	YEAR 1	YEAR 2	YEAR 3	YEAR 4	TOTAL
<b>PERSONNEL (Salary/Fringe, Equipment Allowance, Stability Pay, Dues)</b>						
FTE Court Reporter	4	300,800	301,101	301,408	301,722	1,205,031
<b>TOTAL</b>		300,800	301,101	301,408	301,722	1,205,031

**4-year Costs: One CourtSmart Station**

1 Court Reporter : 4 Courtrooms

EXPENSES	QUANTITY	YEAR 1 Installation	YEAR 2 Maintenance	YEAR 3 Maintenance	YEAR 4 Replacement	TOTAL
<b>COURTSMART COSTS</b>						
Servers	4	21,448	-	-	21,448	42,896
Software	5	47,080	-	-	-	47,080
Camera	4	2,760	-	-	-	2,760
BFL	4	2,200	-	-	-	2,200
Supplies	4	80	80	80	80	320
Installation	4	6,000	-	-	-	6,000
Wiring	4	12,000	-	-	-	12,000
Maintenance	4	-	9,120	9,120	9,120	27,360
<b>PERSONNEL (Salary/Fringe, Equipment Allowance, Stability Pay, Dues)</b>						
FTE Court Reporter	1	75,200	75,501	77,058	77,372	305,131
<b>TOTAL</b>		166,768	84,701	86,258	108,020	445,747

<b>SAVINGS</b>					
EXPENSES	YEAR 1	YEAR 2	YEAR 3	YEAR 4	TOTAL
Court Reporters	300,800	301,101	301,408	301,722	1,205,031
CourtSmart	166,768	84,701	86,258	108,020	445,747
<b>TOTAL SAVINGS</b>	<b>134,032</b>	<b>216,400</b>	<b>215,150</b>	<b>193,702</b>	<b>759,284</b>

**Note:**

The Fourth District incurred the following additional CourtSmart costs in year one, based on volume and the centralization of CourtSmart monitoring:

<u>Expense</u>	<u>Cost/Unit</u>	<u># Units</u>	<u>TOTAL</u>
Central Monitoring Room Equip.	27,000		27,000
Uninterrupted Power Supply	1,095	4	4,380
<b>TOTAL</b>			<b>31,380</b>

## **APPENDIX B**

### **ASD-2**

#### **COURT RECORD MODEL “A” OVERVIEW**

**Your Name: Teresa Kolander**

**Job Title: Court Reporter**

**County: Watonwan/Fifth District**

1. Please provide a general description of the model used in your county and how it works.
  - Courtroom is staffed by Judge, electronic court reporter, law clerk for complicated motions and contested hearings, bailiff for “master” calendars

The court reporter does the following:

- Record and monitor court proceedings with digital recording equipment (FTR)
- Take minutes using FTR log notes
- Complete forms (e.g. release order, sentence order)
- Schedule subsequent hearings
- Refer to MNCIS, Outlook, DVS website as needed/requested

2. Which court staff are in the court room (e.g. court reporter, law clerk, court administration staff)?
  - Court reporter only for most hearings. Law clerk for motions and contested hearings
  - a. Please list the duties and responsibilities of each person in the court room?
    - Court reporter: as listed in #1
    - Law clerk: take notes to assist judge in preparing orders on contested matters
  - b. Does the court room staff vary by case type? If so, which staff are present for which kind of case types, proceedings, trials etc.?
    - Varies by type of hearing as outlined above

3. What are some of the general pros and cons associated with this model?

Pros:

- .75 FTE savings in court administration staff
  - Allows timely completion of MNCIS case processing
  - Frees court admin staff to provide phone and in-person service to the public

Cons:

- Realtime as provided by stenographic means is not available

4. What support and resources are required for this model to function (e.g. technology, training, equipment, software, culture, scheduling, etc.)?
  - Technology:
  - Training: ER certification; MNCIS (basic familiarity at a minimum, processing knowledge very helpful); equipment/software upgrades; knowledge in all areas is needed so that minutes contain adequate information for case processing
  - Equipment: Top quality digital recording and audio system; ITV; PC; VCR and or DVD player; fast, quiet printer/copier
  - Software: Microsoft Office (email, calendar, word process), FTR annotator or other appropriate software, MNCIS
  - Culture: Confidential relationship between Judge, Court Reporter and Law Clerk; harmonious team relationship with court administration staff, attorneys, law enforcement
  - Scheduling: communication between prosecutors, defenders, private attorneys, and court staff
  - FLEXIBILITY
5. What size of court (judge and staff need) is most suited to this model?
  - This model will work in any court of any size
6. Please estimate the staff/FTE savings associated with this model (one court administration staff freed up per criminal proceeding, .5 staff per X proceeding).
  - Overall .75 staff/FTE savings in court administration staff
7. Are there enhancements that could be made to this model to increase efficiency and cost savings? Please describe.
  - MNCIS scheduling needs improvement to be used for fast-paced hearings - it is slow and cumbersome
  - Interface between Outlook and MNCIS for calendaring to avoid double entry
  - Interface between FTR log notes and MNCIS court minutes to avoid double entry
8. Are there enhancements that could allow this model to be used across other court locations? Please describe what changes would need to be made to achieve broader use.
9. Are there other locations in your district currently using this model? If so, which counties?
  - Blue Earth and Nicollet Counties use this model
  - Lyon and Redwood Counties use a modification where sentence/disposition orders are not prepared during the hearing

## APPENDIX C

### ASD-2

#### COURT RECORD MODEL "A" OVERVIEW

**Your Name:** Cheryl Grundseth

**Job Title:** Official Electronic Court Reporter

**County:** Pope/Swift/Grant (chambered in Pope County)/Eighth District

\*Please note that these comments reflect only how I work individually, and I do not speak on behalf of official court reporters as a group. The final version of the report was reviewed by my appointing authority, Judge Jon Stafsholt.

**10. Please provide a general description of the model used in your county and how it works.**

In my job, my routine duties include reporting/recording all court hearings and providing detailed minutes for the court file; notifying court administration of results of court hearings and continually communicating with court administration regarding the progress and results of hearings; preparing file reviews for Judge Stafsholt; preparing orders; serving as secretary and paralegal assistant to Judge Stafsholt; working as trial scheduler, coordinating trial dates with court administration and attorneys; act as multi-county scheduling coordinator and ITV coordinator; identifying and assembling court participants prior to all court hearings; and communicating with attorneys, law enforcement, and probation regarding the daily court calendar.

Basic Courtroom Model: The court reporter is present for all hearings and reports/records the hearings and/or trials as well as takes care of administrative duties, court administration staff is present during arraignment court and jury voir dire, and the law clerk is present as requested by the judge for various hearings.

**11. Which court staff are in the court room (e.g. court reporter, law clerk, court administration staff)?**

Pope County: Court reporter is routinely the only staff in the courtroom.

A deputy court administrator is present during arraignment court, court administrator during jury voir dire, and the law clerk is present as requested by Judge Stafsholt.

A court security officer is present during all hearings.

Grant County: Court reporter and judge only except when Judge Stafsholt requests his law clerk to be present. A court security officer is present during all hearings. Court administrator or staff is present during jury voir dire.

Swift County: Court reporter is routinely the only staff in the courtroom.

A deputy court administrator is present during arraignment court, court administrator during jury voir dire, and the law clerk is present as requested by Judge Stafsholt. A court security officer is present during all hearings.

**a. Please list the duties and responsibilities of each person in the court room?**

**Court reporter:** Identify and assemble court participants prior to their hearing, electronically record court hearings, prepare court minutes for court files, fill out sentencing orders, mark exhibits and maintain exhibit and witness lists, administer oaths, operate court interpreter equipment, operate ITV equipment.

**Deputy court administrator:**

**Pope County:** Accompanies defendant to the court administration front counter with the file following the arraignment court hearing. Judge Stafsholt currently fills out sentencing and release orders during arraignment court.

**Swift County:** Fills out sentencing orders during arraignment court.

**Court Administrator or deputy:** Swears in and calls jurors during voir dire.

**Law Clerk:** Observes hearings and take notes.

- b. **Does the court room staff vary by case type? If so, which staff are present for which kind of case types, proceedings, trials etc.?**

The court reporter is present for all hearings, court administration staff is present during arraignment court and jury voir dire, and the law clerk is present as requested by the judge for various hearings.

**12. What are some of the general pros and cons associated with this model?**

Pros: For the counties in which I work, this provides for an efficient system of handing the court calendar and provides for one central contact person.

Cons: No concerns at this time.

**13. What support and resources are required for this model to function (e.g. technology, training, equipment, software, culture, scheduling, etc.)?**

Our technology support is obtained from our IT department. We use MNCIS, Microsoft Word, Outlook Express, and Liberty as our main software programs. We also use the ITV, Gentner telephone system, and interpreter equipment for court hearings.

To maintain accurate scheduling, we maintain continuous communication through face-to-face conversation or email. We attempt to keep all key players copied in emails regarding scheduling and other matters.

**14. What size of court (judge and staff need) is most suited to this model?**

I have worked in 11 of the 13 counties in our district, most of which are mainly one-judge counties with the exception of one county chambering three judges and four counties having no chambered judge. I have observed that all counties within the 8th district operate a little differently which may be based on the needs of their judge, the size of their office, and their community.



**15. Please estimate the staff/FTE savings associated with this model (one court administration staff freed up per criminal proceeding, .5 staff per X proceeding).**

I defer this question to the appropriate court staff person.

**16. Are there enhancements that could be made to this model to increase efficiency and cost savings? Please describe.**

My current understanding is that MNCIS In-Court updating will increase the efficiency of processing cases and distributing court orders. More use of email from courtroom to court administration would be helpful under special circumstances, i.e., when a defendant needs a copy of his complaint or the judge needs an additional file during a hearing.

If and when MNCIS and Liberty are able to be interfaced, this would be an efficient way for filling out sentencing, release, and no contact court orders.

**17. Are there enhancements that could allow this model to be used across other court locations? Please describe what changes would need to be made to achieve broader use.**

Because I do not know the details of how other courts are operating, I am not able to adequately answer this question. However, a suggestion might be that if a court is interested in our model, they could come and observe our calendar for a day.

**18. Are there other locations in your district currently using this model? If so, which counties?**

I do not know to what specifics other counties use this particular model. Stevens County and Meeker County are similar, and staff from those counties could be contacted for more details. It may be more judge-specific than a county-wide practice because of the way judges rotate from various counties within our district, and each judge has unique ways of handling cases.

## **APPENDIX D**

### **MEMORANDUM**

Date: September 10, 2009

To: ASD-2 Committee

From: Jeff Agre, Official Court Reporter Representative

Re: Court Reporter Duties

**Purpose:** To develop a strategic plan and to develop best practices to enable official court reporters to assist court administration in and out of the courtroom setting.

**Assumptions:** Due to inadequate funding, court administration may be under-staffed.

**Background:** I surveyed and met with judges, court administration, court reporters and union stewards from throughout the state to confer, gather information and to come to a consensus as to possible administrative tasks that court reporters could undertake. Official court reporters are flexible and willing to assume additional duties, at the request of the appointing authority. The performance of additional duties is secondary, however, to our primary responsibility, which is to capture the record and maintain its integrity by guaranteeing the production of accurate and timely transcripts.

#### **For Discussion - Possible Administrative Tasks assumed by Court Reporters:**

- Oversight of computer and electronic equipment in the courtroom
- Sole support staff in the courtroom (except block calendars)
- Court order preparation in the courtroom
- Court calendar scheduling
- Pulling files and replacing
- Exhibit management
- In-court updating

**PROS:** Implementing most or all of the above duties will free up court administration time and help alleviate staffing shortages.

**CONS:** The primary responsibility of the official court reporter is to capture the record. Multi-tasking could lead to mistakes and also could slow down the daily court calendar. In addition, stenographic reporters may be impacted as to how to capture the record.

**TRAINING:** Several of the suggested tasks would involve extensive training (i.e. in-court updating; calendaring on MNCIS). Allocating sufficient training time may be an issue.

**IMPLEMENTATION:** Because practices and policies vary from district to district; because staffing levels may be different in each district; and because of possible collective bargaining agreement issues; it is the consensus and recommendation of the union stewards that each district develop best practices through “meet and confer” and/or district labor management committees

**IMPLEMENTATION:** Because practices and policies vary from district to district; because staffing levels may be different in each district; and because of possible collective bargaining agreement issues; it is the consensus and recommendation of the union stewards that each district develop best practices through “meet and confer” and/or district labor management committees.

## APPENDIX E

### Hybrid Model Court Reporting Models by Case Type

Case Area	Type of Recording	Sole Courtroom Staff for	Additional Court Administration Staff
<b>Major Criminal</b>	Steno for most trials, omnibus hearings, felony pleas and sentencings	Motion hearings, omnibus hearings, and trials	Block calendars (traffic court, pretrials, Rule 5 and 8 hearings, and probation violation)- additional courtroom staff desirable for in-court updating
<b>Major Civil</b>	Steno for motion hearings and trials	Motion hearings and trials	
<b>Major Probate</b>	Steno for trials	Trials	
<b>Major Family</b>	Steno for dissolution trials, motion hearings, and domestic abuse hearings	Dissolution trials, motion hearings, and domestic abuse hearings	
<b>Major Juvenile</b>	Steno for juvenile court trials, TPR hearings and trials, CHIPS hearings and trials	Juvenile court trials, TPR hearings and trials, CHIPS hearings and trials	
<b>Minor Civil</b>	Steno for implied consent hearings. Other categories, record	Implied Consent	May or may not?
<b>Minor Criminal</b>	Steno for trials. Record the rest.	Trials	For block calendars, additional court room desirable for in-court updating

#### Additional Comments:

- General guideline is to use steno for types of cases where preparing a transcript is likely.
- Estimates using steno 60%, digital recording 40%.
- Estimates court reporter could be sole courtroom support 60% of time, 40% with court clerk present.

#### Transcript Requests

Most frequently for:

- Major criminal omnibus hearings
- Trials
- Plea hearings

Often for

- Implied consent

- Civil trials that go on to appeal
- SDP/SPP that are appealed
- CHIPS trials
- TPR
- Marriage dissolution

## APPENDIX F

12/10/2009

### Anoka Technical College Judicial Reporting Program



### Program

- Program was developed in 2003 and first theory class was underway for the school year 2004-2005.
- Program is in demand. Judicial Reporting is one of the most popular programs at Anoka Tech.
- Program has enjoyed full enrollment every year.



Due to high program demand, school will start offering two theory classes each year.

## Program Goals

- To be a leader in the education of students desiring to be highly qualified court reporters.

## Program Goals (cont.)

- ▣ Anoka Technical College graduates must have well-rounded academic backgrounds and technical skills. To fulfill this mission, Anoka Technical College believes in being proactive in the area of technology and educational methods, with everyone working together toward the same goal and accomplishing this goal in the most expeditious manner.

## Students graduate with an Associate of Applied Science Degree (A.A.S)

- ▣ Technical skills (225 wpm)
- ▣ Medical Terminology
- ▣ Legal Terminology
- ▣ Business Law
- ▣ Government, Courts & MN Criminal Law
- ▣ English and Punctuation Usage (continuous)
- ▣ Computer Technology





## Technology and Team Focus

Students are trained with the highest technology available to add efficiency and productivity to the Judicial Team.

## Expert Instructors

All classes are taught by experienced professional instructors who stay current in the field.

Realtime, software, technology, official (federal and state), freelance.

## What does a Realtime Court Reporter bring to the Judicial Team?

- Judge, law clerk, and courtroom clerk have instantaneous access to all testimony and proceedings in courtroom.
- The team also will have instantaneous access to **all** prior testimony from previous days (or years).
- Search with key words or time stamps to find earlier testimony.
- Judge can instantaneously review prior questions or comments before ruling on objections.

## Graduates/ADA Requirement

Graduates will be able to provide realtime (CART) upon request for hard of hearing participants to meet ADA requirements.

16 additional credits to earn CART and Captioning Certificate.

(Hard of hearing juror, defendant, attorney, judge, participant.)

## Retraining

Working reporters can take special classes at Anoka Technical College to transition from their old theory and learn realtime.

Realtime Principles (learn realtime)

## Graduates

- Graduates have found jobs in metro-area courts and outstate courts.
- Currently, we have had 15 graduates from program.
- Expect approximately 8 graduates in the next year.
- Expect graduation rate to increase each year.

## Where have our Graduates Gone?

### Official:

- Heather Schuetz - Judge Pendleton, Anoka County
- Diane Zwack - Ramsey County
- Janelle Prusi - Winona County
- Kayla Olynick - Judge Schumacher, Eau Claire County, Wisconsin

## Recent Graduates Currently Looking for Official Positions

- Michelle Clifton (graduated 12/08)
- Jessica Schiele (graduated 8/09)
- Anna Duce (graduated 8/09)
- Heather Kroening (graduated 9/09 – looking in Rochester area)

## Freelance

- Angela Carl
- Christine Munson
- Jenna Johnson
- Amy Lizotte
- (3 captioning graduates)

## Breakdown

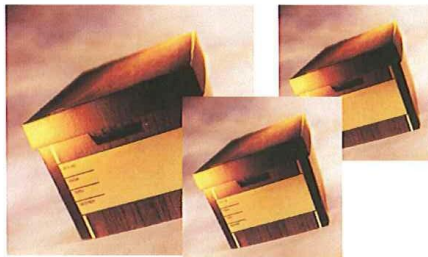
After polling the 29 new theory students who started this August...

- 15 intend to pursue official jobs
- 10 intend to pursue freelance jobs
- 4 intend to pursue captioning/CART

## Efficiency



- All steno notes can be stored electronically. No more boxes and boxes of steno notes taking up space in the storage room.



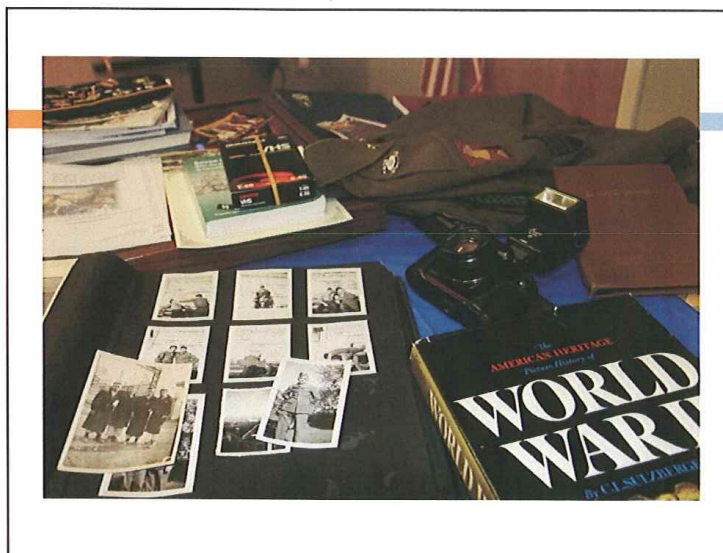
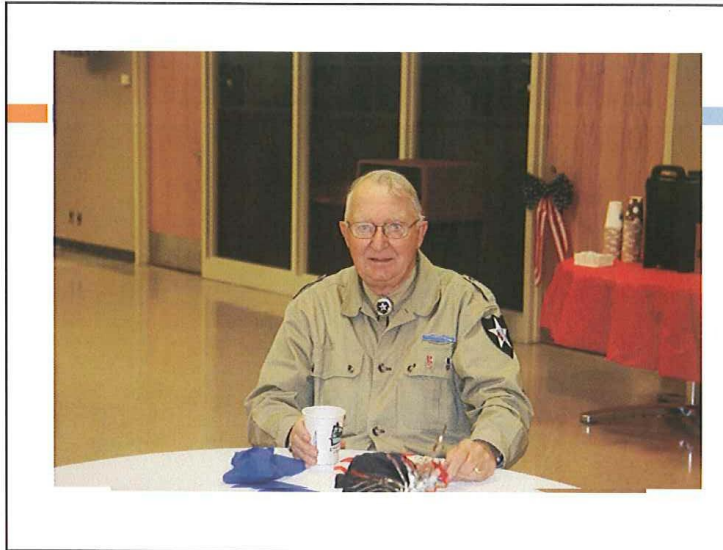
## Community

Students give back to their community.

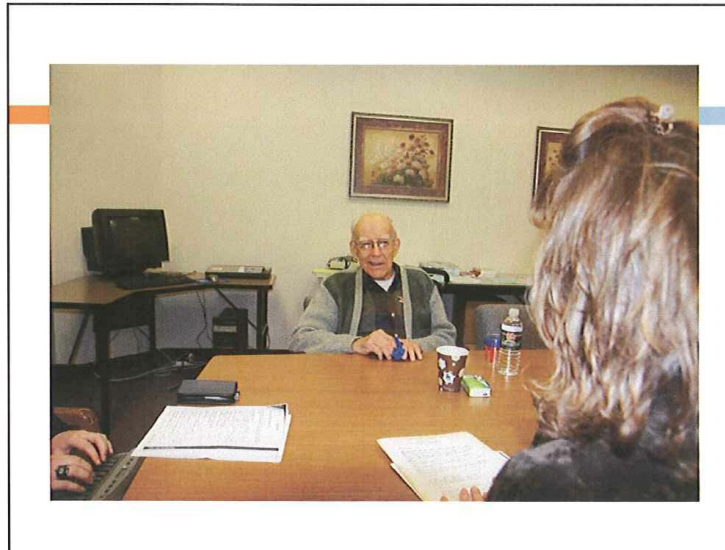
Veterans History Day

Students preserve wartime stories and file with the Library of Congress

12/10/2009



10



## Realtime/CaseView Demo

- What will a future graduate of Anoka Tech be able to add to the Judicial team?

(demo)



## Presented By:

Jennifer Sati, RMR, CRR, CBC, CRI  
Program Director  
Judicial Reporting/Captioning/CART/Scoping  
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## **APPENDIX G**

### **LAW CLERK DUTIES**

#### **ASD-2 Committee Report**

##### **Law Clerk Functions**

- I. Pursuant to Minn. Stat. § 484.545, Subd. 1, “(e)ach district judge may appoint a competent law clerk.”
- A. A “competent” law clerk is an individual who has graduated from an accredited law school.<sup>27</sup> This report focuses on the work that is: 1) routinely performed by a judge’s law clerk; and 2) that should be performed by a lawyer.
- B. Confidential employee. The relationship between a judge and a law clerk is much more than that of an employer and employee. A high degree of trust is placed in judges by the public and a judge’s conduct, both on and off the bench, is controlled by stringent standards pursuant to the Code of Judicial Conduct.<sup>28</sup> The rigorous standards that must be adhered to by a judge in the execution of their duties, combined with ever-growing case loads, require that a judge have a confidential employee whom they trust to assist them in this weighty endeavor while maintaining the utmost confidentiality with respect to communications between the judge and law clerk.

The confidential nature of the relationship between law clerk and judge, and the fact that a judge must not only trust the law clerk’s legal research skills but also must be able to rely on the law clerk’s loyalty and professionalism, is currently recognized by the Minnesota Judicial Branch Human Resources Rules. This rule provides that trial judges are vested with the authority to select the law clerk who is assigned to them.

#### **II. Current Law Clerk Functions<sup>29</sup>**

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<sup>27</sup> See Minnesota Judicial Branch Job Classifications.

<sup>28</sup> See Preamble to the Minnesota Rules of Judicial Conduct. (“The role of the judiciary is central to American concepts of justice and the rule of law. This Code of Judicial Conduct establishes standards for the ethical conduct of judges to reflect the responsibilities of the judicial office as a public trust and to promote confidence in our legal system.”)

<sup>29</sup> To put the functions of a law clerk in context it is not only necessary to review the work that is performed by the law clerk for a judge but to also consider the number of filings, type of cases being filed and types of hearings by volume in each county or district.

A. Research: In the performance of judicial duties a “judge shall be faithful to the law and maintain professional competence in it.” See Canon 3A(2) of the Minn. Code Jud. Conduct.

1. A law clerk must be available to provide their appointing authority with legal research:
  - a. On matters submitted ex parte, such as TROs and 611.21 requests for fees in criminal cases;
  - b. During contested omnibus hearings;
  - c. Before arguments on civil motions, temporary and post-decree family motions;
  - d. Before civil and criminal trials on motions in limine;
  - e. Before and during criminal and civil trials when disputes arise between parties regarding evidentiary issues, witness and exhibit related issues and jury instructions, verdict forms and special verdict forms;
  - f. While any matter is under-advisement;
  - g. On post-trial motions in civil matters; and
  - h. On criminal motions that may arise after acceptance of a plea or post-conviction.
2. The law clerk’s legal research, analytical skills and attention to detail must be of the highest quality. A judge must be able to put a great deal of faith in their law clerk to review case law cited by counsel to ensure that it has not been overruled, that the legal holding is applicable to the facts of a particular case and that the legal citation is correct. A judge should never have to rely solely on the legal arguments and memorandum submitted by counsel, but rather should have a law clerk available to perform independent research and analyze applicable case law and statutes.

B. Attendance at hearings and trials: In the performance of judicial duties, “a judge may consult with other judges and with court personnel whose function is to aid the judge in carrying out the judge’s adjudicative responsibilities.” Canon 3A(7)(c) of the Minn. Code Jud. Conduct.

1. Law clerks must be available to attend hearings at the request of their appointing authority when a matter is likely to be taken under-advisement, including but not limited to the following:
  - a. Dispositive and non-dispositive motions in civil matters;
  - b. Criminal court trials;
  - c. Civil court trials;
  - d. Implied consent hearings;

- e. Contested omnibus hearings;
  - f. Family court trials, temporary hearings, evidentiary hearings in post-decree family matters and post-trial motions;
  - g. Civil commitment trials, including SDP/SPP;
  - h. Delinquency trials, EJJ hearings, CHIPS and TPR trials;
  - i. Pre-trial and post-trial motions in civil and criminal matters;
  - j. Hearings on post-conviction relief petitions and related evidentiary hearings; and
  - k. Conciliation court.
- C. Writing: In the performance of judicial duties “a judge shall hear and decide promptly, efficiently and fairly matters assigned to the judge except those in which disqualification is required.” Canon 3A(1) Minn. Code Jud. Conduct.

While judges frequently make decisions and issue rulings from the bench, a significant number of cases are taken under advisement. As stated, the Code of Judicial Conduct requires that such matters be decided “promptly.” The legislature has codified the “promptly” requirement by establishing a very specific schedule of deadlines for cases taken under advisement. Depending on the type of case, the time a judge has to issue a decision ranges from 3 to 90 days.

In order for a judge to remain in compliance with Canon 3A(1) and Minnesota Statutes which set forth the time frame in which a judge has to issue a decision, it is crucial for a judge to have in their employ a lawyer to assist the judge in researching and drafting the opinions and orders. The function served by a law clerk in this capacity is not a luxury that trial courts can afford to dispense with. Rather, the caseloads of trial court judges in Minnesota require that a large portion of their time be spent in the courtroom presiding over criminal, civil, probate, family and other various calendars. Chambers time is frequently spent reviewing and signing warrants and complaints, reviewing PSI’s and probation violation reports, reviewing matters to be heard on the next day’s calendar, signing orders, reviewing IFP requests and public defender applications, and preparing for and attending committee meetings.

Realistically, because of the large volume of cases heard per year by each judge and the limited amount of chamber’s time each judge is afforded, it is crucial to provide judges with a lawyer to draft orders, memoranda and findings. While attorneys are frequently asked to submit written closing arguments and/or proposed findings the submission of

proposed findings does not reduce the amount of writing required of the judge's law clerk.<sup>30</sup>

Law clerks must be available to draft the following documents for the Court. Included in this list is the timeframe in which the court's decision must be issued.

## 1. Criminal Proceedings:

- a. Contested Omnibus Hearings. The judge's written Order and Memorandum must be filed within 30 days following the close of the record. Minn. R. Crim. Proc. 11.07 (2008).
- b. Court Trials and Trials on Stipulated Facts in Felony and Gross Misdemeanor Cases: The judge has 7 days to issue a finding of guilty or not guilty and must, within 7 days of issuing the verdict, issue written findings. Minn. R. Crim. P. 26.01, Subd. 2 (2008).
- c. Jury Trials: Jury Instructions and Verdict Forms.
- d. Post-Conviction Relief Proceedings: Findings, Memoranda and Orders.

## 2. Civil Proceedings:

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<sup>30</sup> The Supreme Court has stated, "We discourage district courts from adopting proposed findings of fact and conclusions of law verbatim because it does not allow the parties or a reviewing court to determine the extent to which the court's decision was independently made." Lundell v. Coop. Power Ass'n, 707 N.W. 2d 376, 380 n.1 (Minn. 2006). The Supreme Court has also stated: [W]e take this opportunity to repeat that our preference is for a court to independently develop its own findings . . . the district court's findings should reflect the court's independent assessment of the evidence and this is best accomplished by the district court exercising its own skill and judgment in drafting its findings. In re Children of T.A.A., 702 N.W.2d 703, 707, n. 2 (Minn. 2005).

a. Jury Trials: Jury Instructions, Special Verdict Forms, the Court's order entering judgment, order and memorandum on post-trial motions and findings and conclusions on the appeal of taxable costs and disbursements.

b. Dispositive and Non-Dispositive Motions: The judge has 90 days to issue an Order and Memorandum following argument on civil motions. Minn. Stat. § 546.27(a).

c. Court Trials: The judge's written Findings of Fact, Conclusions of Law, and Judgment must be issued within 90 days of the date the record is closed. Id.

d. Pre-trial Order: Order and Memorandum following argument on motions in limine and pre-trial orders following pre-trial conferences in complex civil litigation.

e. Implied Consent Hearings: The judge has 14 days from the date of the implied consent hearing to issue an order and memorandum. Minn. Stat. § 169A.53, Subd. 3(e).

f. Exemption Hearings. The judge has 3 days to issue an order and memorandum determining which assets are exempt from levy, execution or garnishment. Minn. Stat. § 571.914.

### 3. **Juvenile Proceedings:**

a. Juvenile Delinquency Trials: The judge has 7 days to issue its Findings, which may be extended for an additional 7 days for good cause shown. Minn. R. Juv. Del. Proc. 13.09.

b. Certification Hearings: The judge has 15 days from the date of the hearing to issue written findings and conclusions of law. Minn. R. Juv. Del. P. 18.07, Subd. 2.

c. CHIPS and TPR Trials: The judge has 15 days from the date written submissions are made following the close of trial to issues written findings of fact, conclusions of law and order. Minn. Juv. Prot. Proc. 4.03, Subd. 1(e) – Subd. 3(d). The parties may be afforded up to 15 days to make their written submissions. Therefore, the maximum amount of time allowed for the judge to issue findings following the court trial is 30 days.

d. Post Trial Motions: The judge's Order and Memorandum must be issued within 15 days of the post trial motions. Minn. Juv. Prot. Proc. 45.04.

#### 4. **Mental Illness Calendar:**

- a. SDP/SPP Trials: The judge has 90 days to make written Findings of Fact, Conclusions of Law and Order. Minn. Stat. § 546.27(a). In addition to the complexities of drafting the findings and conclusions in this type of case (in light of state and federal case law) the judge must also draft a memorandum to accompany the Findings because constitutional arguments are always made in this type of case.
- b. 60 Day Review Hearing: The judge must issue Findings of Fact, Conclusions of Law and Order after the 60 day review hearing.

#### 5. **Family Proceedings:**

- a. Pre-Hearing Conferences: After the parties have appeared for a prehearing conference, the judge must issue an “order which schedules any remaining discovery and any contemplated motions, identifies the contested issues for trial and provides for the exchange of witness lists and exhibits to be offered at trial.” Minn. Gen. R. Prac. 305.03.
- b. Dissolution Court Trials: Following the close of evidence, the judge has 90 days to issue Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree. Minn. Stat. § 545.27(a). The majority of family cases settle before trial. However, the cases that do eventually proceed to trial tend to be the most complex and frequently involve custody, maintenance and/or substantial property issues. In cases with these issues, the judge’s findings must be detailed.
- c. Post-Trial Motions: Judges have 90 days to issue Order and Memorandum on post-trial motions. Id.
- d. Post Decree Motions and Motions for Contempt: Judges have 90 days to issue Order and Memorandum following post decree motions to amend the judgment and decree and to make findings following the first stage of a contempt proceeding. Minn. Stat. § 545.27(a).
- e. Evidentiary Hearings: In some cases, such as modification of custody, substantial modifications to parenting time, motions to move a child out-of-state, or for contempt, a judge must hold an evidentiary hearing. In those cases, following the close of

evidence, the judge has 90 days to issue Findings of Fact, Conclusions of Law and Order. Id.

- D. File Preparation: Recognizing that district court judges spend a substantial portion of their day in the courtroom or in chambers attending to other duties, it is necessary to have a lawyer assist the judge by reviewing files that are on the judge's calendar the following day. File preparation is primarily required on minor and major civil and family calendars.

1. Minor Civil: A law clerk must be available to review files to ensure that service has been completed, the appropriate paperwork is filed, and that in the case of defaults, minor settlements, name changes, replevin, mortgage foreclosures, etc., that the pleadings and proposed findings comply with Minnesota Rules of Civil Procedure, Minnesota Rules of Court and controlling Minnesota Statutes.

- a. If the parties' or counsel's submissions are defective, the law clerk may notify the parties or counsel before the scheduled hearing to allow for an opportunity to correct the defect so that the matter can be heard and adjudicated as scheduled.

2. Major Civil: A law clerk must review all motions on civil calendars and determine which motions the judge can be appropriately apprised of by an oral report or written memorandum from the law clerk and which motions should be read in their entirety by the judge prior to argument.

3. Family Cases:

- a. **Administrative Dissolutions and Default Dissolutions.** A law clerk must review files to ensure that the pleadings, MTA and proposed findings comply with Minnesota Rules of Court, Minn. Stat. § 518 et seq. and all applicable case law, including that which provides, "The district court is a third party to dissolution actions and has the duty to protect the interests of both parties and all the citizens of the state to ensure that the stipulation is fair and reasonable to all." Karon v. Karon, 435 N.W.2d 501, 503 (Minn. 1989).

- i. In the event that an administrative dissolution is deficient under the rules or does not comply with a statute, the parties should be notified,



- in writing, the reason why the administrative dissolution is being rejected, with citations to the rules, statute and/or case law.
- ii. In the event that the parties are appearing for a default hearing, and at the direction of the judge, the law clerk may meet with the parties before the hearing, explain why the judge cannot approve the dissolution and assist the parties in correcting the deficiencies as long as the law clerk does not give the parties legal advice. This may allow the judge to hear the matter as scheduled. Alternatively, in the event deficiencies in the MTA and/or proposed findings cannot be corrected immediately before the hearing, and at the direction of the judge, the law clerk can meet with the parties, explain the judge's reason for rejecting the MTA and explain what must be corrected before the matter can be brought back before the judge.

- b. Review all motions for temporary relief and determine which motions the judge can be advised of by oral report or written memorandum and which motions may require further review by the judge before argument.
- c. Review all motions to establish custody and parenting time and post-decree motions and determine which motions the judge can be apprised of by oral report or written memorandum and which motions the judge should personally review before argument.
- d. Review files that are on for prehearings to ensure that parties have filed prehearing statements in accordance with Minn. R. Prac. 305.01.
- e. Review ex parte motions and orders to show cause ("OSC"). Draft orders on ex parte motions and schedule full hearings on the matter if the judge grants the ex parte order. On OSC, draft brief memorandum if the OSC is denied.

E. Correspondence and Telephone Contact with Attorneys and Pro Se Litigants. In the performance of judicial duties "a judge shall accord to every person who has a legal interest in a proceeding, or person's lawyer, the right to be heard according to the law. A judge shall not initiate, permit or consider ex parte communications, outside the presence of the parties' concerning a pending or impending proceeding. . ." Canon 3(A)(7)

Lawyers and pro se litigants frequently contact the court by telephone or in writing with requests for continuances and various other requests that should be made by motion, requests for special settings, questions regarding a judge's order and, in the case of criminal defendants, requests for modifications of their sentence. The law clerk must be able to analyze such requests in the context of the Minnesota Rules of Court, Minnesota Rules of Civil Procedure and Criminal Procedure. The law clerk must determine which are appropriate and exempted from the rule on ex part contact and can be dealt with by the law clerk (either based on an understanding of how the judge handles such matters or by

presenting the question to the judge) and which requests are inappropriate and cannot be handled on an ex parte basis. In cases where the inappropriate ex parte contact is made by telephone, it is the responsibility of the law clerk to explain in a firm, but professional manner, why the contact is prohibited and provide some basic information to pro se parties regarding how the issue may be properly brought before the court. In cases where the contact is made via correspondence, it must be returned to the sender, along with a brief letter of explanation.

### III. Potential Law Clerk Functions.

At present, the trial courts are being asked to do more with less. Calendar sizes and the number of case filings are increasing and the number of pro se litigants will undoubtedly increase due to the faltering economy. Unfortunately, the budget afforded to the trial courts to meet these ever increasing demands is being decreased.

In addition to the functions currently performed by law clerks as outlined above, the judiciary should consider what other functions law clerks are qualified to perform based upon their education, training and experience and which additional functions, if assigned to a law clerk, could reduce costs.

The Committee should consider: 1) the work currently being performed by hearing officers, pro tem attorneys, and referees that could be performed by a qualified and experienced law clerk; and 2) the cost savings that would be realized from using some law clerks in this manner.

## **APPENDIX H**

### **Shared Law Clerk Model**

#### **High Priority Coverage**

The following is a draft list is based on interviews of shared law clerks. High priority case types are described as those requiring law clerk to attend court with judge and/or provide legal research assistance. Law clerks interviewed stress that this varies by judge preference.

- Pretrial contested omnibus
- Family law-custody and property division
- Civil motions
- Court trials
- Jury motions, evidentiary issues, instructions
- Sex offender commitment hearings
- Implied Consent (DWI, DL revocation)
- Juvenile arraignments

#### **Keys to Success**

- Clear prioritization of case types (and agreement) by the judges (the judges set the tone)
- Spirit of team work, cooperation and flexibility among judges
- Sprit of team work, cooperation, and flexibility among law clerks
- If the law clerk floats between two locations, a welcoming environment in both locations
- Communication and flexibility regarding scheduling, e.g. when a law clerk is scheduled to work with one judge, but another has a higher priority case, need the ability to switch (without the other judge feeling short changed). Having a set schedule is good, but doesn't always correspond to the work unless there is flexibility to change it.
- When sharing across multiple locations, planning ahead yet maintaining flexibility to switch schedules to cover higher priority cases (without the other judge feeling short changed) because high priority cases don't happen in a predictable fashion

## **APPENDIX I**

### **ASD 2 “Sharing the Pain” Proposal**

#### **Introduction**

While the Judge Unit is comprised of a judge, law clerk and court reporter, funding for the Judge Unit is split between two budgets within a single trial court appropriation. The judge is funded from the central judge budget; whereas, law clerks and court reporters (judicial staff) are funded from their respective district (DIS) budgets. The district (DIS) budgets also fund case related and non-case related staff.

District (DIS) budgets are established using the Trial Court funding allocation. This allocation calculates each district’s budget based upon their total estimated need. In the formula, estimated budget need for judicial staff is based upon the approved number of judges and referees. For case and non-case related staff, the estimated budget need is based upon implied staff need. We did not have sufficient budget resources to fund all districts at 100% of estimated need, so in the current fiscal year (FY09), districts are funded at 91.9% of estimated need. Districts that have maintained a full complement of judicial staff with budgets funded at 91.9% of estimated need did so through reductions to case related staff, non-case related staff and/or operations budgets.

The central judge budget was not set using the funding allocation. Staff estimates the total budget need for the judge budget based upon anticipated salary and fringe benefit cost increases along with other associated expenses like law books, travel/mileage reimbursements and supplies. This budget is funded in full at 100% of budget need. Because the district and central judge budgets are funded from the same trial court appropriation, fully funding the judge budget comes at a cost to the other budgets in the appropriation.

#### **Proposal**

The premise of this proposal is that we should examine ways in which judge units can “share the pain” of budget reductions so that all employees and judges contribute equally to the funding shortages. In the case of judicial staff, this proposal identifies a targeted funding amount that judicial staff could contribute in sharing the pain of budget reductions. A comparable proposal needs to be developed in the case of judges funded from the central judge budget.

This proposal is also premised on the idea that each district would have the flexibility to determine how the judge unit would contribute to savings. Optional approaches for how districts might accomplish this include some strategies that are already being used by districts e.g. sharing positions, vacancy savings, judicial staff performing court administration duties, etc.

The purpose of this proposal is not to reduce any district’s allocation amount or take away funding from those who are already achieving savings through innovative judge unit staffing models; rather, the purpose is to provide a starting point for discussing options.

For illustration purposes only, the table below shows a targeted or guideline amount of savings for judicial staff to contribute in order to achieve similar cost savings as the case related and non-case related positions based on the FY 09 budget allocation at 91.9% of estimated need.

District	Example of Value of Shared Pain of Judicial Staff Unit (Based on FY09 Estimated Need)
1	(\$398,000)
2	(\$384,000)
3	(\$266,000)
4	(806,000)
5	(185,000)
6	(\$184,000)
7	(\$320,000)
8	(\$127,000)
9	(\$263,000)
10	(\$502,000)
<b>Total</b>	<b>(\$3,435,000)</b>

## APPENDIX J

### ASD-2 Committee

#### Shared Law Clerk Salary Savings

October 15, 2009

#### Goal

Encourage cost savings by judge unit and provide law clerks with a stipend to work for two judges.

#### Assumptions

- Law Clerk Year 2 Salary is: \$45,163 base + \$20,837 Taxes, Benefits = \$66,000
- Law Clerk Year 2 Salary with \$5K increase= \$50,163 (11% increase)
- Salary Increase is equivalent to judge increase for serving as Chief Judge
- Salary savings generated are applied to DIS budget
- If arrangement is undone, \$5K salary stipend is removed

Salary Saving per Eliminated Law Clerk(s)	Shared Law Clerk Salary Increase	Net Savings Per Shared Position
\$66,000	\$5,000	\$61,000

**APPENDIX K**  
**COURT ADMINISTRATION DUTIES TO BE ASSUMED BY**  
**JUDGE UNIT OR ELIMINATED**

This is a full list of duties that the whole committee agrees administrative staff cannot continue to perform in light of budget issues, and have to be eliminated, shifted, or replaced by technology:

1. Pull and shelve files requested by the judge.
2. Shelve judge's law books and handle billing for those law books.
3. Pick up, sort, and open judge's mail.
4. Coordinate weddings for which a judge is receiving outside remuneration.
5. Escort attorneys to chambers.
6. Draft/prepare complex and/or substantive orders which call for a legal conclusion, such as:
  - Chips
  - Commitment
  - OFP and HRO
  - Omnibus
  - Civil/Family Scheduling Orders
7. Clerk Conciliation Court.
8. Clerk court trials, jury trials, criminal omnibus hearings that are not on high-volume calendars, and civil motion hearings that are not on the high-volume calendars when the number of matters scheduled are below an agreed upon number.
9. Help Court Administration with legal research.
10. Swear in witnesses.
11. Act as bailiff on civil jury trials as needed rather than a Court Administration staff.
12. Open the courtroom and prepare the courtroom.
13. Clerk for family motions.
14. Clerk for initial case conference/ENE for dissolutions.
15. Pull judge in-chambers calendars and check for correct documents prior to hearings, such as motions and affidavits of service, etc.
16. Print court minutes.
17. Manage court exhibits in courtroom and after trial.
18. Handle business for the judge, such as ordering/cleaning of robes, requesting/documenting of judge's vacation or leaves.
19. Request/document judge's travel or other expenses.
20. Answer chamber's phone calls.

21. Monitor and update judge's under advisement cases.
22. Prohibit court reporters from preparing paid transcripts while "on the clock".
23. Monitor specialty courts – drug, DWI, mental health.
24. Monitor all documents for briefing schedules, IFS, proposed orders.
25. Keep in contact with attorneys regarding pending jury trial calendars and updating the Court Administrative scheduling personnel.
26. Pull files for calendars and put files away when done with them.
27. Look up information on MNCIS rather than ask Court Administrative staff to do so.
28. Monitor parenting class completion if the judge requires it.
29. Review court-appointed attorney bills prior to judge approving them.
30. Maintain the law library.
31. Pull files for the next week.
32. Act as the go-between for the judge regarding questions from probation officers, attorneys, and the public.
33. Bring jurors from the jury waiting room to the courtroom.
34. Operate and trouble shoot all electronic equipment located in the courtroom that is used for court proceedings.

If the responsibility for a significant number of the duties described above is transferred from Court Administration to the Judge Unit, it needs to be recognized that some proceedings will take more time, court reporters will have to obtain training in how to make MNCIS entries, and law clerks will have less time to do legal research and order writing. This may well affect the quality of the work that the Judge Unit performs. It needs to be recognized that significant cuts to Court Administrative staff without a cut in the number of job tasks and responsibilities they presently have will also result in a decrease in quality.



## APPENDIX L

### Minnesota Session Laws

Key: (1) ~~language to be deleted~~ (2) new language

#### 2009, Regular Session

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This document represents the act as presented to the governor. The version passed by the legislature is the [final engrossment](#). It does not represent the official 2009 session law, which will be available here summer 2009.

Found 2 matches for **conciliation**

#### CHAPTER 59--H.F.No. 1301

##### An act

relating to public safety; providing for public safety, courts, and corrections, including predatory offenders regarding computer access, electronic solicitation, and training materials on dangers of predatory offenders; sex offenses; crime victims; domestic fatality review teams; courts; driver's license reinstatement diversion pilot program; corrections; study of evidence-based practices for community supervision; emergency response team; controlled substances; employment of persons with criminal records; financial crimes; unsafe recalled toys; peace officer and public safety dispatcher employment; trespass in peace officer cordoned-off areas; peace officer education; and Bureau of Criminal Apprehension Information Services; providing for boards, task forces, and programs; providing for reports; providing for penalties; amending Minnesota Statutes 2008, sections 12.03, by adding a subdivision; 13.87, subdivision 1; 84.027, subdivision 17; 122A.18, subdivision 8; 123B.03, subdivision 1; 152.02, subdivisions 6, 12; 169.71, subdivision 1; 240.08, by adding a subdivision; 243.166, subdivision 4b; 244.05, subdivision 6; 244.052, subdivision 1; 244.10, by adding a subdivision; 244.195, subdivisions 2, 3, 4; 246.13, subdivision 2; 253B.141, subdivision 1; 299A.681; 299C.115; 299C.40, subdivision 1; 299C.46, subdivision 1; 299C.52, subdivisions 1, 3, 4; 299C.53, subdivision 1; 299C.62, subdivision 1; 299C.65, subdivisions 1, 5; 299C.68, subdivision 2; 357.021, subdivision 6; 388.24, subdivision 4; 401.025, subdivision 1; 401.065, subdivision 3a; 403.36, subdivision 2, by adding a subdivision; 471.59, by adding subdivisions; 480.23; 484.91, subdivision 1; 491A.03, subdivision 1; 518.165, subdivision 5; 524.5-118, subdivision 2; 609.341, subdivision 11; 609.352, subdivision 2a; 609.605, subdivision 1; 611.272; 611A.0315, subdivision 1; 626.843, subdivisions 1, 3; 626.845, subdivision 1; 626.863; 628.26; 628.69, subdivision 6; 629.34, subdivision 1; 629.341, subdivision 1; proposing coding for new law in Minnesota Statutes,

chapters 12; 181; 244; 260B; 325F; 364; 611A; repealing Minnesota Statutes 2008, sections 244.195, subdivision 5; 260B.199, subdivision 2; 260B.201, subdivision 3; 299C.61, subdivision 8; 299C.67, subdivision 3; 383B.65, subdivision 2; 403.36, subdivision 1f.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

### ARTICLE 3

#### COURTS

Sec. 3. Minnesota Statutes 2008, section 491A.03, subdivision 1, is amended to read:

Subdivision 1. **Judges; referees.** The judges of district court ~~shall~~ may serve as judges of **conciliation** court. ~~In the Second and Fourth Judicial Districts, a majority of the judges~~ The chief judge of the district may appoint one or more suitable persons to act as referees in **conciliation** court; ~~a majority of the judges~~ the chief judge of the district shall establish qualifications for the office, specify the duties and length of service of referees, and fix their compensation ~~not to exceed an amount per day determined by the chief judge of the judicial district.~~

**EFFECTIVE DATE.** This section is effective the day following final enactment.

## APPENDIX M

### SECOND JUDICIAL DISTRICT PROJECTED REFEREE COST SAVINGS

#### COMPENSATION

Table 1

Position/Contractor	Annual Salary	MSRS	FICA	Health/Dental Family	Total
Judge	\$129,126.40	\$26,470.91	\$8,196.33	\$14,802.07	\$178,595.71
Court Reporter	\$51,396.80	\$2,312.86	\$3,931.86	\$14,802.07	\$72,443.58
Law Clerk	\$44,990.40	\$2,024.57	\$3,441.77	\$14,802.07	\$65,258.80
Total Judge Unit					\$316,298.09
Referee	\$115,752.00	\$5,208.84	\$6,036.90	\$14,802.07	\$141,799.81
Court Reporter	\$51,396.80	\$2,312.86	\$3,931.86	\$14,802.07	\$72,443.58
Senior Court Clerk	\$41,516.80	\$1,868.26	\$3,176.04	\$14,802.07	\$61,363.16
Total Referee Unit					\$275,606.55
Conciliation Court Referee	\$75 Per Session				\$75 Per Session

#### CONCILIATION COURT

Table 2

WCL FILINGS AND JUDGE NEED: CONCILIATION COURT SECOND QUARTER 2008		
Case Type	Filings	Judge Need
Conciliation	6,110	.395

Table 3

JUDGE UNIT COSTS TO REFEREE UNIT COST CONCILIATION COURT			
Total Judge Unit Cost		Conciliation Court Cost	
Judge Unit Cost:	\$316,298.09	Court Sessions:	406
Judge Need:	X .395	\$75 Per Session	X 75
	\$124,937.74		\$30,450
Estimated Savings:		\$94,487.74	

## APPENDIX N

### Calculation of Savings Realized Utilizing Referees Instead of Judges

	Fourth District Case Data		Fourth District Number of Units		Unit Composition and Annual Salary w/ Benefits (FY09)				SAVINGS
DIVISION	Filings	WCL Hours	Referee	Judge Equivalent	Referee Unit		Judge Unit		
FAMILY	9,940	781,590	5	5	Referees	\$755,355	Judges	\$895,450	\$293,539
Case types heard by Referees: ALL (including Dissolution w/ Child, Dissolution w/o Child, Support, Domestic Abuse and Other Family)					Law Clerks	\$198,450	Law Clerks	\$390,750	
					Court Reporters	\$379,150	Court Reporters	\$379,150	
					Judge time for signing orders	\$35,858			
					W-D Federal Reimb. Savings <sup>1</sup>	(\$58,000)			
					TOTAL	\$1,312,811	TOTAL	\$1,606,350	
JUVENILE	12,537	305,623	1	1	Referees	\$151,071	Judges	\$179,290	\$87,198
Case types heard by Referees: Misdemeanor, Gross Misdemeanor and Felony Delinquency: Juvenile Petty Offender and Truancy					Court Reporters	\$75,830	Law clerks	\$66,150	
					Judge time for signing orders	\$7,172	Court Reporters	\$75,830	
					TOTAL	\$234,072	TOTAL	\$321,270	
PROBATE MENTAL HEALTH	4,147	392,380	4	4	Referees	\$604,282	Judges	\$717,160	\$348,791
Case types heard by Referees: Trust, Guardianship/Conservatorship, Estate/Other Probate, Commitment <sup>2</sup>					Court Reporters	\$303,320	Law clerks	\$264,900	
					Judge time for signing orders	\$28,586	Court Reporters	\$303,320	
					TOTAL	\$936,289	TOTAL	\$1,285,080	
CRIMINAL <sup>3</sup>	358,209	943,497	0.2	0.2	Referees	\$30,214	Judges	\$35,858	\$32,606
Case types heard by Referees: Court Trials for Misdemeanors, Traffic and Parking (limited)					Judge time for signing orders	\$1,434	Law clerks	\$13,230	
							Court Reporters	\$15,166	
					TOTAL	\$31,648	TOTAL	\$64,254	
HOUSING	22,978	215,435	1.5	1.5	Referees	\$241,713	Judges	\$286,364	\$139,516
Case types heard by Referees: Unlawful Detainer and Harassment (1st Appearances)					Court Reporters <sup>4</sup>	\$121,328	Law clerks	\$105,840	
					Judge time for signing orders	\$11,475	Court Reporters	\$121,328	
					TOTAL	\$374,516	TOTAL	\$514,632	
CONCILIATION	29,925	149,625	2	1	Referees <sup>5</sup>	\$151,071	Judges	\$179,290	\$163,028
Case types heard by Referees: Conciliation					Judge time for signing orders	\$7,172	Law clerks	\$66,150	
							Court Reporters	\$75,830	
					TOTAL	\$158,242	TOTAL	\$321,270	
TOTAL SAVINGS REALIZED UTILIZING REFEREES									\$1,064,678

## APPENDIX O

### Other Court Systems: Use of Subordinate Officers (Paid and Volunteer)

	Court	Role	Types of Hearings	Term Length	Qualifications	Paid/ Volunteer	Training
HEARING OFFICERS	AZ Supreme Court	Hearing Officer	Hearing Officers preside over the hearing process in attorney discipline, disability and reinstatement proceedings. Hearing Officers conduct evidentiary hearings, much like a trial court judge, make evidentiary rulings and prepare findings of fact, conclusions of law and recommendations regarding the imposition of sanctions.	3 Years	Lawyer, active member of bar, in good standing for at least 7 years	Volunteer	
	New Jersey	Child Support Hearing Officer & Domestic Violence Hearing Officer	Hear and make recommendations on all Title IV-D cases, include enforcing support obligations owed by absent parents to their children, locating absent parents, establishing paternity if the issue of the parent/child relationship is uncontested, and obtaining child support. They also include cases involving contested visitation and custody matters.	N/A		Most are paid employees. Some volunteers in Child Support Hearing Officer program.	
	New Jersey	Domestic Violence Hearing Officer	Hear and make recommendations regarding protection orders, emergent support, interim custody, who stays in the residence, and other temporary reliefs, pending a final hearing. A Superior Court Judge reviews the recommendations are incorporated in an Order signed by the Judge.	N/A		Paid	

REFEREES	New Jersey	Juvenile Referee	Hear informal juvenile matters where representation by an attorney is non-mandatory. Accepts pleas to offenses of the second, third and fourth degrees, as well as recommending dispositional alternatives available to a Family Court Judge, EXCEPT for incarceration. All dispositions are drawn up in a Court Order and submitted to the Family Court Judge for approval. All matters not resolved at the Hearing Officer Program are referred for a formal Court hearing before a Family Court Judge. For additional information please call (973) 656-4308 (Morris County) or (973) 579-0616 (Sussex County).	N/A	The Referee must meet certain educational requirements as established by law	Paid	
	New Jersey	Juvenile Conference Committee	Juvenile Conference Committees (JCC) operate in accordance with N.J.S.A.2A:4A-75. Committees, made up of volunteers from the community, serve under the authority of the Court and hear and decide matters involving juvenile delinquency. Referrals to JCC are made by the Family Division upon receiving a complaint of juvenile delinquency. The Committees are primarily concerned with preventing more serious misconduct by the juvenile. The JCC recommends sanctions that must be met and monitors compliance in accordance with the rules.			Volunteer	

	Hamilton County, Ohio	Volunteer Referee Program	Attorneys appointed by the court to serve in juvenile court. Goal is to attempt to divert youth from official delinquent records. Volunteer attorneys hear unofficial cases of a minor nature within their own community.			Volunteer	
	Bradley County, Tennessee	Volunteer Court Referee	Local attorneys used in Campus Court program to go into schools to address truancy and behavior problems. Considered early intervention. In a Campus Court setting, a referee has several options in dealing with truancy and behavior problems. Referees can require violators to attend before or after school tutoring programs, sentence them to community service hours or suspend driver's licenses. Serious or persistent offenders can be referred to Juvenile Court or to programs like Family Friends or Parent Project. Currently there are 14 volunteer referees.			Volunteer	
PRO TEMPORE JUDGES	Maricopa County, Arizona	Pro Tem Judge Program	Attorneys appointed to serve in the following courts: civil, criminal, tax, probate, juvenile, and family court. Restrictions on the type of law they can practice based on how often they are scheduled as a Pro Tem Judge.	One year. May apply for reappointment.		Both paid and pro bono	Extensive Computer Based Training Program
	Many Counties, CA	Temporary Judge Program	Used to hear various case types including small claims, traffic, juvenile, and probate. May also act as settlement conference judges in family and civil cases.		Active member of California State Bar in good standing for at least 10 years.	Paid	Requires training in bench conduct and demeanor, ethics and substantive areas.

	Utah	Pro Tem Judge Program	Attorneys used in small claims court.	Two year term.	Four years as member of Utah State Bar.	Volunteer	Requires 3 hours of small claims education annually.
	King County, Washington	Judge Pro Tem Program	Attorneys used in small claims court.			Volunteer and Paid.	Training required



## **APPENDIX P**

### **E-filing Proposal for Conciliation Court Cases**

Currently, litigants can file a case in Conciliation Court for a \$70.00 fee. In 2008, TurboCourt was introduced to Conciliation Court litigants as an option they could utilize to file their case. TurboCourt is a web portal for documents, preparation, assembly, with capabilities of e-filing, for self-represented litigants, businesses and attorneys. The \$15.00 fee to use TurboCourt is in addition to the filing fee. For the fee, the litigant is able to utilize the applications that guide them through a “virtual Interview” from any facility with internet access. TurboCourt usage by district has been moderately low.

As of the 2009, second quarter WCL report, there were 140,718 conciliation court filings statewide. The Trial Courts could realize personnel and records management savings by instituting mandatory e-filing in Conciliation Court.

This initiative could be creatively funded with a combination of a reduced negotiated vendor rate (including building the connection to Odyssey) and a residual cost absorbed by an adjusted fee in the filing fee.

#### **PROS:**

- Staff savings in low priority case type
- No MNCIS entry
- Credit card payment by IVR=Less receipting
- Less wait time for the public
- More consistent intake into the system and calendaring
- Ability to manage calendars by automation in larger Court calendars
- A number of vendors currently working with the Courts that have vested interest in expansion
- APIs (application programming interface) allow any vendor to integrate with MNCIS
- Experience with the 4<sup>th</sup> District’s mandating customers complete their Harassment Complaint on-line has proven to be successful, including LEP customers
- Natural progression after Civil e-filing

#### **CONS:**

- Retraining litigants on new system
- Access to the internet or computer

Considerations:

- Pro Se litigants and businesses have different needs; discussions with users groups are required for success implementation
- Adapt process for mass filings by businesses utilizing Conciliation court

## **APPENDIX Q**

# Restructuring or Redistricting Minnesota Judicial Districts

A Discussion of the Concept of Reorganizing Judicial  
Election and Administrative Districts

## Historical Prospective and Overview of

### Judicial District Redistricting

The final report of the Access and Service Delivery Committee contained the following summary of its discussions and recommendation concerning administrative restructuring or redistricting the Minnesota Judicial Branch.

“Although some of the fundamental changes will continue to be driven by new technological opportunities, other forces in the larger environment are equally important in driving the courts toward new business strategies and processes. One such strategy that began with state funding and continued with the creation of the Judicial Council, is for the court to redesign itself in the model of a single enterprise, rather than 89 or 10 separate organizations. Policy, management structure, and service delivery designs that support the single entity model not only promote consistency throughout the state, but are also necessary to achieve the kind of large-scale cost savings needed in the future. The Committee agreed that ten judicial districts are probably not needed and briefly reviewed proposed criteria for determining the optimal number of judicial districts. The Committee also listened to ideas for multi-county administrative management units, based on judicial assignment areas. The Committee strongly supports work underway in the 5<sup>th</sup>, 8<sup>th</sup>, and 9<sup>th</sup> Judicial Districts to move toward multi-county court administrators overseeing a judicial assignment area. It is clear that if future service delivery is provided from both centralized locations as well as local facilities, then a new management structure will be required that supports both the new hybrid system of service deployment and also promotes the —single business entity concept . The Committee decided to recommend that a separate group be tasked to consider the need for structural changes as part of a larger redesign of the court overall. “

### Recommended Options

“The strategies outlined above served as guideposts, helping the Committee select options that were consistent with a vision of a high-functioning court of the future, one that is successful through innovation and deliberate planning, despite the twin challenges of impending work force declines and long-term funding reductions. On a more prosaic level, the Committee generally selected options that would support staffing to the most efficient norm (increase staff productivity, particularly in the smallest courts), were relatively easy to implement, provided large cost savings, and would achieve savings in the short term. (An option was considered —short term if it was believed that savings from that option would occur within two years.) The potential for cost savings was not necessarily the determining factor as to whether the Committee chose to recommend an option. For example, centralizing probate annual reviews which include the hiring of specialized staff, such as auditors, was identified as a low savings option, but was regarded by the Committee as a good business practice, relatively easy to adopt.”

One of the principle charges of the Access and Service Delivery Committee was to review structural and governance changes that would maintain access to the court while improving our service delivery. Historically, judicial districts were created, adjusted and abolished in an effort to maintain some common size based on population. In the past twenty five years, redistricting has been reviewed two other times (the mid-1980s and the mid-1990s). More recently, consolidating district and county administrative regions (district and county administration) has been put in place to streamline administration and reduce costs. In many respects, these changes have been invisible to all but management personnel in the respective districts and counties. In most cases the judges have only been minimally affected by the consolidation as most of the staff they are used to dealing with is still in place.

Redistricting, in the broader sense, erases current district lines and allows the court to redesign its organizational structure based on practical considerations, business needs and common demographics. A review of redistricting should look at creating an adequate volume of common workloads allowing for the development of expertise in both judges and court staff. This expertise will in theory produce improved system efficiency, effectiveness and consistency which will hopefully reduce judicial branch costs while improving access and service delivery to the public.

The review by the full Access and Service Delivery Committee was fairly limited. The premise was that we could do with fewer judicial districts. Initially consolidation of existing district (Third and Fifth, Seventh and Eighth, and Ninth and Sixth) seemed reasonable. Subsequent models, using a forty-five judge optimum district size, initiated the discussions of redoing current districts independent of their current individual configurations. If the Judicial Council is interested in pursuing this effort, there may be other consideration that should be blended into the analysis as we fit districts and counties together in a re-structured Minnesota trial court system.

The ASD 2 Committee discussed the purpose of judicial districts and their evolution since they were created in 1857. The historical functions of judicial districts identified by the Committee included serving as an election district and providing support on an administrative level (e.g. finance, human resources, training, technology, etc.). Internal trial court budgeting development is based on the judicial district model. Dividing the state up into smaller regions (districts) allows for developing services unique to local demographics and needs. The existence of districts also provides a backdrop for coordination of efforts for larger locations (sharing resources, balancing workloads, etc.) and facilitates conformity within the state system – it is easier to implement measures consistently among ten entities than among eighty-seven counties. Workload and resource shifting in recent years has been collegially done; if districts are too small this isn't helpful, but if they are too large, the size is prohibitive. Decision-making within a district permits it to occur on a human-scale and improves buy-in because players know the decision-makers. Districts provide readily available resources for many issues such as training, purchasing supplies, and operating under consistent procedures; pre-transition, counties relied on their County Board, some of which were good and some not.

The Committee broached the question of whether the historical county model can survive as fiscal resources in small and medium sized counties of the state become increasingly scarce and populations decline. In the future, it may be fiscally unrealistic to expect counties to provide and maintain with separate jails, courthouse facilities, prosecuting attorneys and advanced technology.

The Committee discussed the implication of consolidating districts on the composition of the Judicial Council. On one hand, more judicial districts result in more voices and more perspectives in the decision making process. Conversely, disparities in the population and size of districts create a disproportionately large influence of rural districts over metropolitan and suburban districts.

The following is a summary of the information reviewed by the ASD 2 Committee and the discussions the Committee (both pro and con) of the concept. Four options are forwarded to the Judicial Council for review along with a suggestion that a more in depth review be made of the concept of trial centers strategically placed in the state where complex and length criminal and civil matters might be held.

## History of Judicial Districts in Minnesota

Judicial Districts in Minnesota were created in the original 1857 Minnesota State Constitution. The first configurations of judicial districts contained six, primarily southeastern and east central counties. Early districts were configured to keep district population levels relatively equal. As might be expected, transportation routes (waterways, rivers and railways) were the primary determiner of the where early Minnesotans settled and hence judicial district lines. The later development of commerce caused accelerated growth in selected metro area resulting in a movement away from population as a sole consideration in determining the number and size of judicial districts. Judicial districts have ranged in number from a low of six in the initial 1857 configuration to a high of nineteen in 1907. The Second Judicial District (Ramsey County) has always been a single county judicial district. The Fourth Judicial District (Hennepin County) did not become a single county judicial district until 1905. The progression of changes to the structure of Minnesota judicial district from 1857 to the present can be found in Appendix A. The last change to district organization occurred in 1959 resulting in today's ten judicial districts.

## Judicial District Administration and Their Offices

### History, Purpose and Functions

Judicial District Administrator positions were created statewide in 1977 after existing for several years in Hennepin County and Ramsey County and as a pilot rural judicial district program in the Fifth and Eighth Districts from 1974 to 1977. The duties of the position and hence of the office have evolved over time. Current duties cover the general areas of case management, jury management, budget and financial management, personnel management, technology and records management, research and planning, facilities planning and district liaison to various internal and external bodies and agencies. Current essential duties of the judicial district administrator include:

- Monitors and reviews weighted caseload reports and allocates judge time to counties, regions or divisions within a district; ensures the availability of replacement judges or additional judges to handle caseload; administers the district's caseload management plan; reviews local calendaring practices for adequacy and formulates, in conjunction with local court administrators, district-wide plans to keep calendars current; monitors computerized case reports and advises the chief judge of the status of the district caseload.
- Implements jury management systems.
- Coordinates the calendar and caseload system among courts and maintains close working relationships with administrators, clerks, attorneys, court reporters, and other individuals affecting the efficient flow of cases through the courts; analyzes and implements programs to reduce court delay; recommends and implements efficient case assignment systems and programs to improve caseload; supervises and coordinates decentralized court operations.
- Final authority on hiring and discipline for designated positions within the district; recruits, screens, interviews and recommends local court administrators for hire; prepares interview questions for interview board; may evaluate court administrator performance periodically; may recommend disciplinary action for implementation by the chief judge; assists in recruiting court reporters and law clerks; recommends salaries for court reporters and law clerks and maintains leave records; recommends salaries for court administrators; develops and conducts district-wide training and orientation programs for court personnel; develops strike plans for potential labor disruptions; assists state court administrator's office in developing personnel policies; conducts specialized studies on personnel issues together with recommendations; implements personnel policies; provides for court interpreter services.
- Develops and/or analyzes court information, statistical, and record-keeping systems; identifies areas of needed improvement, and works closely with available management resources in designing and implementing improvements, including integrated information systems.
- Provides technical assistance and advice to judges and local court administrators on scheduling problems, purchasing, budget, records management, facilities, legislation, statistics, jury management, computerization, fees, and court related jail/corrections/probation problems; acts in a liaison capacity with architects and county commissioners on facilities changes; initiates management studies of local court operations.
- Implements district-wide manual and automated trial court information systems; conducts district-wide records management projects including those involving retention, destruction, storage and microfilm applications; facilitates training of court personnel as records systems

are converted; analyzes, and supervises the planning and facilitation of the installation of network computer systems; closely monitors the modification or enhancement of court computer programs to ensure compatibility; supervises and coordinates the development, implementation, operation, maintenance and upgrading of the district-wide area network and automated computer and software applications.

- Analyzes expenditures and develops the district-wide administration budget and trial court operating budgets; reallocates funds as necessary within this budget; initiates efforts for cost containment including, but not limited to, staffing adjustments, reductions in travel and jury costs and savings on quantity purchases; oversees the district collection services program; supervises local court administrators in budget preparation matters.
- Oversees district-wide financial management activities including budget preparation, fiscal report preparation, maintaining fiscal records, automation, developing and monitoring financial control procedures, reallocating funds, and maintaining liaison with state officials.
- Prepares office relocation, consolidation and space needs reports; prepares preliminary floor plans; meets and coordinates with architects, contractors and county boards concerning remodeling plans for offices, courtrooms and judges' chambers, serves on committees for courthouse remodeling or new construction; visits construction sites to ensure compliance with state space and facility guidelines; negotiates leases for office space; supervises a staff that advises judges and court administrators concerning purchases of electronic recording equipment, audio/visual equipment, personal computers, and other equipment.
- Prepares and updates functional and long range strategic plans, initiates management studies and the development of court policy recommendations.
- Develops, coordinates, and/or schedules continuing education programs for judges and non-judicial personnel.
- Analyzes and prepares court security plans and coordinates with local law enforcement on high risk trials.
- Directs and oversees the Guardian Ad Litem program for the district; coordinates with state court administrator's office in the development and completion of special projects or assignments; gathers statistical information as required.
- Represents the court in non-judicial matters with others such as sheriff, public groups, news media, committees, planning groups and the general public.
- Prepares routine and special reports of district activities to promote the more efficient and effective management of the court system, suggesting changes to the chief judge and the state court administrator.
- Analyzes and recommends cost containment measures for jury operations.
- Travels to court locations to meet periodically with local court administrators; supervises a computer system information office staff engaged in training, implementation and maintenance of automated procedural process and communication systems.



## The National Comparison of State Trial Court Administrative Structures

The information contained in the following figure provides a current look at the fifty state trial courts have elected to organize their courts. States comparable to Minnesota in population and/or land mass are highlighted. Contiguous states to Minnesota are also highlighted. States with populations similar to Minnesota (5.2 million) are Alabama (4.7), Colorado (4.9), Maryland (5.6), Missouri (5.9) and Wisconsin (5.6). The range of district numbers in states of comparable population range from a low of 10 districts in Wisconsin to a high of 45 districts in Missouri. Colorado, a state with many of the same organizational features as the Minnesota courts has 22 judicial districts. The geographic size and related features may also dictate the number of judicial districts or circuits in a state. Looking at states with roughly the same square miles as Minnesota provides an interesting comparison. States of roughly the same geographical size to Minnesota (86,943 square miles) include Idaho (83,574), Kansas (82,282), Michigan (96,810) Oregon (98,386), Nebraska (77,358), South Dakota (77,121), Utah (84,904) and Wyoming (97,818). The number of judicial districts in these states range from a low of 4 regions in Michigan to a high of 31 in Kansas. With respect to states bordering Minnesota, North Dakota has 7 districts, South Dakota has 7 districts, Iowa has 8 districts and Wisconsin has 10 districts.

It is interesting to note that many of the Northeastern states have elected not to form judicial districts. This may be a result of the number of counties in these small states (population and size). It may also be a result of the strong local political tradition placing significant value on a decentralized model of government in general.

In reviewing the national scene, Minnesota's current configuration fits into the range of what is seen for other states of comparison population and area. Movement below a seven district structure appears to be problematic on the basis of geographic size concerns.

State	Population (Millions)	Land Area (Sq. Mi.)	Number of Judicial Districts/ Circuits
Alabama	4.7	52,423	41 Circuits
Alaska	0.7	656,425	4 Districts
Arizona	6.5	114,006	No Districts/ 15 Counties
Arkansas	2.9	53,182	28 Circuits
California	36.8	163,707	No Districts/58 Counties
Colorado	4.9	104,100	22 Districts
Connecticut	3.5	5,544	12 Districts
Delaware	0.9	1,954	No Districts/3 Counties
Florida	18.3	65,758	20 Circuits
Georgia	9.7	59,441	10 Districts
Hawaii	1.3	10,932	4 Circuits
Idaho	1.5	83,574	7 Districts
Illinois	12.9	57,918	22 Circuits
Indiana	6.4	36,420	14 Districts
Iowa	3	56,276	8 Districts
Kansas	2.8	82,282	31 Districts

Kentucky	4.3	40,411	56 Circuits
Louisiana	4.4	51,843	40 Districts
Maine	1.3	35,387	No Districts/16 Counties
Maryland	5.6	12,407	12 Districts
Massachusetts	6.5	10,555	No Districts/14 Counties
Michigan	10	96,810	4 Regions
Minnesota	5.2	86,943	10 Districts
Mississippi	2.9	48,434	22 Districts
Missouri	5.9	69,709	45 Circuits
Montana	1	147,046	22 Districts
Nebraska	1.8	77,358	12 Districts
Nevada	2.6	110,567	9 Districts
New Hampshire	1.3	9,351	No Districts/10 Counties

New Jersey	8.7	8,722	15 Vicinages
New Mexico	2	121,593	13 Districts
New York	19.5	54,475	12 Districts

North Carolina	9.2	53,821	46 Districts
North Dakota	0.6	70,704	7 Districts
Ohio	11.5	44,828	No Districts/88 Counties
Oklahoma	3.6	69,903	26 Districts
Oregon	3.8	98,386	27 Districts
Pennsylvania	12.5	46,058	60 Districts
Rhode Island	1	1,545	4 Divisions/5 Counties
South Carolina	4.5	32,007	16 Circuits
South Dakota	0.8	77,121	7 Circuits
Tennessee	6.2	42,146	31 Districts
Texas	24.3	268,601	No Districts
Utah	2.7	84,904	8 Districts
Vermont	0.6	9,615	No Districts/14 Counties

Virginia	7.8	42,769	31 Circuits
Washington	6.6	71,303	31 Districts
West Virginia	1.8	24,231	31 Circuits
Wisconsin	5.6	65,503	10 Districts
Wyoming	0.5	97,818	9 Districts

## Criteria for Redistricting

### Minnesota Judicial Districts

During discussions at the original Access and Service Delivery Committee, it was suggested that optimum number of judges in a multi-county district for purposes of redistricting models should be 40 to 45. The support staff for this number of judges worked well with the district administrative staffing models existing in the state. Many of the models developed in this review used 40 to 45 judges as a basis for configuring district lines. Other potential considerations in determining the benefits or liabilities of alternative models included but not be limited to the following.

#### *Basic Workability*

- Number of Judges and Employees
- District's Geographic Size (Area)

#### *Common Demographics*

- Population Centers - Metro versus Rural District Characteristics
- Growth Factors (Increasing, stable and decreasing caseloads)
- Economic Character (Big Business versus Self Employment/Smaller Businesses)
- Transportation Availability/Traffic Patterns/Major Highways
- Common Culturally Diverse Populations

#### *Technology Developments and Availability*

- Virtual Courthouses – ITV or Internet Availability
- IVR and IWR
- Auto Assess
- General e-Court Enhancements
- Band-width Capacity for Video Transmissions

#### *Other Political and Practical Concerns*

- Current Multi-District District Office and Multi-County Court Administrator
- Judicial Election Districts
- Local Bar Associations
- Inter-county Agency Relationships (Public Defenders, and Regional Joint Jurisdictional Relationships)
- Multi-County Community Corrections Act Counties

## **Basic Workability**

### **✚ Number of Judges and Employees**

This was the original criteria for restricting when first discussed at the ASD last year. It relates to an optimum district size for both management of staff and judges. A district size of 40-45 judges was used as a guideline in earlier discussion of redistricting options. The current district Adjusted Judge Needs (AJN) range from 9.3 to 81.5 judges. As of the start of the 2nd Quarter of 2009 (the last approved Weighted Caseload Study Update) the following AJNs exist in each district of the state:

First	38.9 AJN
Second	34.8 AJN
Third	24.4 AJN
Fourth	81.5 AJN
Fifth	17.0 AJN
Sixth	15.4 AJN
Seventh and Eighth	35.7 AJN (7 <sup>th</sup> 26.4 and 8 <sup>th</sup> 9.3)
Ninth	22.6 AJN
Tenth	45.7 AJN



Current district lines could be redone to mix and match counties to more closely approximate the 40-45 judge goal. It should also be noted that some districts are regularly increasing in size while other have been decreasing or staying stable. The Fourth and Tenth Judicial Districts currently exceed that expressed optimum range. If current growth rates continue, the First District will exceed 40 AJN within the next two years.

Judge and staffing levels are more difficult to measure for several reasons. Staff has changes since the following numbers were developed. The Voluntary Separation Incentive Program (VSIP) resulted in several district losing positions. The firing freeze promulgated by the Judicial Council has been increasing numbers of vacancies some of which will not be filled. Some districts have terminated positions which will not be refilled even after the hiring freeze is lifted. Have said that, following is a comparison of district judge, referee, court reporter, law clerk, district administration and court administration staff (excluding mandated service employees) by district.

First	299
Second	271.7
Third	192.3
Fourth	623.4
Fifth	155.85
Sixth	132.4
Seventh and Eighth	328.78 (7 <sup>th</sup> 233.58 and 8 <sup>th</sup> 94.2)
Ninth	204.05

### ✚ **Geographic Size (Area)**

The physical size of a judicial district may prohibit some redistricting concepts that are simply based on judgeship totals. For example, the current Ninth Judicial District, comprised of seventeen counties, is well over a quarter of the state's land mass. Without significant changes in how we deliver services to these more remote areas, i.e. increased use of ITV and other technology, agreements with executive branch offices and agencies to serve as agents of the courts for filings and payments, and other similar changes to how work has traditionally been handled, size and distance could be problematic to some redistricting concepts.

## **Common Demographics**

### ✚ **Population Centers - Metro versus Rural District Characteristics**

The clustering of different case types and the ability to hand large volumes of similar cases in metropolitan and suburban areas may have an impact on how we view re-districting concepts. External resources and programs, available through historically well funded counties, municipalities, school districts and other public and private enterprises may be more available in the courts of metropolitan areas.

### ✚ **Growth Factors (Increasing, stable and decreasing caseloads)**

The changing demographics of counties make it difficult at best to target a specific number of judgeships as the sole criteria for determining districts. The First and the Tenth Judicial Districts have and will continue to grow over the next five to ten years. The Second and Fourth District have shown recent increases in AJNs. With growth comes the need to deal with additional facilities, staffing growth, changes in case management approaches as well as other issues related to workload increases. Conversely, areas of decreasing population and decreasing resources have a completely different set of issues (down-sizing staff, alternative technological approaches to access) requiring a different set of skills.

### ✚ **Economic Character (Big Business versus Self Employment/Smaller Businesses)**

Although recent economic down turns have hit all businesses (large and small) across the state, the volume, nature and complexity of cases may vary from county to county (metro and rural).






#### **Transportation Availability/Traffic Patterns/Major Highways**

Public access to court facilities should be as convenient and direct as possible. This access is also important for employees of the courts as well as individual (attorneys, GsAL, jurors and the general public) and agencies (law enforcement, public defenders, prosecutors, probation officers, corrections) serving the court.

#### **Diverse Ethnic Populations**

Large ethnic populations in different areas of the state require a unique understanding of cultural differences. Redistricting efforts should recognize and consider programs that have developed over time to deal with these populations when developing new district lines.

### **Technological Developments and Availability**

-  Virtual Courthouses – ITV or Internet Availability
-  IVR and IWR
-  Auto Assess
-  General e-Court Enhancements
-  Band-width Capacity for Video Transmissions

These potential considerations may weigh differently in a discussion of redistricting. No attempt has been here to place a value on the significance of one criterion over another.

### **Political Concerns**

#### **Judicial Election Districts**

Any redistricting concepts will impact judicial election districts under current law regarding judicial elections. This must be considered and, to the extent possibly, minimized when considering redistricting proposals.

#### **Current Multi-District Judicial District Administration Office and Multi-County Court Administrator**

Two judicial district administrator and multiple district administrative functions have been consolidated between the Seventh and the Eighth Judicial District

#### **Local Bar Associations**

Current judicial districts were in part developed along local bar association lines. Changes in district lines will impact the courts' relationship with these groups.

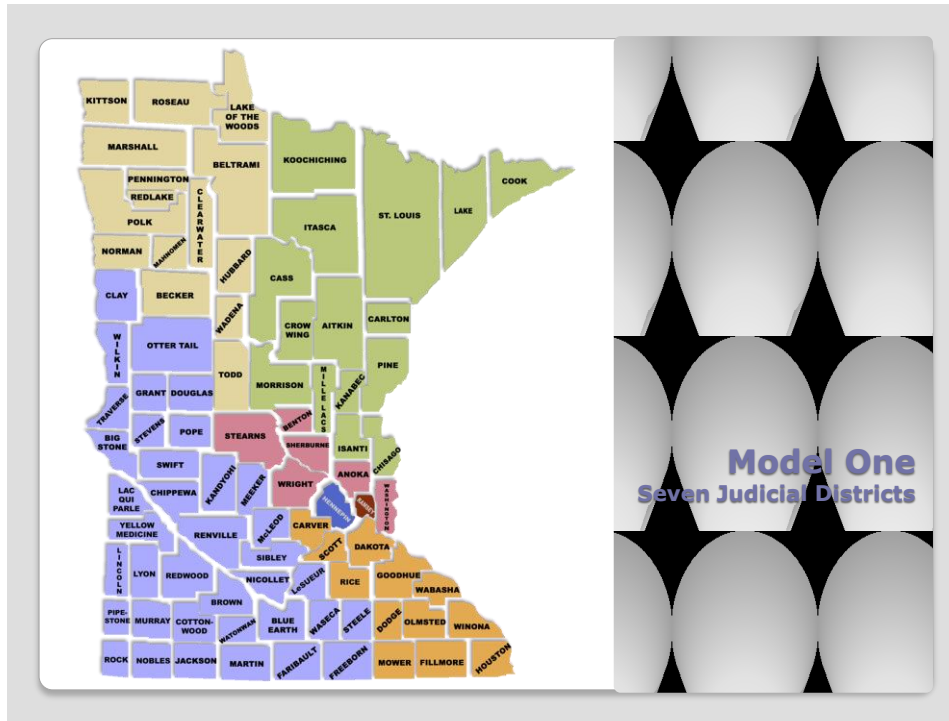
#### **Inter-county Agency Relationships (Public Defenders, Multi-county CCAs)**

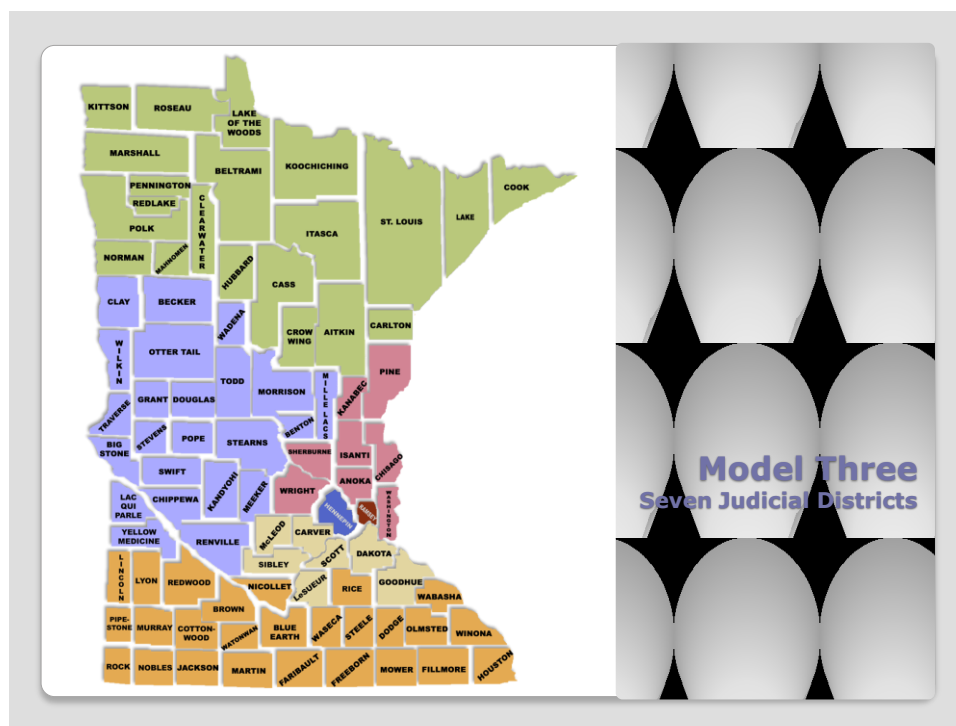
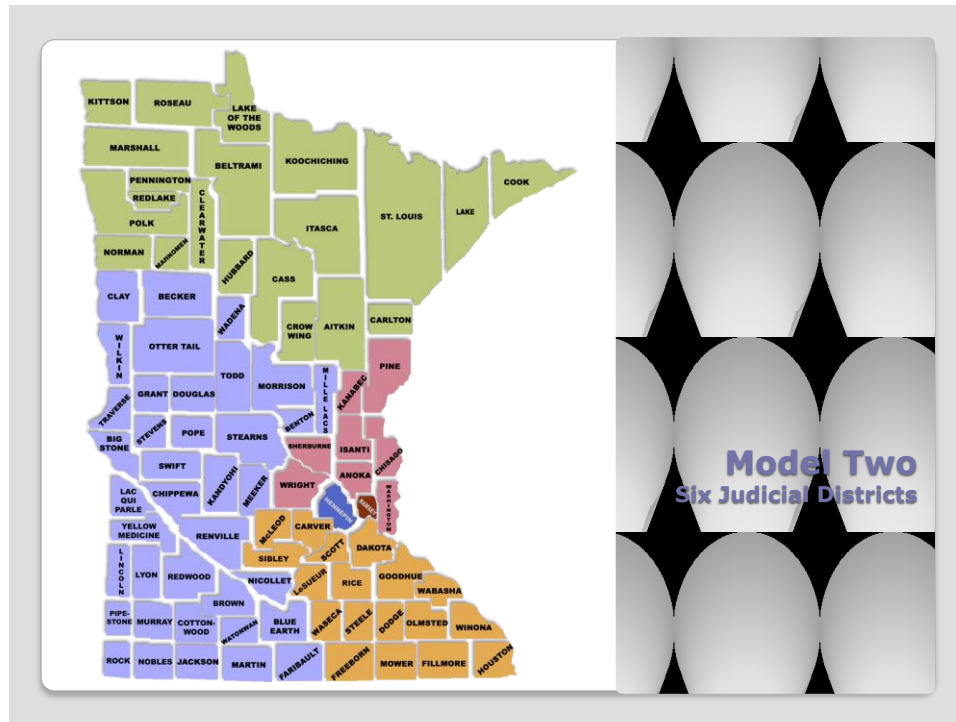
Various, non-court agencies and services cross county lines. There are various multi-county Community Corrections departments in the state. The State Public Defender system is currently based on district lines. Some of these relationships are formal and some are informal. Some have very long histories and some are fairly recent constructs. Redistricting concepts need to consider any significant disruptions that may occur to these relationships.

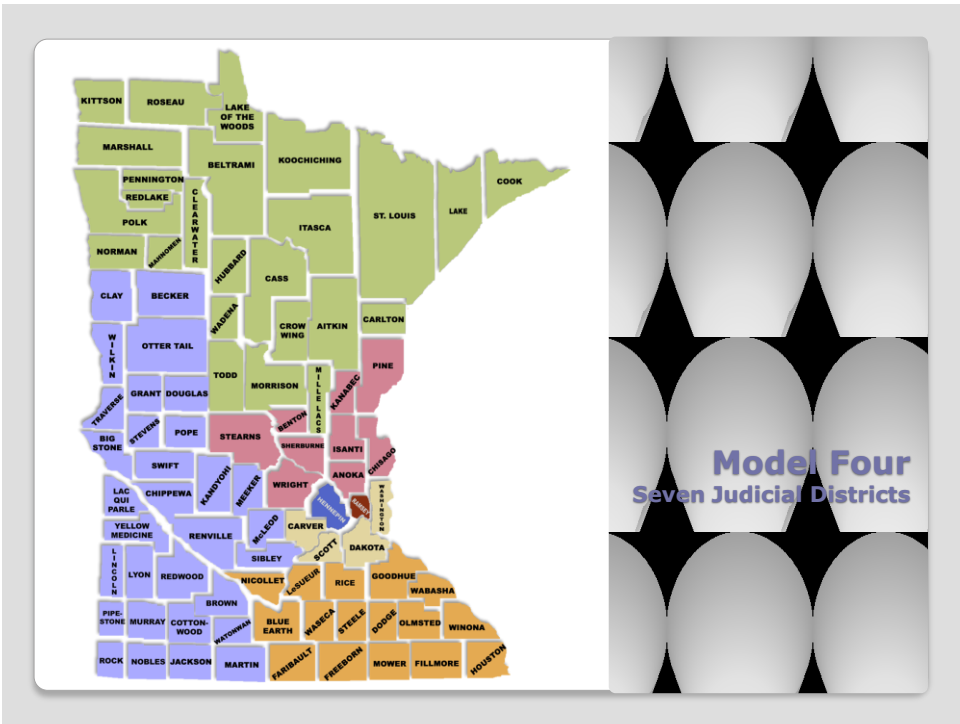
The committee ranked various criteria using the frame of reference of "What is the best way to run the Minnesota Judicial branch as a single entity?" The committee further worked from the assumption that case venue would remain at the county level. The following were the results of the criteria voting (sorted by descending tally):

<b>Criteria</b>	<b>Tally</b>
Basic Workability: Number of Judges	30
Basic Workability: Geographic Size	29
Other Issues: Multi-County/Multi-District Consolidation	18
Common Demographics: Growth Rates	17
Other Issues: Inter-County and Agency Relationships (Public Defenders) Regional Relationship	17
Technology/Availability: ITV/Bandwidth Issues	13
Other Issues: Administrative Staff Specialization	11
Other Issues: Judicial Election District	8
Other Issues: Judicial Specialization	6
Common Demographics: Economic Character	3
Common Demographics: Transportation	3
Other Issues: Multi-County Community Corrections	2
Common Demographics: Cultural Diversity	1
Common Demographics: Population Centers	1
Other Issues: Unique Cross-District Issues	1
Other Issues: Collective Bargaining Units	0
Other Issues: Judge Residence	0

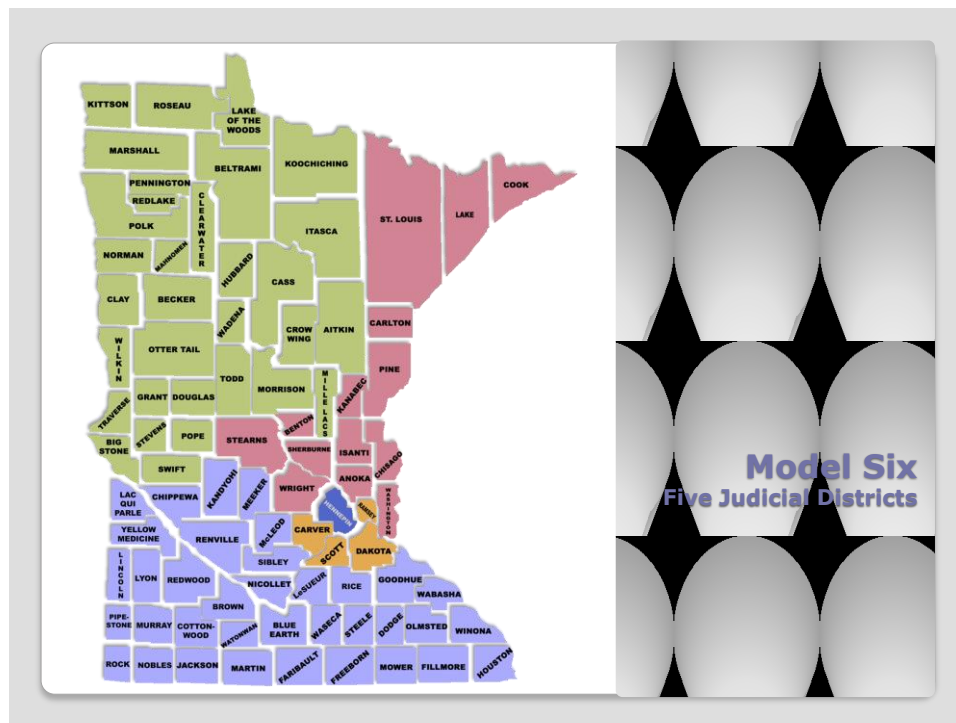
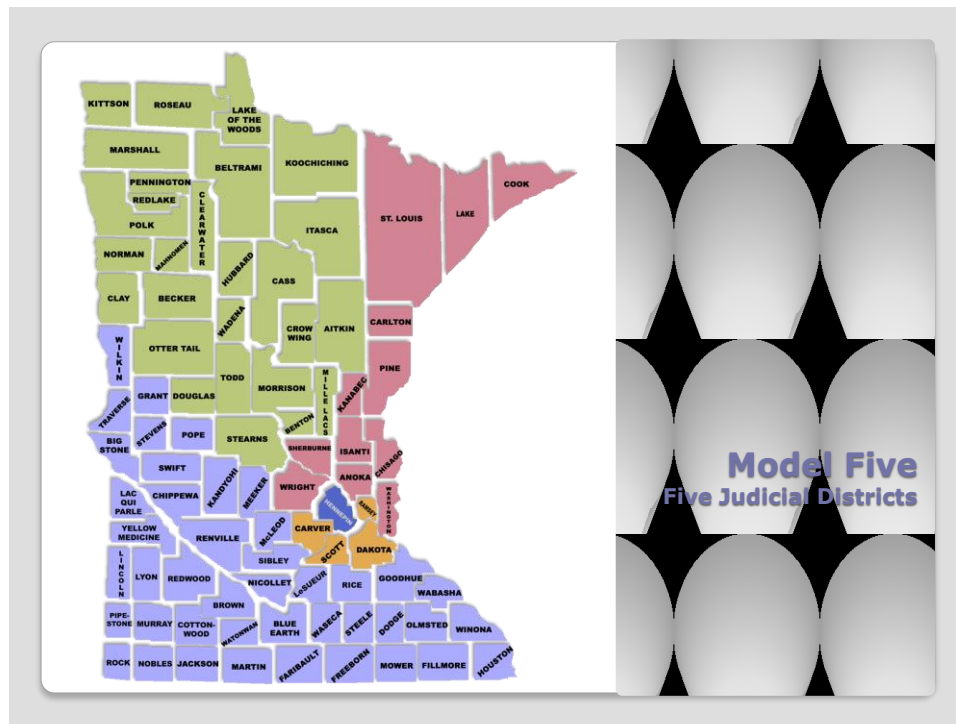
## Redistricting Models Reviewed

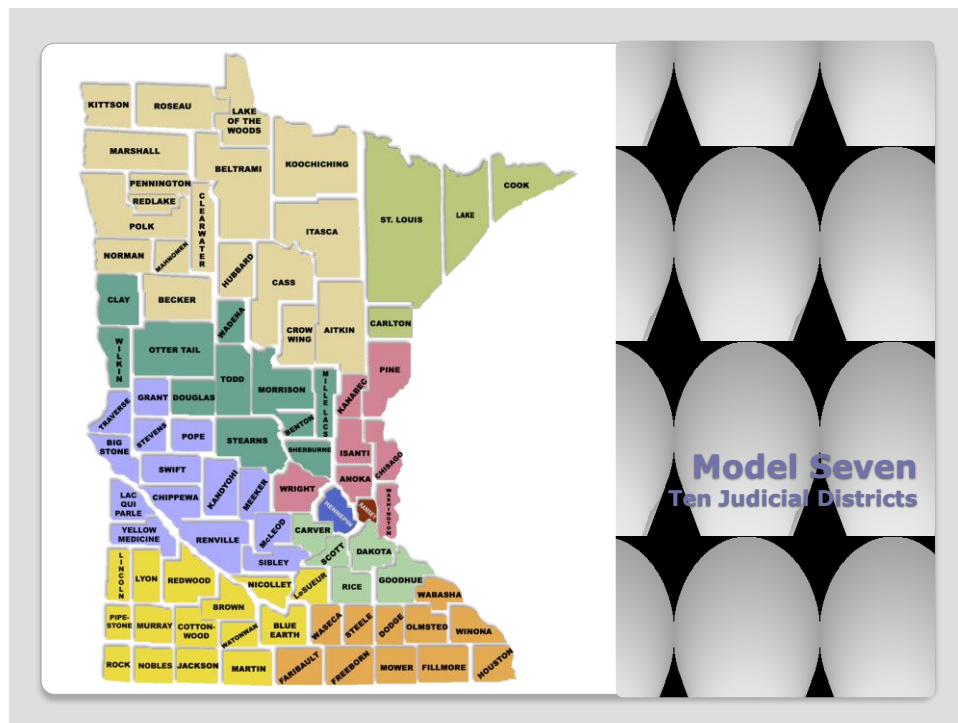


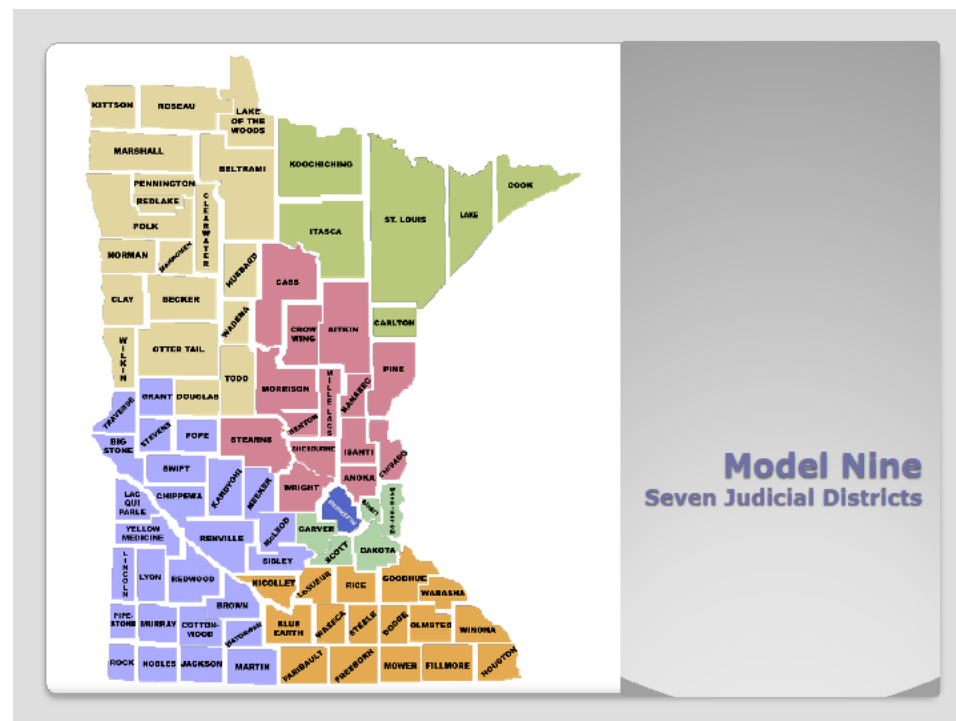
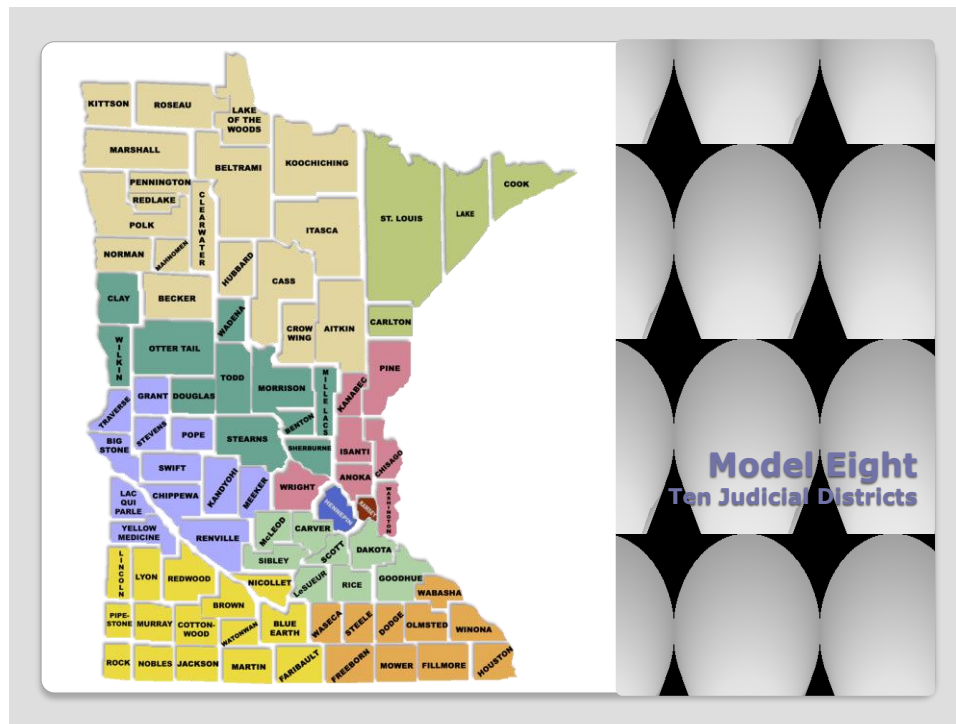


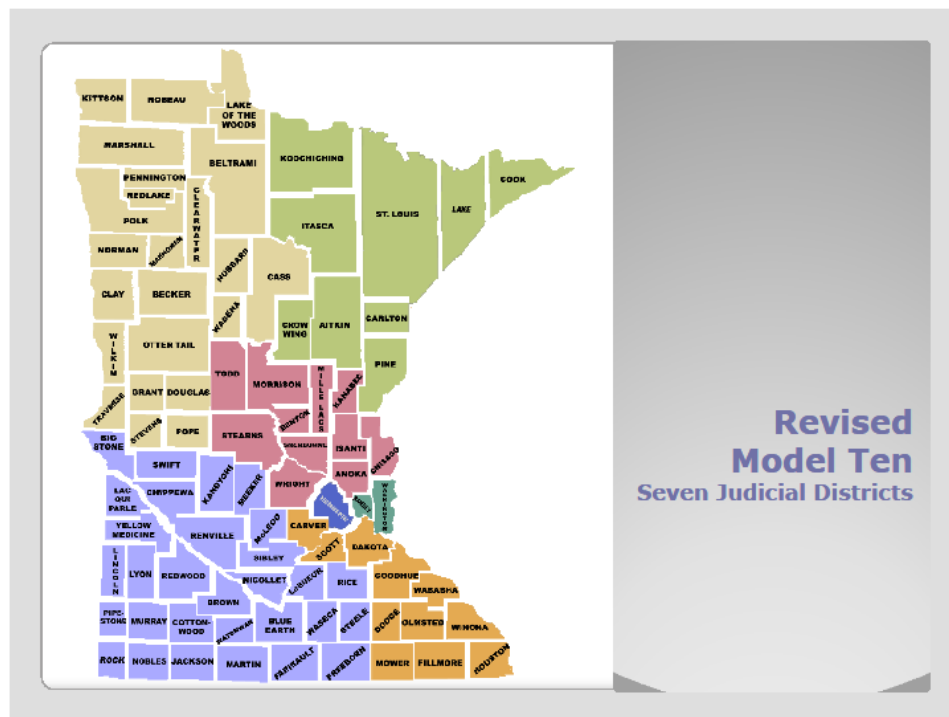
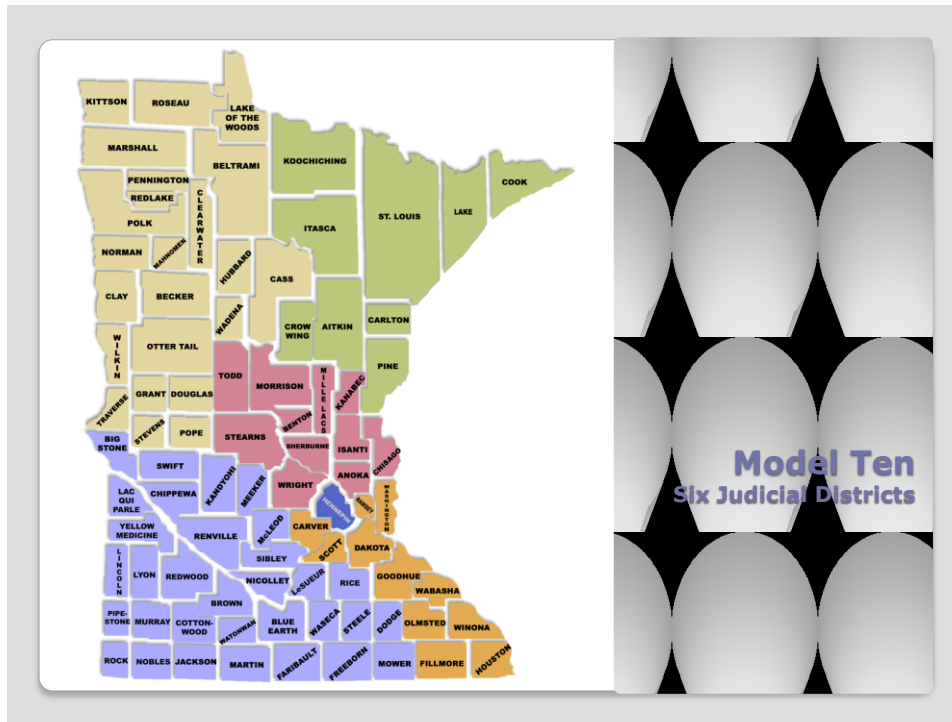


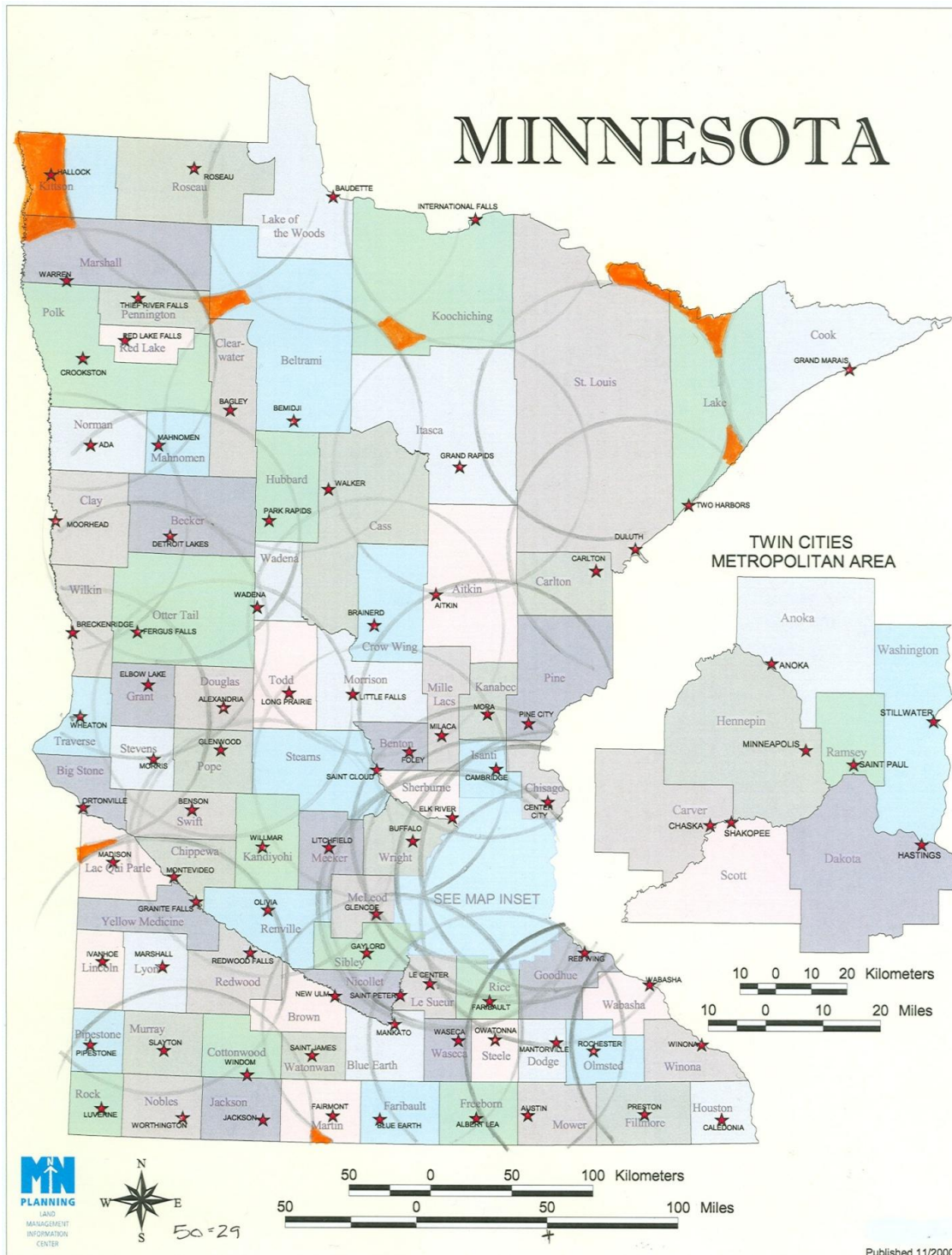














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# MINNESOTA

This map of Minnesota displays the following counties and their major cities:

- Northwest:** Kittson (Hallock), Marshall (Warren), Polk (Thief River Falls, Pennington), Clearwater (Red Lake Falls, Red Lake), Crookston, Norman (Ada), Mahanomen (Mahanomen), Clay (Moorhead), Becker (Detroit Lakes), Wilkin (Breckenridge), Otter Tail (Fergus Falls), Grant (Elbow Lake), Douglas (Alexandria), Todd (Long Prairie), Morrison (Little Falls), Mille Lacs (Mora), Kanabec (Pine City), Pine (Pine City), Isanti (Cambridge), Sherburne (Elk River), Wright (Buffalo), Le Sueur (Le Center), Rice (Faribault), Goodhue (Wabasha), Wabasha (Wabasha), Winona (Winona), Houston (Houston), Calumet (Calumet).
- West:** Marshall (Marshall), Polk (Thief River Falls, Pennington), Clearwater (Red Lake Falls, Red Lake), Crookston, Norman (Ada), Mahanomen (Mahanomen), Clay (Moorhead), Becker (Detroit Lakes), Wilkin (Breckenridge), Otter Tail (Fergus Falls), Grant (Elbow Lake), Douglas (Alexandria), Todd (Long Prairie), Morrison (Little Falls), Mille Lacs (Mora), Kanabec (Pine City), Pine (Pine City), Isanti (Cambridge), Sherburne (Elk River), Wright (Buffalo), Le Sueur (Le Center), Rice (Faribault), Goodhue (Wabasha), Wabasha (Wabasha), Winona (Winona), Houston (Houston), Calumet (Calumet).
- Central:** International Falls, Koochiching, Beltrami, Hubbard (Walker), Cass (Park Rapids), Wadena (Wadena), Brainerd (Brainerd), Aitkin (Aitkin), Crow Wing (Crow Wing), Benton (Benton), Milaca (Milaca), Isanti (Cambridge), Sherburne (Elk River), Wright (Buffalo), Le Sueur (Le Center), Rice (Faribault), Goodhue (Wabasha), Wabasha (Wabasha), Winona (Winona), Houston (Houston), Calumet (Calumet).
- East:** Cook (Grand Marais), Lake (Two Harbors), Duluth (Duluth), Carlton (Carlton), Anoka (Anoka), Hennepin (Minneapolis), Ramsey (Saint Paul), Saint Paul (Saint Paul), Carver (Chaska), Shakopee (Shakopee), Dakota (Dakota), Hastings (Hastings), Scott (Scott).
- South:** Marshall (Marshall), Polk (Thief River Falls, Pennington), Clearwater (Red Lake Falls, Red Lake), Crookston, Norman (Ada), Mahanomen (Mahanomen), Clay (Moorhead), Becker (Detroit Lakes), Wilkin (Breckenridge), Otter Tail (Fergus Falls), Grant (Elbow Lake), Douglas (Alexandria), Todd (Long Prairie), Morrison (Little Falls), Mille Lacs (Mora), Kanabec (Pine City), Pine (Pine City), Isanti (Cambridge), Sherburne (Elk River), Wright (Buffalo), Le Sueur (Le Center), Rice (Faribault), Goodhue (Wabasha), Wabasha (Wabasha), Winona (Winona), Houston (Houston), Calumet (Calumet).

The Twin Cities Metropolitan Area is highlighted in the southeast, showing Anoka, Hennepin, Ramsey, Saint Paul, Carver, Chaska, Shakopee, Dakota, and Scott counties. Major cities like Minneapolis and Saint Paul are marked with red stars. A scale bar indicates distances in kilometers (0 to 20) and miles (0 to 20). A note 'SEE MAP INSET' is located in the central part of the state.



10 0 10 20 Kilometers

10 0 10 20 Miles

118

## A Discussion of Pros and Cons

In discussing the concept of significantly changing current district borders, the following points were discussed at length by the committee.

- ✦ Redistricting to fewer than seven judicial districts appeared to be problematic. It was the consensus of the committee to drop models with fewer than seven districts, leaving models 1, 3, 4 and 9 as possible alternatives.
- ✦ The 2<sup>nd</sup> district would be the smallest, geographically. There was no strong feeling on whether the 2<sup>nd</sup> would want to combine with another county (Washington or Dakota). Combining Ramsey with another county would require a statutory change; judge opinion should be the primary determinant, and the legislature would likely embrace this as an effort to increase efficiency.
- ✦ Limiting on number of judges or geographical size of a district to achieved equality is a very difficult to accomplish. Equalizing workload creates very large geographical districts. Equalizing the physical size of districts creates large variation in judgeships per district in greater Minnesota.
- ✦ With regard to geographical size, very large district will exacerbate the problem of already large election districts where the public does not know or never sees the judges they elect. Administration is also a challenge as cultures and issues may be widely varied from one end of a district to the other.
- ✦ Combining districts for administrative purposes is relatively easy to accomplish. Change election districts may be much more difficult to accomplish and much for complicated to undo should the experiment not work.
- ✦ Keeping the status quo because that is the way it has always been is not consistent with our charge from the Judicial Council. ASD is changing the way we do work – redistricting fits in. It may be easier to accomplish some things with larger geographical areas. The object is – like state funding – to provide equal access across the state with fewer resources.
- ✦ The original ASD report emphasized striving to maintain access and improving service delivery.
- ✦ A decision was made to take “tweaking” out of the current discussion and to reserve it should the committee decide to recommend administrative consolidation only.



- Would large districts result in prohibitive costs? Would the electorate become more uninvolved, uncaring and uninformed both judicial candidates and issues. Would large rural districts unduly favor candidates from the one or two population centers
- In some districts, judges could be subject to assignments over even larger geographical areas.
- Larger districts may result in less contact with fellow district judges potentially resulting in less bench cohesion.
- If judicial district boundaries are changed significantly, some judges previously appointed or elected to one district may be moved to another district resulting in the need to relocate their residences.
- Budget savings could be achieved without redistricting by restructuring the administrative delivery system.

Of the models developed by the committee, the following observations were made of their position and negative attributes. Models One through Model Six reflect the premise that the optimum district size for administration is between 40 and 45 judges. Models Seven through Revised Model Ten incorporate other factors. A Trial Center concept is discussed in general terms. A more extensive breakout of this review is contained in Appendix B of this report.

#### Model One-Seven Judicial Districts

The first model recognizes the statutory protection for the Second and the Fourth Judicial Districts. It reorganizes the remaining eight districts into five using the 40-45 judge goal. The majority of the First and Third Districts are merged. Stearns and Benton County join the Tenth District. The PICK counties of the Tenth join the expanded the Sixth District. The Ninth District is reduced in physical size. The Fifth and the Eighth Districts come together with portions of the First and the Seventh Districts.

On a positive note, this model brings the St. Cloud area (currently in two district and three counties) into one district and aligns it with the more metro-minded counties of the Tenth District. It also takes the historic growing counties of the old Seventh and joins them with the growing counties of Anoka and Washington. The PICK counties of the Tenth District, more rural in character, join the reorganized Sixth District which is expanded to include Cass, Crow Wing and Itasca Counties among others. The Rice County extension into the First Judicial District and the Becker County cross district Native American reservation population are addressed in this model. This model would reduce the number of judicial administration offices by three to seven districts.

This concept does not achieve the 40-45 judge complement in the new Ninth District. While reducing the size of the old Ninth District, it creates two fairly large new districts. Model One disregards existing

local bar association districts and state public defender districts. It does not accommodate all current consolidated court administrator positions. The new Fifth/Seventh/Eighth District makes for a very large judicial election district.

### **Model Two-Six Judicial Districts**

The second model again recognizes the statutory protection for the Second and the Fourth Judicial Districts. It reorganizes the remaining eight districts into four using the 40-45 judge standard. The First and Third Districts are merged. The Tenth District is unchanged. The Fifth, Seventh and Eighth are merged. The Sixth and Ninth Districts are combined into a single district.

On a positive note, this model more closely aligns with state public defender system districts and local bars association districts. Consolidated court administrator positions remain in their current (albeit larger districts). The issue of the Clay/Wilkin County judicial assistance across existing judicial district lines is dealt with as is the Rice County extension into the First Judicial District. The Becker County cross district Native American reservation is not addressed. It reduces the number of judicial district administrator offices by four with six judicial districts.

This concept goes significantly beyond the 40-45 judge complement in the new First/Third District (over 63 AJNs) and the New Fifth/Seventh/Eighth District (over 55 AJNs). This concept does not address, in fact it exacerbates, the physical size issue of two districts (the new Sixth/Ninth District and the new Fifth/Seventh/Eighth District). Judicial election districts also become exceptionally large.

### **Model Three-Seven Judicial Districts**

The third model again recognizes the statutory protection for the Second and the Fourth Judicial Districts. It reorganizes the six remaining eight districts into three districts using the 40-45 judge standard. The First and Tenth Districts are unchanged. The Third and Fifth Districts are merged. The Seventh and Eighth are consolidated. The Sixth and Ninth Districts are combined into a single district.

On the positive side, this model most closely aligns with existing state public defender and local bars association districts. Consolidated court administrator positions remain in their current (albeit larger districts). The issue of the Clay/Wilkin County judicial assistance is solved. It reduces the number of judicial district administration offices by three to seven judicial districts.

This concept does not address, in fact it exacerbates, the physical size issue of two districts (the new Sixth/Ninth District and the new Third/Fifth District). Judicial election districts also become exceptionally large. It maintains the St. Cloud multi-district issue and does not deal with the Becker County or Rice County anomalies.

#### Model Four-Seven Judicial Districts

The fourth model again recognizes the statutory protection for the Second and the Fourth Judicial Districts. It reorganizes the eight remaining districts into five districts using the 40-45 judge standard. The First becomes a southern metro district by adding Washington County and giving up its rural counties to other districts. Tenth Districts becomes a northern metro district and adds Stearns and Benton Counties. The Third adds Blue Earth, Nicollet, Brown, Faribault, LeSueur and Goodhue Counties. The remainder of the Fifth, the Eighth and four counties of the Seventh are consolidated into new western district. The Sixth, Ninth and several counties of Seventh District are combined into a new northern district. Of all the options, this one most closely reaches the 40-45 judge standard statewide (Second and Fourth District excluded).

On the positive side, this model addressed the Clay/Wilkin support problem. It also places all of St. Cloud in a single district. It addresses the Rice County placement. For the most part, consolidated court administrator positions remain in their current (albeit larger) districts. It reduces the number of judicial district administration offices by two to seven judicial district offices. It combines growing counties and declining counties into common districts.

This concept does not address, in fact it exacerbates, the physical size issue of two districts (the new Sixth/Ninth District and the new Fifth/Eighth/Seventh District. In these districts, judicial election districts become much larger. District public defender and local bar association districts are also compromised. This model does not deal with the Becker County anomalies.

#### Model Five-Five Judicial District

The fifth model will require legislation to remove the statutory protection of the Second Judicial District. It goes significantly beyond the 40-45 judge standard. The Dakota, Carver, and Scott of the First District combine with Ramsey County to become the new First District. The Sixth and Tenth Judicial Districts are combined along existing districts lines. The Seventh and Ninth District are combined along existing district lines (Wilkin County-Eight District-could and probably should to moved into this district). The Third, Fifth, Eighth and four counties of the First Judicial District combine to form a new, large southern district.

The positive aspects of this model are that it reduces the number of districts to five. It also provides the judges of the Second District with a broader election district. It places all of St. Cloud in a single district. It addresses the Rice County placement and puts the more rural counties of the First District into a district of more comparable character. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahnomen County. Consolidated court administrator positions remain intact. It reduces the number of judicial district offices by five to five offices

This concept does not address, in fact it exacerbates, the physical size problem of two districts (the new Seventh/Ninth District and the new Third/Fifth/Eighth/ District). In these districts, judicial election districts become much larger. District public defender and local bar association districts are also compromised. It does not effectively consider growing versus shrinking county caseloads.

#### Model Six-Five Judicial Districts

The sixth model is very similar to the fifth model. It will require legislation to remove the statutory protection for the Second Judicial District. It goes significantly beyond the 40-45 judge standard. The Dakota, Carver, and Scott of the First District combine with Ramsey County to become the new First District. The Sixth and Tenth Judicial Districts are combined along existing districts lines. The Seventh and Ninth District are combined along existing district lines with the addition of seven old Eight Judicial District counties. The Third, Fifth, Eighth (six counties) and four counties of the First Judicial District combine to form a new, large southern district.

The positive aspects of this model are that it reduces the number of districts to five. It also provides the judges of the Second District with a broader election district. It places all of St. Cloud in a single district. It addresses the Rice County placement and puts the more rural counties of the First District into a district of more comparable character. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahnomen County, and the St. Cloud area multi-district issue. Consolidated court administrator positions remain intact. It effectively considers growing versus shrinking county caseloads. It reduces the number of judicial district offices by five to five offices.

This concept does not address, in fact it exacerbates, the physical size problem of two districts (the new Seventh/Eight/Ninth District and the new Third/Fifth/Eighth District). In these districts, judicial election districts become much larger. District public defender and local bar association districts are again compromised

#### Model Seven-Ten Judicial Districts

The seventh and eighth models are two “tinkering” models. Minimal changes are made to the existing ten judicial districts. Wilkin County moves from the Eighth District into the Seventh District. Becker County moves from the Seventh District to the Ninth District. Sherburne County moves from the Tenth District to the Seventh District. LeSueur County moves from the First District to the Fifth District. Rice County moves from the Third District to the First District. McLeod and Sibley Counties move from the First District to the Eighth District. Faribault County of the Fifth District moves to the Third District. The Second and the Fourth Judicial Districts maintain their single county judicial district status. The Sixth and Tenth Judicial are unchanged. The 40-45 judge standard is not prioritized in this model.

The positive aspects of this model include placement of all of St. Cloud in a single district. It also addresses the unnatural Rice County placement and puts the more rural counties of the First District

into a district of more comparable character. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahanomen County. Most consolidated court administrator positions remain intact. It partially considers growing versus shrinking county caseloads. It minimizes the changes to judicial election districts, state public defender district and local bar association regions. District sizes are virtually unchanged.

This concept does not address reduce the number of judicial district offices therefore does not reduce staffing complements.

#### **Model Eight-Five Judicial Districts**

As noted above, the eighth model “tinkers” with the existing structure of the district. Minimal changes are made to the ten existing judicial districts. Wilkin County moves from the Eighth District into the Seventh District. Becker County moves from the Seventh District to the Ninth District. Rice County of the Third moves to the First Judicial District. Sherburne County moves from the Tenth District to the Seventh District. The Second and the Fourth Judicial Districts maintain their single county judicial district status. The Fifth, Sixth and Tenth Judicial are unchained. The 40-45 judge standard is not valued in this model.

The positive aspects of this model include placement of St. Cloud in a single district. It also addresses the Rice County placement. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahanomen County. Consolidated court administrator positions remain intact. It partially considers growing versus shrinking county caseloads. It minimizes the changes to judicial election districts, state public defender district and local bar association regions. District sizes are virtually unchanged.

This concept does not reduce the number of judicial district offices therefore does not reduce staffing complements.

#### **Model Nine-Seven Judicial Districts**

Model Nine follows, in part, the divisional organization of the Department of Natural Resources. This model develops seven administrative regions. The Fourth Judicial District is the only single county judicial district. Washington, Ramsey, Dakota Scott and Carver Counties comprise a southern metro district with approximately the same number of judges found in the Fourth. The present Tenth Judicial District with portions of the Seventh and Ninth District makeup a new Northern Metro/Lakes District of approximately the same judge size as the Fourth District and the new First District. The remaining districts are approximately the same size both in terms of adjusted judges need and district area (30 to 35 judges).

The positive aspects of this model include placement of St. Cloud in a single district. It also addresses the Rice County placement by moving Lesueur and Goodhue County into the new Third District. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahnomen County. Most consolidated court administrator positions remain intact. It partially considers growing versus shrinking county caseloads.

This model does not minimize the changes to judicial election districts, state public defender district and local bar association regions. It reduces the number of judicial district offices by three to seven districts. Under this model, there are three large districts and four medium districts.

#### **Model Ten-Six Judicial Districts**

Model Ten follows, in part, the regions of the Minnesota Assistive Technology Network. This model develops six administrative regions. The Fourth Judicial District is the only single county judicial district. Washington County of the Tenth, Ramsey County, Dakota Scott, Goodhue Counties of the First and Wabasha, Winona, Houston, Fillmore and Olmsted Counties of the Third comprise a southern metro district/river district with approximately the same number of judges found in the Fourth. The present Tenth Judicial District (less Pine County) combines with portions of the Seventh and Ninth District makeup a new Northern Metro/Central District of approximately the same judge size as the Fourth District and the new First District. The remaining districts are approximately the same size both in terms of adjusted judges need and district area (30 to 35 judges) with more weight given to the district area than to adjusted judge need.

The positive aspects of this model include placement of St. Cloud in a single district. It also addresses the Rice County issue by placing it in the new Southwestern district. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahnomen County. Most consolidated court administrator positions remain intact. It partially considers growing versus shrinking county caseloads.

It does not minimize changes to judicial election districts, state public defender district and local bar association regions. This model reduces the number of judicial district offices by four to six districts. Under this model, there are three large districts and three medium districts.

#### **Revised Model Ten-Seven Judicial Districts**

The Revised Model Ten creates a new district comprised of Ramsey and Washington Counties. Dodge and Mower Counties are moved in the new First-Third District with Dakota Scott, Goodhue Counties of the First and Wabasha, Winona, Houston, Fillmore and Olmsted Counties of the Third. This model develops seven administrative regions. The Fourth Judicial District is the only single county judicial district. The present Tenth Judicial District (less Pine and Washington Counties) combines with portions

of the Seventh and Ninth District makeup a new Northern Metro/Central District of approximately the same judge size as the Fourth District and the new First District. The remaining districts are approximately the same size both in terms of adjusted judges need and district area (30 to 35 judges) with more weight given to the district area than to adjusted judge need.

The positive aspects of this model include placement of St. Cloud in a single district. It also addresses the Rice County issue by placing it in the new Southwestern district. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahnomen County. Most consolidated court administrator positions remain intact. It partially considers growing versus shrinking county caseloads.

It does not minimize changes to judicial election districts, state public defender district and local bar association regions. This model reduces the number of judicial district offices by four to six districts. Under this model, there are four large districts and three medium districts.

#### **Trial Center Concept-Unspecified Number of Districts**

In its broadest sense, a trial center could be defined as a single location serving a geographic region. The location could be the hub and sole site for all activities that occur in a courtroom. The trial center could supplement or replace some or all county courthouse activity in the region served by the trial center. Trial centers can also be envisioned as the hub for trials, particularly complex or lengthy trials, while maintaining existing county based court facilities for more routine matters such as master or arraignment calendars, family court and special term calendars.

The trial center could *potentially* consist primarily of courtrooms. In addition, the trial center would *potentially* have conference rooms; jury assembly space; chambers; secure holding areas; and administrative offices, the size of which would be determined by the level of administrative activity performed at the center.

The following are some of the issues and concerns the Minnesota Judicial Branch should consider and discuss if it is interested in pursuing a regional trial center concept in the future. A more complete list of issues to be considered can be found in Appendix C.

1. What is the vision of the trial court for the future, and how does the trial center concept fit that vision?
2. What judicial functions and related services would take place at the trial centers?
3. Where would the trial centers be located throughout the state?
4. What would be the source of funding for facilities and services now provided by the counties?
5. What constitutional, statutory, and rule changes might be required?

6. How would election districts be affected?
7. How would administrative services be provided to the trial centers?
8. How would the delivery of services by the county court administration office, district administration, and SCAO change?
9. How would the Judicial Branch move from the current model, to the trial center model?
10. Would court services be provided at locations other than a trial center?

## Potential Savings

It must be pointed out that this estimate of the potential savings generated from the various proposed models is very speculative. More district by district analysis of existing staff reductions and future changes would have to be made as the redistricting initiative is moved forward. This preliminary analysis assumes that the lion's share of savings through restructuring or redistricting will come from sharing positions and duties provided by judicial district administrators and their staff. Most of these savings can be realized without redistricting as has been demonstrated through the experience in the Seventh and Eighth Judicial District administrative consolidation. Changing district lines will have little effect on costs as most staffing would be determined by some common judge/employee to district support staff ratio in HR, finance, tech staff and general support. Current judge and DIS staffing ratios to district administration staff are as follows:

First	22.6 employees per one judicial district staff
Second	17.5 employees per one judicial district staff
Third	22.6 employees per one judicial district staff
Fourth	18.0 employees per one judicial district staff
Fifth	17.3 employees per one judicial district staff
Sixth	16.6 employees per one judicial district staff
Seventh/Eighth	23.1 employees per one judicial district staff
Ninth	22.7 employees per one judicial district staff
Tenth	28.8 employees per one judicial district staff

Looking ahead to court administration and district offices staffing at the lowest or most efficient norm, staffing ratios based existing district administration staffing levels would be as follows.



First	23.0 employees per one judicial district staff
Second	18.8 employees per one judicial district staff
Third	22.0 employees per one judicial district staff
Fourth	18.5 employees per one judicial district staff
Fifth	15.1 employees per one judicial district staff
Sixth	15.8 employees per one judicial district staff
Seventh/Eighth	20.4 employees per one judicial district staff
Ninth	20.7 employees per one judicial district staff
Tenth	28.4 employees per one judicial district staff

Again these are ratios that will exist when all districts are at the lower/most efficient norm if current district administration staffing levels are maintained. They exclude employees currently funded through the Mandated Services Budget (MAN), grants and other funding streams outside the DIS and trial judge budgets.

It is relatively easy to compute the savings from eliminating a judicial district administrator position. It is more difficult to determine a common ratio of support from current practice.

Based on the information reported from the judicial districts, current range of ratios for HR, finance and tech/training staff to employee in the district at the lowest norm is as follows:

HR	Low	68.08 (Fifth District)
	High	187.00 (Third District)
	Median	101.57 (First District)
Finance	Low	63.15 (Sixth District)
	High	320.25 (Fourth District) 242.37 (Tenth District)
	Median	136.15 (Fifth District)

Tech and	Low	45.38 (Fifth District)
Training	High	72.71 (Tenth District)
	Median	62.33 (Third District)

Because general support staff in district offices may assistance in portions of HR or finance, these functional ratios may be somewhat misleading. Overall staffing of the district office may be a better indicator when establishing a norm.

All Staff	Low	15.1 (Fifth District)
	High	28.4 (Tenth District)
	Median	20.4 (Seventh-Eighth)

For purposes of making an estimate of savings generated from the different models, the following salary and fringe benefit costs have been assigned to different employees and costs.

	<u>Annual Salary and Benefits</u>
	<u>Based on Range Mid-Point</u>
Judicial District Administrator	\$ 178,111
Human Resources Manager	\$ 101,172
Human Resources Coordinator	\$ 68,871
Accounting Officer	\$ 86,761
Accounting Specialist	\$ 52,588

Doing the simplest analysis, we assume one Judicial District Administrator position, one Human Resources Manager and one Accounting Manager could be eliminated for each judicial district that is merged (eliminated) but that an additional Human Resources Coordinator and an additional Accounting Specialist would be needed to cover duties that existing managers are addressing. The following savings could be anticipated for the models identified earlier.

Model 1      Seven Districts		
Minuses	2 DAs	\$ (356,221)
	2 HRM	\$ (202,344)
	2 FM	\$ (173,521)
Pluses	2 HRC	\$ 137,741
	2 FS	\$ 105,177
Net		\$ (489,168)

Model 2      Six Districts		
Minuses	3 DAs	\$ (534,332)
	3 HRM	\$ (303,516)

	3 FM	\$ (260,282)
Pluses	3 HRC	\$ 206,612
	3 FS	\$ 157,765
Net		\$ (733,752)

Model 3      Seven Districts		
Minuses	2 DAs	\$ (356,221)
	2 HRM	\$ (202,344)
	2 FM	\$ (173,521)
Pluses	2 HRC	\$ 137,741
	2 FS	\$ 105,177
Net		\$ (489,168)

Model 4      Seven Districts		
Minuses	2 DAs	\$ (356,221)
	2 HRM	\$ (202,344)
	2 FM	\$ (173,521)
Pluses	2 HRC	\$ 137,741
	2 FS	\$ 105,177
Net		\$ (489,168)

Model 5      Five Districts		
Minuses	4 DAs	\$ (712,442)
	4 HRM	\$ (404,688)
	4 FM	\$ (347,042)
Pluses	4 HRC	\$ 275,482
	4 FS	\$ 210,353
Net		\$ (978,337)

Model 6      Five Districts		
Minuses	4 DAs	\$ (712,442)
	4 HRM	\$ (404,688)
	4 FM	\$ (347,042)
Pluses	4 HRC	\$ 275,482
	4 FS	\$ 210,353
Net		\$ (978,337)

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Model 7      Ten Districts	
No Change	

Model 8      Ten Districts	
No Change	

Model 9	Seven Districts	
Minuses	2 DAs	\$ (356,221)
	2 HRM	\$ (202,344)
	2 FM	\$ (173,521)
Pluses	2 HRC	\$ 137,741
	2 FS	\$ 105,177

Net	\$ (489,168)

Model 10	Six Districts
Minuses	3 DAs \$ (534,332) 3 HRM \$ (303,516) 3 FM \$ (260,282)
Pluses	3 HRC \$ 206,612 3 FS \$ 157,765
Net	\$ (733,752)

Revised Model 10	Seven Districts
Minuses	2 DAs \$ (356,221) 2 HRM \$ (202,344) 2 FM \$ (173,521)
Pluses	2 HRC \$ 137,741 2 FS \$ 105,177



Net	\$ (489,168)

Establishing a most efficient norm for district administration offices based on the 40-45 AJN standard may provide a more precise measure of potential savings. A more in-depth study of the staffing levels, role and responsibilities of the district administration office of the Tenth District may provide some useful insights as it currently services a 45 AJN complement.

There is some evidence of real savings from the Seventh and Eighth administrative restructuring. Estimates of the savings are as follows:

One Judicial District Administrator position was eliminated

Gross Savings (est.)	\$ 178,111
Redistribution to the 7 <sup>th</sup> -8 <sup>th</sup> DIS Budget	<u>\$ 100,000</u>
Net Savings (est.)	\$ 78,000

One GAL Coordinator position was eliminated

Savings (est.)	\$ 53,300
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One HR Coordinator position eliminated

Savings (est.)	\$ 62,880
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One Accounting Officer position eliminated

Savings (est.)	\$ <u>73,500</u>
<b>Total</b>	<b>\$ 267,680</b>

Although the savings may come from different sources, it appears that for planning purposes a savings of approximately \$250,000 for each district reduction would be reasonable.

## Summary and Conclusions

### Summary

The continuum of options reviewed by the ASD 2 Committee included refining and institutionalizing current judicial district administrative consolidations, significantly realigning judicial election district lines, consolidating several judicial district administrative offices and examining the creation of a new full service trial center concept in selected locations across the state. After considerable review by the committee, the following options appeared to have the greatest potential for implementation in the near term.

#### Option 1      Administrative Restructuring/Consolidation (Combining just 7<sup>th</sup>/8<sup>th</sup> or Combining 7<sup>th</sup>/8<sup>th</sup>, 3<sup>rd</sup>/5<sup>th</sup>, and 6<sup>th</sup>/9<sup>th</sup>)

This option would institutionalize the current consolidated district administrator position with the district administration staff in the Seventh and Eighth Judicial District. A single judicial district administrator position has served both the Seventh and Eighth Judicial Districts for several years. Separate judicial district administration offices with some shared responsibilities currently exist. This concept could be expanded to the current Third and Fifth Judicial Districts as well as the Six and Ninth Judicial District reducing the total number of judicial district administrators. Judicial election districts could remain unchanged. Each judicial district would maintain its chief and assistant chief judge. This option would keep the current chief judge composition of the Judicial Council.

#### Option 1-A

Option 1 + “tweaking” the existing districts to move specific counties from one district to another if there is compelling reasons such as accessibility to judicial resources or single entities that are geographically split between counties or judicial districts.

#### Option 1-B

Option 1, 1A plus single consolidated administrative team concept. Districts consolidated for district administration only, maintain election districts but have a single Chief Judge, Assistant Chief Judge, and one District Administration.

If administrative teams are consolidated with a corresponding decrease in chief judges, the composition of the Judicial Council (both membership and metro-rural character) would change.

#### Option 2      Model 3

This model consolidates both the judicial election districts and the judicial district administrative support functions of the Seventh and Eight Judicial District, the Third and Fifth Judicial District, and the Sixth and Ninth Judicial Districts. As with Option One, the number of judicial district administrators would be reduced to seven. Duplicate support services in these offices could be reduced if the volume of business made this option workable. As with Option 1-B, if election districts are consolidated with a corresponding decrease in chief judges, the composition of the Judicial Council (both membership and metro-rural character) would change.

#### Option 3      Revised Model 10

The Revised Model Ten makes the most significant changes to current judicial district lines. As noted earlier, it creates a new district comprised of Ramsey and Washington Counties. Dodge and Mower Counties are moved in the new First-Third District with Dakota Scott, Goodhue Counties of the First and Wabasha, Winona, Houston, Fillmore and Olmsted Counties of the Third. The Fourth Judicial District is the only single county judicial district. The present Tenth Judicial District (less Pine and Washington Counties) combines with portions of the Seventh and Ninth District makeup a new Northern Metro/Central District of approximately the same judge size as the Fourth District and the new First District. The remaining districts are approximately the same size both in terms of adjusted judges need and district area (30 to 35 judges) with more weight given to the district area than to adjusted judge need. This model develops seven administrative regions.

The positive aspects of this model are that it places all of St. Cloud in a single district. It also addresses the Rice County issue by placing it in the new Southwestern district. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahnomen County. Most consolidated court administrator positions remain intact. It partially considers growing versus decreasing county caseloads.

It does not minimize changes to judicial election districts, state public defender district and local bar association regions. This model reduces the number of judicial district offices by four to six districts. Under this model, there are four large districts and three medium districts.

As with Option 1-B, with district consolidation and its corresponding decrease in chief judges, a change the composition of the Judicial Council (both membership and metro-rural character) will result.

#### Introduce Alternative Concept and Consideration

This concept moves away from the traditional county/district oriented justice delivery system currently in place in Minnesota. It is by far the most dramatic change explored by the Committee. Rather than orient judicial services along county or district lines, the trial center concept uses distance to service facilities, common case type workloads, adequacy of facilities and other criteria to determine where service centers would be needed and where they would be located in the state. The ASD 2 Committee feels that this concept offered the greatest potential for cost savings of the several options explored. The issues outlined in Appendix C of this report provide a partial list of considerations that will have to be analyzed if a change of this magnitude was to be considered by the Judicial Council, the Legislature and the ultimately the general public. The impact on judicial elections, criminal prosecution and public defense regions, local, regional and states corrections agencies, local funding paradigms and the general public would be substantial.

Appreciating the scope of this change, the ASD 2 Committee suggests that an in-depth multi-branch study be initiated to fully explore the feasibility of such an approach.

The Committee considered preserving the status quo as an alternative for the Judicial Council. Although not a unanimous decision, the Committee felt that, at a minimum, consolidation of the district administration positions in the Third and Fifth as well as the Sixth and Ninth Judicial Districts along with a review of human resources, finance, IT and

general administrative staff would justify serious consideration and argue against maintaining the status quo.

### Conclusion

The Access and Service Delivery 2 Committee offers these three options to the Council. The Committee also suggests that a more comprehensive study of the trial court center concept be undertaken to determine its feasibility. Consideration needs to be given to whether the trial center concept would replace rather than precede a re-districting/administrative consolidation option.

### Historic Development of Judicial

### Districts in Minnesota

### Constitutional Provisions

#### 1857 Minnesota Constitution-Article 6, Sec. 4 Six Judicial Districts

First	Anoka, Buchanan, Carlton, Chisago, Isanti, Lake, Manomin, Pine, St. Louis and Washington.
Second	Ramsey
Third	Fillmore, Houston, Olmsted, Wabashaw and Winona.
Fourth	Benton, Carver, Cass, Crow Wing, Hennepin, Itasca, Meeker, Mille Lacs, Morrison, Pembina, Sherburne, Stearns, Todd and Wright.
Fifth	Dakota, Dodge, Freeborn, Goodhue, Mower, Rock, Scott, Steele and Waseca.
Sixth	Blue Earth, Brown, Faribault, LeSueur, McLeod, Nicollet, Renville, Sibley and all other counties.

1875 Minnesota Constitution – Article 6, Sec. 4 amended to remove specific number of judicial districts allowing the legislature to determine the number of judicial districts.

1956 Minnesota Constitution-Article 6 was completely revised. Section 3 became the section addressing the number and boundaries of judicial district which “shall be established and changed in the manner provided by law...”

1974 Minnesota Constitution was restructured with Section 4 again being the relevant section dealing with judicial districts.

## Statutory Provisions

### 1866 Creation of the Seventh Judicial District

First Chisago, Dakota, Goodhue, Kanabec, Pine and Washington.

Second Ramsey

Third Fillmore, Houston, Olmsted, Wabashaw and Winona.

Fourth Anoka, Carver, Hennepin, Isanti, Kandiyohi, Lincoln, McLeod, Manomin, Meeker, Monogalia and Wright.

Fifth                Dodge, Freeborn, Mower, Rice, Scott, Steele and Waseca.

Sixth                Big Stone Blue Earth, Brown, Chippewa, Cottonwood, Faribault, Jackson,  
Lac qui Parle, LeSueur, Martin, Murray, Nicollet, Nobles, Pipestone,  
Redwood, Renville, Rock, Sibley and Watonwan.

Seventh            Aiken, Andy Johnson, Becker, Benton, Carlton, Cass, Clay, Crow Wing,  
Douglas, Itasca, Lake. Mille Lacs, Morrison, Ottertail, Pembina, Polk,  
Pope, St. Louis, Stearns, Sherburne, Stevens, Traverse, Todd and  
Wadena.

### 1870 Creation of the Eighth and Ninth Judicial Districts

First                Chisago, Dakota, Goodhue, Kanabec, Pine and Washington.

Second            Ramsey

Third               Fillmore, Houston, Olmsted, Wabashaw and Winona.

Fourth             Anoka, Hennepin, Isanti and Manomin.

Fifth                Dodge, Freeborn, Mower Rice, Steele and Waseca.

Sixth                Blue Earth, Cottonwood, Faribault, Jackson, Martin, Murray, Nobles,  
Rock, Pipestone and Watonwan.

Seventh            Andy Johnson, Becker, Benton, Carlton, Clay, Stearns, Douglas, Itasca,  
Lake, Mille Lacs, Morrison, Ottertail, Pembina, Polk, Pope, St. Louis,  
Sherburne, Stevens, Traverse, Todd and Wadena,



Eighth                Carver, LeSueur, McLeod, Scott and Sibley.

Ninth                Big Stone, Brown, Chippewa, Kandiyohi, Lac qui Parle, Lincoln, Lyon  
Meeker, Monogalia, Nicollet, Redwood and Renville.

### 1872 Creation of the Tenth Judicial District

First                Chisago, Dakota, Goodhue, Kanabec, Pine and Washington.

Second            Ramsey

Third               Olmsted, Wabashaw and Winona.

Fourth            Anoka, Hennepin, Isanti, Manomin and Wright.

Fifth               Dodge, Rice, Steele and Waseca.

Sixth               Cottonwood, Blue Earth, Faribault, Jackson, Martin, Murray, Nobles,  
Pipestone, Rock and Watonwan.

Seventh           Aiken, Andy Johnson, Becker, Benton, Carlton, Cass, Clay, Crow Wing,  
Douglas, Itasca, Lake, Mille Lacs, Morrison, Ottertail, Pembina, Polk,  
Pope, St. Louis, Sherburne, Stearns, Stevens, Todd, Traverse and  
Wadena.

Eighth            Carver, LeSueur, McLeod, Scott and Sibley.

Ninth                Big Stone, Brown, Chippewa, Kandiyohi, Lac qui Parle, Lincoln, Lyon  
Meeker, Monogalia, Nicollet, Redwood and Renville.

Tenth                Fillmore, Freeborn, Houston and Mower.

### 1874 Creation of the Eleventh Judicial District

First                Chisago, Dakota, Goodhue, Kanabec, Pine and Washington.

Second             Ramsey

Third                Olmsted, Wabashaw and Winona.

Fourth              Anoka, Hennepin, Isanti, Manomin and Wright.

Fifth                Dodge, Rice, Steele and Waseca.

Sixth                Blue Earth, Cottonwood, Faribault, Jackson, Martin, Murray,  
Nobles, Pipestone, Rock and Watonwan.

Seventh            Andy Johnson, Benton, Douglas, Mille Lacs, Morrison, Ottertail, Pope  
Sherburne, Stearns, Stevens and Todd.

Eighth              Carver, LeSueur, McLeod, Scott and Sibley.

Ninth                Big Stone, Brown, Chippewa, Kandiyohi, Lac qui Parle, Lincoln, Lyon,  
Meeker, Monogalia, Nicollet, Redwood and Renville .

Tenth                Fillmore, Freeborn , Houston and Mower.

Eleventh            Aiken, Becker, Beltrami, Cass, Carlton, Clay, Crow Wing, Itasca, Lake,  
Pembina, Polk, St. Louis, Traverse and Wadena.

### 1875 Creation of the Twelfth Judicial District

First                Chisago, Dakota, Goodhue, Kanabec, Pine and Washington.

Second             Ramsey

Third                Olmsted, Wabashaw and Winona,

Fourth              Anoka, Hennepin, Isanti, Manomin and Wright.

Fifth                Dodge, Rice, Steele and Waseca.

Sixth                Cottonwood, Blue Earth, Faribault, Jackson, Martin, Murray, Nobles,  
Pipestone, Rock and Watonwan.

Seventh            Andy Johnson, Benton, Douglas, Morrison, Mille Lacs, Ottertail, Pope,  
Sherburne, Stearns and Todd,

Eighth              Carver, LeSueur, McLeod, Scott and Sibley.

Ninth                Brown, Lincoln, Lyon, Monogalia, Nicollet, Redwood and Renville.

Tenth                Fillmore, Freeborn, Houston and Mower.

Eleventh            Aiken, Becker, Beltrami, Carlton, Cass, Clay, Crow Wing, Itasca, Lake,  
Polk, Pembina, St. Louis and Wadena.

Twelfth Big Stone, Chippewa, Kandiyohi, Lac qui Parle, Stevens, Meeker, Swift, Traverse, Wilkin and Yellow Medicine.

### 1878 Reorganization of counties with the twelve judicial districts

First Chisago, Dakota, Goodhue, Kanabec, Pine and Washington.

Second Ramsey

Third                      Olmsted, Wabashaw and Winona.

Fourth                    Anoka, Hennepin, Isanti and Wright.

Fifth Dodge, Rice, Steele and Waseca.

Sixth Blue Earth, Cottonwood, Faribault, Jackson, Martin, Murray, Nobles, Pipestone, Rock and Watonwan.

Seventh Benton, Douglas, Grant, Mille Lacs, Morrison, Ottertail, Pope, Sherburne, Stearns and Todd.

Eighth Carver, LeSueur, McLeod, Scott and Sibley.

Ninth Brown, Lincoln, Lyon, Nicollet, Redwood and Renville.

Tenth                Fillmore, Freeborn, Houston and Mower.

Eleventh            Aiken, Becker, Beltrami, Carlton, Cass, Clay, Crow Wing, Itasca, Lake,  
Pembina, Polk, St. Louis and Wadena.

Twelfth Big Stone, Chippewa, Kandiyohi, Lac qui Parle, Meeker, Stevens, Swift,  
Traverse, Wilkin and Yellow Medicine.

## 885    Creation of the Thirteenth Judicial District

First                Chisago, Dakota, Goodhue, Kanabec, Pine and Washington.

Second            Ramsey

Third               Olmsted, Wabasha and Winona.

Fourth             Anoka, Hennepin, Isanti and Wright.

Fifth                Dodge Rice, Steele and Waseca.

Sixth                Blue Earth, Faribault, Martin and Watonwan.

Seventh            Benton, Douglas, Grant, Mille Lacs, Morrison, Ottertail, Pope, Sherburne,  
Stearns and Todd.

Eighth             Carver, LeSueur, McLeod, Scott and Sibley.

Ninth	Brown, Lincoln, Lyon, Nicollet, Redwood and Renville.
Tenth	Fillmore, Freeborn, Houston and Mower.
Eleventh	Aiken, Becker, Beltrami, Carlton, Cass, Clay, Crow Wing, Itasca, Lake, Pembina, Polk, St. Louis and Wadena.
Twelfth	Stevens, Traverse, Wilkins, Meeker, Swift, Kandiyohi, Chippewa, Lac qui Parle, Big Stone and Yellow Medicine.
Thirteenth	Cottonwood, Jackson, Murray, Nobles, Pipestone and Rock.

### 1887 Creation of the Fourteenth, Fifteen and Sixteenth Judicial Districts

First	Goodhue, Dakota, Washington, Chisago, Pine and Kanabec.
Second	Ramsey
Third	Olmsted, Wabasha and Winona.
Fourth	Anoka, Hennepin, Isanti and Wright.
Fifth	Dodge, Rice, Steele and Waseca.
Sixth	Blue Earth, Faribault, Martin and Watonwan.

Seventh	Benton, Douglas, Grant, Mille Lacs, Morrison, Ottertail, Pope, Sherburne, Stearns and Todd.
Eighth	Carver, LeSueur, McLeod, Scott and Sibley.
Ninth	Brown, Lincoln, Lyon, Nicollet, Redwood and Renville.
Tenth	Fillmore, Freeborn, Houston and Mower.
Eleventh	Carlton, Itasca, Lake and St. Louis.
Twelfth	Chippewa, Kandiyohi, Lac qui Parle, Meeker, Swift and Yellow Medicine.
Thirteenth	Cottonwood, Jackson, Murray, Nobles, Pipestone and Rock.
Fourteenth	Becker, Beltrami, Clay, Kittson, Marshall, Norman and Polk.
Fifteenth	Aiken, Cass, Crow Wing, Hubbard and Wadena.
Sixteenth	Big Stone, Grant and Stevens, Traverse and Wilkin.

### 1893 Reorganization of counties with the sixteen judicial districts

First	Chisago, Dakota, Goodhue, Kanabec, Pine and Washington.
Second	Ramsey

Third	Olmsted, Wabasha and Winona.
Fourth	Anoka, Hennepin, Isanti and Wright.
Fifth	Dodge, Rice, Steele and Waseca.
Sixth	Blue Earth, Faribault, Martin and Watonwan.
Seventh	Becker, Benton, Clay, Douglas, Grant, Mille Lacs, Morrison, Ottertail, Stearns, Sherburne and Todd.
Eighth	Carver, LeSueur, McLeod, Scott and Sibley.
Ninth	Brown, Lincoln, Lyon, Nicollet, Redwood and Renville.
Tenth	Fillmore, Freeborn, Houston and Mower.
Eleventh	Carlton, Itasca, Lake and St. Louis.
Twelfth	Chippewa, Kandiyohi, Lac qui Parle, Meeker, Swift and Yellow Medicine.
Thirteenth	Cottonwood, Jackson, Murray, Nobles, Pipestone and Rock.
Fourteenth	Beltrami, Kittson, Marshall, Norman and Polk.
Fifteenth	Aiken, Cass, Crow Wing, Hubbard and Wadena.



Sixteenth      Big Stone, Pope, Stevens, Traverse and Wilkin.

### 1897 Creation of the Seventeenth and Eighteenth Judicial Districts

First            Chisago, Dakota, Goodhue, Kanabec, Pine and Washington.

Second        Ramsey

Third          Olmsted, Wabasha and Winona.

Fourth        Hennepin

Fifth          Dodge, Rice, Steele and Waseca.

Sixth          Blue Earth and Watonwan.

Seventh        Becker, Benton, Clay, Douglas, Morrison, Ottertail, Mille Lacs, Stearns,  
Todd and Wadena.

Eighth        Carver, LeSueur, McLeod Scott and Sibley.

Ninth         Brown, Lincoln, Lyon, Nicollet, Redwood and Renville.

Tenth         Fillmore, Freeborn, Houston and Mower.

Eleventh      Carlton, Itasca, Lake and St. Louis.

Twelfth	Chippewa, Kandiyohi, Lac qui Parle, Meeker, Swift and Yellow Medicine.
Thirteenth	Cottonwood, Nobles, Murray, Pipestone and Rock.
Fourteenth	Beltrami, Kittson, Marshall, Norman and Polk.
Fifteenth	Aiken, Cass, Crow Wing, Hubbard and Wadena.
Sixteenth	Big Stone, Grant, Pope, Stevens, Traverse and Wilkin.
Seventeenth	Faribault, Jackson and Martin.
Eighteenth	Anoka, Isanti, Sherburne and Wright.

## 1905 Reorganization of counties with the eighteen judicial districts

First	Chisago, Dakota, Goodhue, Kanabec, Pine and Washington.
Second	Ramsey
Third	Olmsted, Wabasha and Winona.
Fourth	Hennepin
Fifth	Dodge, Rice, Steele and Waseca.
Sixth	Blue Earth and Watonwan.
Seventh	Becker, Benton, Clay, Douglas, Mille Lacs, Morrison, Ottertail, Stearns, Todd and Wadena.
Eighth	Carver, LeSueur, McLeod, Scott and Sibley.
Ninth	Brown, Lincoln, Lyon, Nicollet and Redwood.
Tenth	Houston, Fillmore, Mower and Freeborn.
Eleventh	Carlton, Cook, Lake and St. Louis.
Twelfth	Chippewa, Kandiyohi, Lac qui Parle, Meeker, Swift, Renville and Yellow Medicine.

- Thirteenth      Cottonwood, Murray, Nobles, Pipestone and Rock.
- Fourteenth      Kittson, Marshall, Norman, Polk, Red Lake and Roseau
- Fifteenth      Aiken, Beltrami, Cass, Crow Wing, Clearwater, Hubbard, Itasca and Wadena.
- Sixteenth      Big Stone, Grant, Pope, Stevens, Traverse and Wilkin.
- Seventeenth      Faribault, Jackson and Martin.
- Eighteenth      Anoka, Isanti, Sherburne and Wright.

## 1907 Creation of the Nineteenth Judicial District

First	Dakota and Goodhue.
Second	Ramsey
Third	Olmsted, Wabasha and Winona.
Fourth	Hennepin
Fifth	Dodge, Rice, Steele and Waseca.
Sixth	Blue Earth and Watonwan.
Seventh	Benton, Douglas, Grant, Morrison, Mille Lacs, Otter Tail, Pope, Stearns and Todd.
Eighth	Carver, LeSueur, McLeod, Scott and Sibley.
Ninth	Brown, Lyon, Lincoln, Nicollet and Redwood.
Tenth	Fillmore, Freeborn, Houston and Mower.
Eleventh	Carlton, Cook, Lake and St. Louis.
Twelfth	Chippewa, Kandiyohi, Lac qui Parle, Meeker, Swift and Yellow Medicine.

Thirteenth	Cottonwood, Murray, Nobles, Pipestone and Rock.
Fourteenth	Kittson, Marshall, Norman, Polk, Red Lake and Roseau
Fifteenth	Aiken, Beltrami, Cass, Clearwater, Crow Wing, Hubbard, Itasca and Wadena.
Sixteenth	Big Stone, Stevens, Traverse and Wilkin.
Seventeenth	Faribault, Jackson and Martin.
Eighteenth	Anoka, Isanti, Sherburne and Wright.
Nineteenth	Chisago, Kanabec, Pine and Washington.

## 1925 Reorganization of counties with the nineteen districts

First	Dakota and Goodhue.
Second	Ramsey
Third	Houston, Olmsted, Wabasha and Winona.
Fourth	Hennepin
Fifth	Dodge, Rice, Steele and Waseca,
Sixth	Blue Earth and Watonwan.
Seventh	Benton, Douglas, Grant, Mille Lacs, Ottertail, Pope Stearns and Todd.
Eighth	Carver, LeSueur, McLeod, Scott and Sibley.
Ninth	Lyon, Lincoln, Nicollet, Redwood and Brown.
Tenth	Fillmore, Freeborn and Mower.
Eleventh	Carlton, Cook, Lake and St. Louis.
Twelfth	Chippewa, Kandiyohi, Lac qui Parle, Meeker, Swift and Yellow Medicine.
Thirteenth	Cottonwood, Murray, Nobles, Pipestone and Rock.

- Fourteenth      Kittson, Marshall, Norman, Polk, Red Lake and Roseau.
- Fifteenth        Aiken, Beltrami, Cass, Clearwater, Crow Wing, Hubbard, Itasca and Wadena.
- Sixteenth        Big Stone, Stevens, Traverse and Wilkin.
- Seventeenth     Faribault, Jackson and Martin.
- Eighteenth      Anoka, Isanti, Sherburne and Wright.
- Nineteenth      Chisago, Kanabec, Pine and Washington.



## 1957 Nineteen judicial districts reduced to fourteen

First	Carlton, Cook, Lake and St. Louis.
Second	Ramsey
Third	Anoka, Chisago, Isanti, Kanabec, Pine, Sherburne, Washington and Wright.
Fourth	Hennepin
Fifth	Becker, Benton, Clay, Douglas, Mille Lacs, Morrison, Otter Tail, Stearns, Todd and Wadena.
Sixth	Big Stone, Chippewa, Grant, Kandiyohi, Lac Qui Parle, Meeker, Pope, Renville, Stevens, Swift, Traverse Wilkin and Yellow Medicine.
Seventh	Kittson, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, and Roseau.
Eighth	Dakota and Goodhue.
Ninth	Brown, Cottonwood, Lyon, Lincoln, Nicollet, Nobles, Murray, Pipestone, Redwood and Rock.
Tenth	Houston, Olmsted, Wabasha and Winona.
Eleventh	Aiken, Beltrami, Cass, Clearwater, Crow Wing, Hubbard, Itasca, Koochiching and Lake of the Woods.

- Twelfth            Carver, LeSueur, McLeod, Scott and Sibley.
- Thirteenth        Blue Earth, Faribault, Jackson, Martin and Watonwan.
- Fourteenth       Dodge, Fillmore, Freeborn, Mower, Rice, Steele and Waseca.

### 1959 Fourteen judicial districts reduced to ten (Current configuration)

First	Carver, Dakota, Goodhue LeSueur, McLeod, Scott and Sibley
Second	Ramsey
Third	Dodge, Houston, Fillmore, Freeborn, Olmsted, Mower, Rice, Steele, and Wabasha, Waseca and Winona
Fourth	Hennepin
Fifth	Blue Earth, Brown, Cottonwood, Faribault, Jackson, Lyon, Lincoln, Martin, Murray, Nicollet, Nobles, Pipestone, and Redwood, Rock and Watonwan.
Sixth	Carlton, Cook, Lake and St. Louis.
Seventh	Clay, Becker, Benton, Douglas, Mille Lacs, Morrison, Otter Tail, Stearns, Todd and Wadena.
Eighth	Big Stone, Chippewa, Grant, Kandiyohi, Lac Qui Parle, Meeker, Pope, Renville, Stevens, Swift, Traverse Wilkin and Yellow Medicine.
Ninth	Aiken, Beltrami, Cass, Clearwater, Crow Wing, Hubbard, Itasca, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake and Roseau.
Tenth	Anoka, Chisago, Isanti, Kanabec, Pine, Sherburne, Washington and Wright.

### Redistricting Models

#### Pros and Cons

Models One through Model Six reflect the premise that the optimum district size for administration is between 40 and 45 judges. Options Seven through Ten incorporate other factors.

#### Model One-Seven Judicial Districts

The first model recognizes the statutory protection for the Second and the Fourth Judicial Districts. It reorganizes the remaining eight districts into five using the 40-45 judge goal. The majority of the First and Third Districts are merged. Stearns and Benton County join the Tenth District. The PICK counties of the Tenth join the expanded the Sixth District. The Ninth District is reduced in physical size. The Fifth and the Eighth Districts come together with portions of the First and the Seventh Districts.

On a positive note, this model brings the St. Cloud area (currently in two district and three counties) into one district and aligns it with the more metro-minded counties of the Tenth District. It also takes the historic growing counties of the old Seventh and joins them with the growing counties of Anoka and Washington. The PICK counties of the Tenth District, more rural in character, join the reorganized Sixth District which is expanded to include Cass, Crow Wing and Itasca Counties among others. The Rice County unnatural extension into the First Judicial District and the Becker County cross district Native American reservation population are addressed in this model. This model would reduce the number of judicial administration offices by three to seven districts.

This concept does not achieve the 40-45 judge complement in the new Ninth District. While reducing the size of the old Ninth District, it creates two fairly large new districts. Model One disregards existing local bar association districts and state public defender districts. It does not accommodate all current consolidated court administrator positions. The new Fifth/Seventh/Eighth District makes for a very large judicial election district.

#### *Basic Workability*

Number of Judges and Employees - **Pro**

District's Geographic Size (Area) – **Con**

#### *Common Demographics*

Population Centers - Metro versus Rural District Characteristics - **Pro**

Growth Factors (Increasing, stable and decreasing caseloads) – **Pro**

Economic Character (Big Business versus Self Employment/Smaller Businesses) - **Mixed**

Transportation Availability/Traffic Patterns/Major Highways –**Mixed**

Common Culturally Diverse Populations – **Pro**

#### *Technology Developments and Availability*

Virtual Courthouse – **Mixed to Con**

ITV – **Pro**

Communications Line Band-width – **Con for Greater Minnesota counties**

#### *Other Political and Practical Concerns*

Current Multi-District District Office and Multi-County Court Administrator – **Con** Election Districts – **Con – Judicial election districts change**

Local Bar Associations– **Con – Several local bar association district overlap judicial district lines**

Inter-county Agency Relationships (Public Defenders, and Regional Joint Jurisdictional Relationships) – **Con as district lines are not common to public defender system districts**

Multi-County Community Corrections Act Counties – **Pro no apparent conflicts**

#### Model Two-Six Judicial Districts

The second model again recognizes the statutory protection for the Second and the Fourth Judicial Districts. It reorganizes the remaining eight districts into four using the 40-45 judge standard. The First and Third Districts are merged. The Tenth District is unchanged. The Fifth, Seventh and Eighth are merged. The Sixth and Ninth Districts are combined into a single district.

On a positive note, this model more closely aligns with state public defender system districts and local bars association districts. Consolidated court administrator positions remain in their current (albeit larger districts). The issue of the Clay/Wilkin County judicial assistance across existing judicial district

lines is dealt with as is Rice County unnatural extension into the First Judicial District. The Becker County cross district Native American reservation is not addressed. It reduces the number of judicial district administrator offices by four with six judicial districts.

This concept goes significantly beyond the 40-45 judge complement in the new First/Third District (over 63 AJNs) and the New Fifth/Seventh/Eighth District (over 55 AJNs). This concept does not address, in fact it exacerbates, the physical size issue of two districts (the new Sixth/Ninth District and the new Fifth/Seventh/Eighth District). Judicial election districts also become exceptionally large.

### *Basic Workability*

Number of Judges and Employees – **Mixed to Con**

District's Geographic Size (Area) – **Con**

### *Common Demographics*

Population Centers - Metro versus Rural District Characteristics - **Mixed**

Growth Factors (Increasing, stable and decreasing caseloads) – **Pro**

Economic Character (Big Business versus Self Employment/Smaller Businesses) - **Mixed**

Transportation Availability/Traffic Patterns/Major Highways – **Pro**

Common Culturally Diverse Populations – **Mixed to Pro**

### *Technology Developments and Availability*

Virtual Courthouse – **Mixed to Con**

ITV – **Pro**

Communications Line Band-width – **Con for Greater Minnesota counties**

### *Other Political and Practical Concerns*

Current Multi-District District Office and Multi-County Court Administrator – **Pro**

Judicial Election Districts – **Con**

Local Bar Associations – **Pro**

Inter-county Agency Relationships (Public Defenders, and Regional Joint Jurisdictional Relationships) – **Pro**

Multi-County Community Corrections Act Counties - **Pro**

### Model Three-Seven Judicial Districts

The third model again recognizes the statutory protection for the Second and the Fourth Judicial Districts. It reorganizes the six remaining eight districts into three districts using the 40-45 judge standard. The First and Tenth Districts are unchanged. The Third and Fifth Districts are merged. The Seventh and Eighth are consolidated. The Sixth and Ninth Districts are combined into a single district.

On the positive side, this model most closely aligns with existing state public defender and local bars association districts. Consolidated court administrator positions remain in their current (albeit larger districts). The issue of the Clay/Wilkin County judicial assistance is solved. It reduces the number of judicial district administration offices by three to seven judicial districts.

This concept does not address, in fact it exacerbates, the physical size issue of two districts (the new Sixth/Ninth District and the new Third/Fifth District. Judicial election districts also become exceptionally large. It maintains the St. Cloud multi-district issue and does not deal with the Becker County or Rice County anomalies.

### *Basic Workability*

Number of Judges and Employees - **Pro**

District's Geographic Size (Area) – **Con**

### *Common Demographics*

Population Centers - Metro versus Rural District Characteristics - **Mixed**

Growth Factors (Increasing, stable and decreasing caseloads) – **Mixed**

Economic Character (Big Business versus Self Employment/Smaller Businesses) - **Pro**

Transportation Availability/Traffic Patterns/Major Highways – **Mixed to Pro**

Common Culturally Diverse Populations – **Pro**

### *Technology Developments and Availability*

Virtual Courthouse – Mixed to Con

ITV – Pro

Communications Line Band-width – Con for Greater Minnesota counties

### *Other Political and Practical Concerns*

Current Multi-District District Office and Multi-County Court Administrator – Pro

Judicial Election Districts – Con

Local Bar Associations – Pro

Inter-county Agency Relationships (Public Defenders, and Regional Joint Jurisdictional Relationships) –Pro

Multi-County Community Corrections Act Counties - Pro

### Model Four-Seven Judicial Districts

The fourth model again recognizes the statutory protection for the Second and the Fourth Judicial Districts. It reorganizes the eight remaining districts into five districts using the 40-45 judge standard. The First becomes a southern metro district by adding Washington County and giving up its rural counties to other districts. Tenth Districts becomes a northern metro district and adds Stearns and Benton Counties. The Third adds Blue Earth, Nicollet, Brown, Faribault, LeSueur and Goodhue Counties. The remainder of the Fifth, the Eighth and four counties of the Seventh are consolidated into new western district. The Sixth, Ninth and several counties of Seventh District are combined into a new northern district. Of all the options, this one most closely reaches the 40-45 judge standard statewide (Second and Fourth District excluded).

On the positive side, this model addressed the Clay/Wilkin support problem. It also places all of St. Cloud in a single district. It addresses the unnatural Rice County placement. For the most part, consolidated court administrator positions remain in their current (albeit larger) districts. It reduces the number of judicial district administration offices by two to seven judicial district offices. It combines growing counties and declining counties into common districts.

This concept does not address, in fact it exacerbates, the physical size issue of two districts (the new Sixth/Ninth District and the new Fifth/Eighth/Seventh District. In these districts, judicial election



districts become much larger. District public defender and local bar association districts are also compromised. This model does not deal with the Becker County anomalies.

#### *Basic Workability*

Number of Judges and Employees - **Pro**

District's Geographic Size (Area) – **Con**

#### *Common Demographics*

Population Centers - Metro versus Rural District Characteristics -**Pro**

Growth Factors (Increasing, stable and decreasing caseloads) – **Pro**

Economic Character (Big Business versus Self Employment/Smaller Businesses) - **Pro**

Transportation Availability/Traffic Patterns/Major Highways – **Mixed to Pro**

Common Culturally Diverse Populations – **Mixed to Pro**

#### *Technology Developments and Availability*

Virtual Courthouse – **Mixed to Con**

ITV – **Pro**

Communications Line Band-width – **Con for Greater Minnesota counties**

#### *Other Political and Practical Concerns*

Current Multi-District District Office and Multi-County Court Administrator - **Con**

Judicial Election Districts – **Con**

Local Bar Associations - **Con**

Inter-county Agency Relationships (Public Defenders, and Regional Joint Jurisdictional Relationships) – **Con**

Multi-County Community Corrections Act Counties - **Pro**

#### Model Five-Five Judicial District

The fifth model will require legislation to remove the statutory protection of the Second Judicial District. It goes significantly beyond the 40-45 judge standard. The Dakota, Carver, and Scott of the First District combine with Ramsey County to become the new First District. The Sixth and Tenth Judicial Districts are combined along existing districts lines. The Seventh and Ninth District are combined along existing district lines (Wilkin County-Eight District-could and probably should to moved into this district). The Third, Fifth, Eighth and four counties of the First Judicial District combine to form a new, large southern district.

The positive aspects of this model are that it reduces the number of districts to five. It also provides the judges of the Second District with a broader election district. It places all of St. Cloud in a single district. It addresses the unnatural Rice County placement and puts the more rural counties of the First District into a district of more comparable character. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahnomen County. Consolidated court administrator positions remain intact. It reduces the number of judicial district offices by five to five offices

This concept does not address, in fact it exacerbates, the physical size problem of two districts (the new Seventh/Ninth District and the new Third/Fifth/Eighth/ District). In these districts, judicial election districts become much larger. District public defender and local bar association districts are also compromised. It does not effectively consider growing versus shrinking county caseloads.

#### *Basic Workability*

Number of Judges and Employees – **Mixed to Con**

District's Geographic Size (Area) – **Con**

#### *Common Demographics*

Population Centers - Metro versus Rural District Characteristics – **Pro to Mixed**

Growth Factors (Increasing, stable and decreasing caseloads) – **Mixed to Con**

Economic Character (Big Business versus Self Employment/Smaller Businesses) - **Pro to Mixed**

Transportation Availability/Traffic Patterns/Major Highways – **Mixed to Pro**      Common  
Culturally Diverse Populations – **Mixed to Pro**

#### *Technology Developments and Availability*

Virtual Courthouse – **Mixed to Con**

ITV – Pro

Communications Line Band-width – Con for Greater Minnesota counties

#### *Other Political and Practical Concerns*

Current Multi-District District Office and Multi-County Court Administrator – Pro Judicial Election Districts – Con

Local Bar Associations - Con

Inter-county Agency Relationships (Public Defenders, and Regional Joint Jurisdictional Relationships) – Mixed to Con

Multi-County Community Corrections Act Counties - Pro

#### Model Six-Five Judicial Districts

The sixth model is very similar to the fifth model. It will require legislation to remove the statutory protection for the Second Judicial District. It goes significantly beyond the 40-45 judge standard. The Dakota, Carver, and Scott of the First District combine with Ramsey County to become the new First District. The Sixth and Tenth Judicial Districts are combined along existing districts lines. The Seventh and Ninth District are combined along existing district lines with the addition of seven old Eight Judicial District counties. The Third, Fifth, Eighth (six counties) and four counties of the First Judicial District combine to form a new, large southern district.

The positive aspects of this model are that it reduces the number of districts to five. It also provides the judges of the Second District with a broader election district. It places all of St. Cloud in a single district. It addresses the unnatural Rice County placement and puts the more rural counties of the First District into a district of more comparable character. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahnommen County, and the St. Cloud area multi-district issue. Consolidated court administrator positions remain intact. It effectively considers growing versus shrinking county caseloads. It reduces the number of judicial district offices by five to five offices

This concept does not address, in fact it exacerbates, the physical size problem of two districts (the new Seventh/Eight/Ninth District and the new Third/Fifth/Eighth District). In these districts, judicial election districts become much larger. District public defender and local bar association districts are again compromised

#### *Basic Workability*

Number of Judges and Employees – Mixed to Con

District's Geographic Size (Area) – Con

### *Common Demographics*

Population Centers - Metro versus Rural District Characteristics - Pro

Growth Factors (Increasing, stable and decreasing caseloads) –Pro

Economic Character (Big Business versus Self Employment/Smaller Businesses) - Pro

Transportation Availability/Traffic Patterns/Major Highways – Mixed to Pro      Common  
Culturally Diverse Populations – Pro

### *Technology Developments and Availability*

Virtual Courthouse – Neutral to Con

ITV – Pro

Communications Line Band-width – Con for Greater Minnesota counties

### *Other Political and Practical Concerns*

Current Multi-District District Office and Multi-County Court Administrator – Pro Judicial Election  
Districts – Con

Local Bar Associations - Con

Inter-county Agency Relationships (Public Defenders, and Regional Joint  
Jurisdictional Relationships) – Con

Multi-County Community Corrections Act Counties - Pro

### Model Seven-Ten Judicial Districts

The seventh and eighth models are two “tinkering” model. Minimal changes are made to the existing ten judicial districts. Wilkin County moves from the Eighth District into the Seventh District. Becker County moves from the Seventh District to the Ninth District. Sherburne County moves from the Tenth District to the Seventh District. LeSueur County moves from the First District to the Fifth District. Rice County moves from the Third District to the First District. McLeod and Sibley Counties move from the First District to the Eighth District. Faribault County of the Fifth District moves to the Third District. The Second and the Fourth Judicial Districts maintain their single county judicial district status. The Sixth and Tenth Judicial are unchanged. The 40-45 judge standard is not valued in this model.

The positive aspects of this model are that it places all of St. Cloud in a single district. It also addresses the unnatural Rice County placement and puts the more rural counties of the First District into a district of more comparable character. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahnommen County. Most consolidated court administrator positions remain intact. It partially considers growing versus shrinking county caseloads. It minimizes the changes to judicial election districts, state public defender district and local bar association regions. District sizes are virtually unchanged.

This concept does not address reduce the number of judicial district offices therefore does not reduce staffing complements.

#### *Basic Workability*

Number of Judges and Employees – **Mixed to Con**

District's Geographic Size (Area) – **Mixed to Pro**

#### *Common Demographics*

Population Centers - Metro versus Rural District Characteristics – **Mixed to Pro**

Growth Factors (Increasing, stable and decreasing caseloads) - **Mixed to Pro**

Economic Character (Big Business versus Self Employment/Smaller Businesses) - **Pro**

Transportation Availability/Traffic Patterns/Major Highways - **Mixed**

Common Culturally Diverse Populations – **Mixed to Pro**

#### *Technology Developments and Availability*

Virtual Courthouse – **Neutral to Con**

ITV – **Pro**

Communications Line Band-width – **Con for Greater Minnesota counties**

#### *Other Political and Practical Concerns*

Current Multi-District District Office and Multi-County Court Administrator - **Pro** Judicial Election Districts – **Mixed to Pro**

Local Bar Associations – **Mixed to Pro**

Inter-county Agency Relationships (Public Defenders, and Regional Joint Jurisdictional Relationships) –**Mixed to Pro**

Multi-County Community Corrections Act Counties –**Mixed to Pro**

#### Model Eight-Five Judicial Districts

As noted above, the eighth model “tinkers” with the existing structure of the district. Minimal changes are made to the existing ten judicial districts. Wilkin County moves from the Eighth District into the Seventh District. Becker County moves from the Seventh District to the Ninth District. Rice County of the Third moves to the First Judicial District. Sherburne County moves from the Tenth District to the Seventh District. The Second and the Fourth Judicial Districts maintain their single county judicial district status. The Fifth, Sixth and Tenth Judicial are unchained. The 40-45 judge standard is not valued in this model.

The positive aspects of this model are that it places all of St. Cloud in a single district. It also addresses the Rice County placement. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahnommen County. Consolidated court administrator positions remain intact. It partially considers growing versus shrinking county caseloads. It minimizes the changes to judicial election districts, state public defender district and local bar association regions. District sizes are virtually unchanged.

This concept does not reduce the number of judicial district offices therefore does not reduce staffing complements.

#### *Basic Workability*

Number of Judges and Employees – **Mixed to Con**

District’s Geographic Size (Area) –**Mixed to Pro**

#### *Common Demographics*

Population Centers - Metro versus Rural District Characteristics – **Mixed to Pro**

Growth Factors (Increasing, stable and decreasing caseloads) - **Mixed to Pro**

Economic Character (Big Business versus Self Employment/Smaller Businesses) - **Pro**

Transportation Availability/Traffic Patterns/Major Highways - **Mixed**

Common Culturally Diverse Populations – Mixed to Pro

*Technology Developments and Availability*

Virtual Courthouse – Neutral to Con

ITV – Pro

Communications Line Band-width – Con for Greater Minnesota counties

*Other Political and Practical Concerns*

Current Multi-District District Office and Multi-County Court Administrator - Pro Judicial Election Districts – Mixed to Pro

Local Bar Associations – Mixed to Pro

Inter-county Agency Relationships (Public Defenders, and Regional Joint Jurisdictional Relationships) –Mixed to Pro

Multi-County Community Corrections Act Counties –Mixed to Pro

Model Nine-Seven Judicial Districts

Model Nine follows, in part, the divisional organization of the Department of Natural Resources. This model develops seven administrative regions. The Fourth Judicial District is the only single county judicial district. Washington, Ramsey, Dakota Scott and Carver Counties comprise a southern metro district with approximately the same number of judges found in the Fourth. The present Tenth Judicial District with portions of the Seventh and Ninth District makeup a new Northern Metro/Lakes District of approximately the same judge size as the Fourth District and the new First District. The remaining districts are approximately the same size both in terms of adjusted judges need and district area (30 to 35 judges).

The positive aspects of this model are that it places all of St. Cloud in a single district. It also addresses the Rice County placement by moving Lesueur and Goodhue County into the new Third District. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahnomen County. Most consolidated court administrator positions remain intact. It partially considers growing versus shrinking county caseloads.

This model does not minimize the changes to judicial election districts, state public defender district and local bar association regions. It reduces the number of judicial district offices by three to seven districts. Under this model, there are three large districts and four medium districts.

### *Basic Workability*

Number of Judges and Employees – **Mixed to Con**

District's Geographic Size (Area) – **Mixed to Pro**

### *Common Demographics*

Population Centers - Metro versus Rural District Characteristics – **Mixed to Pro**

Growth Factors (Increasing, stable and decreasing caseloads) - **Mixed to Pro**

Economic Character (Big Business versus Self Employment/Smaller Businesses) - **Pro**

Transportation Availability/Traffic Patterns/Major Highways - **Mixed**

Common Culturally Diverse Populations – **Mixed to Pro**

### *Technology Developments and Availability*

Virtual Courthouse – **Neutral to Con**

ITV – **Pro**

Communications Line Band-width – **Con for Greater Minnesota counties**

### *Other Political and Practical Concerns*

Current Multi-District District Office and Multi-County Court Administrator - **Pro** Judicial Election Districts – **Mixed to Pro**

Local Bar Associations – **Mixed to Pro**

Inter-county Agency Relationships (Public Defenders, and Regional Joint Jurisdictional Relationships) – **Mixed to Pro**

Multi-County Community Corrections Act Counties – **Mixed to Pro**



### Model Ten-Six Judicial Districts

Model Ten follows, in part, the regions of the Minnesota Assistive Technology Network. This model develops six administrative regions. The Fourth Judicial District is the only single county judicial district. Washington County of the Tenth, Ramsey County, Dakota Scott, Goodhue Counties of the First and Wabasha, Winona, Houston, Fillmore and Olmsted Counties of the Third comprise a southern metro district/river district with approximately the same number of judges found in the Fourth. The present Tenth Judicial District (less Pine County) combines with portions of the Seventh and Ninth District makeup a new Northern Metro/Central District of approximately the same judge size as the Fourth District and the new First District. The remaining districts are approximately the same size both in terms of adjusted judges need and district area (30 to 35 judges) with more weight given to the district area than to adjusted judge need.

The positive aspects of this model are that it places all of St. Cloud in a single district. It also addresses the Rice County issue by placing it in the new Southwestern district. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahnomen County. Most consolidated court administrator positions remain intact. It partially considers growing versus shrinking county caseloads.

It does not minimize changes to judicial election districts, state public defender district and local bar association regions. This model reduces the number of judicial district offices by four to six districts. Under this model, there are three large districts and three medium districts.

#### *Basic Workability*

Number of Judges and Employees – **Mixed to Con**

District's Geographic Size (Area) – **Mixed to Pro**

#### *Common Demographics*

Population Centers - Metro versus Rural District Characteristics – **Mixed to Pro**

Growth Factors (Increasing, stable and decreasing caseloads) - **Mixed to Pro**

Economic Character (Big Business versus Self Employment/Smaller Businesses) - **Pro**

Transportation Availability/Traffic Patterns/Major Highways - **Mixed**

Common Culturally Diverse Populations – **Mixed to Pro**

#### *Technology Developments and Availability*

Virtual Courthouse – Neutral to Con

ITV – Pro

Communications Line Band-width – Con for Greater Minnesota counties

#### *Other Political and Practical Concerns*

Current Multi-District District Office and Multi-County Court Administrator - Pro Judicial Election Districts – Mixed to Pro

Local Bar Associations – Mixed to Pro

Inter-county Agency Relationships (Public Defenders, and Regional Joint Jurisdictional Relationships) –Mixed to Pro

Multi-County Community Corrections Act Counties –Mixed to Pro

#### Revised Model Ten-Seven Judicial Districts

The Revised Model Ten creates a new district comprised of Ramsey and Washington Counties. Dodge and Mower Counties are moved in the new First-Third District with Dakota Scott, Goodhue Counties of the First and Wabasha, Winona, Houston, Fillmore and Olmsted Counties of the Third. This model develops seven administrative regions. The Fourth Judicial District is the only single county judicial district. The present Tenth Judicial District (less Pine and Washington Counties) combines with portions of the Seventh and Ninth District makeup a new Northern Metro/Central District of approximately the same judge size as the Fourth District and the new First District. The remaining districts are approximately the same size both in terms of adjusted judges need and district area (30 to 35 judges) with more weight given to the district area than to adjusted judge need.

The positive aspects of this model are that it places all of St. Cloud in a single district. It also addresses the Rice County issue by placing it in the new Southwestern district. This model addressed the Clay/Wilkin support problem, the Becker County association with Clearwater County and Mahnomen County. Most consolidated court administrator positions remain intact. It partially considers growing versus shrinking county caseloads.

It does not minimize changes to judicial election districts, state public defender district and local bar association regions. This model reduces the number of judicial district offices by four to six districts. Under this model, there are four large districts and three medium districts.

### *Basic Workability*

Number of Judges and Employees – **Mixed to Con**

District's Geographic Size (Area) –**Mixed to Pro**

### *Common Demographics*

Population Centers - Metro versus Rural District Characteristics – **Mixed to Pro**

Growth Factors (Increasing, stable and decreasing caseloads) - **Mixed to Pro**

Economic Character (Big Business versus Self Employment/Smaller Businesses) - **Pro**

Transportation Availability/Traffic Patterns/Major Highways - **Mixed**

Common Culturally Diverse Populations – **Mixed to Pro**

### *Technology Developments and Availability*

Virtual Courthouse – **Neutral to Con**

ITV – **Pro**

Communications Line Band-width – **Con for Greater Minnesota counties**

### *Other Political and Practical Concerns*

Current Multi-District District Office and Multi-County Court Administrator - **Pro** Judicial Election Districts – **Mixed to Pro**

Local Bar Associations – **Mixed to Pro**

Inter-county Agency Relationships (Public Defenders, and Regional Joint Jurisdictional Relationships) –**Mixed to Pro**

Multi-County Community Corrections Act Counties –**Mixed to Pro**

### **Trial Center Concept-Unspecified Number of Districts**

In its broadest sense, a trial center could be defined as a single location serving a geographic region. The location could be the hub and sole site for all activities that occur in a courtroom. The trial center could supplement or replace some or all county courthouse activity in the region served by the trial center.

The trial center could *potentially* consist primarily of courtrooms. In addition, the trial center would *potentially* have conference rooms; jury assembly space; chambers; secure holding areas; and administrative offices, the size of which would be determined by the level of administrative activity performed at the center.

The following are some of the issues and concerns the Minnesota Judicial Branch should consider and discuss if it is interested in pursuing a regional trial center concept in the future. A more complete list of issues to be considered can be found in Appendix C.

### Service Center Concept Considerations

In its broadest sense, a trial center could be defined as a single location serving a geographic region. The location could be the hub and sole site for all activities that occur in a courtroom. The trial center could supplement or replace some or all county courthouse activity in the region served by the trial center.

The trial center could *potentially* consist primarily of courtrooms. In addition, the trial center would *potentially* have conference rooms; jury assembly space; chambers; secure holding areas; and administrative offices, the size of which would be determined by the level of administrative activity performed at the center.

The following are some of the issues and concerns the Minnesota Judicial Branch should consider and discuss if it is interested in pursuing a regional trial center concept in the future.

#### Legal Issues

What constitutional changes, statutory amendments and rule modifications would have to be considered and enacted to put this concept in place?

Could this initiative begin with a pilot program for one or two particular subject areas such as family and/or juvenile and thus need fewer constitutional, statutory, and rule changes at the front end; gain acceptance for the regional center concept through a successful pilot; and thus reduce resistance to the greater constitutional, statutory, and rule changes that would be necessary to implement it for all court business?

What collaborative agreements and/or statutory changes are needed to facilitate cross-county prosecution if regional prosecuting agencies are not established?

Would we retain existing judicial district lines for the purposes of judicial elections? Would we move away from popular elections to retention elections? Would we move from the current state election process to a “federal” appointment for life system?

Could existing district lines be retained for election purposes while the initiative is tried as a pilot in family and/or juvenile and avoid having to take on the judicial election issue at the front end?

If we eliminate the traditional judicial district concept, would county or district jurisdiction line be eliminated? Could a party to an action chose between several sites for filing his or her action...

Could an action be heard in a county outside the county where the action arose?

Court rules may have to be relaxed with respect to the use of ITV and other video technologies in the courtroom.

#### Administrative Issues

Would this type of system contemplate a regional prosecutor system to go along with a regional public defender system?

Would this system require a regional probation/corrections orientation as well, thus requiring a melding of the three existing correctional delivery system models currently operating in the state?

Who would pay for corrections?

Would moving corrections off the various county budgets make them more favorably disposed to a regional concept?

What services would migrate to the “regional full service centers” and which services would be available at existing court sites.

Could some services be offered regionally or centrally?

With a pilot in family, one of the main selling points might be the availability of services that have proven difficult to deliver in smaller counties in a county oriented system.

If you allow more flexibility in determining a venue, how would you measure judge need in an area? Court administration staff needs?

How will the trial court funding formula be changed?

Because of the distance to facilities (assuming ITV is not available), would MAN costs increase due to the need to transport and house psych. defendants?

What region would you draw jurors from?

If we move toward e-filing statewide, could administrative staff need be determined by counting event codes? The federal courts e-filing system counts event codes and uses this data to determine administrative needs in a more objective format.

What, if any, effect would this concept have on collective bargaining agreements and bargaining units?

How would morale/quality court workplace issues be resolved for judges, judicial staff and court administration staff that must drive additional miles to work at a trial center?

How would services traditionally provided by the SCAO and by district administration offices such as HR, Finance, EOD, and technology be performed, and by whom?

Would administrative districts continue to serve a role, and if so, would they be re-drawn to better align with the trial centers?

How would law enforcement agencies determine what judicial center would be cited to when they write a ticket in the far reaches of greater Minnesota?

Would a court administration presence remain at the county courthouse, the facility for which the county would remain responsible?

Is the perceived 'gain' from creating the trial center concept worth the financial and system 'pain' that would be caused by the upheaval needed to create the trial centers?

### Facilities Issues

Would counties still build and maintain court facilities and security? Who would pay?

Who would provide bailiff services in the trial center courtrooms? How would the in-custody secured holding area of the trial center be staffed? Which law enforcement agency is 'in charge' or responsible for custodies from multiple jurisdictions?

Would counties share in the construction and maintenance of "full service court centers?"

Would the responsibility for all court facilities migrate to the state?

Would the state participate by funding of only "full service court centers?"

Many counties throughout the state have built new jails and/or courts/justice centers. Unless all of these newer facilities were built at locations selected as a full service center, we could have substantive political fallout from our local governments.

At the trial court center would space be available for public defender and prosecutor offices? Could the Judicial Branch share a trial center facility with other regional executive branch offices?



How would current satellite facilities be treated (an issue not only in the metro area but also on the range)?

How would we address the need for jail beds if existing court houses are chosen as a “service center” and sufficient jail beds are not available nearby?

How would municipalities cover the cost of increased travel time for their officers to make court appearances if the regional service center is located farther away from the current court house used by the municipality? There could be similar questions regarding the transportation of prisoners by the sheriff.

### Technology Issues

What technological improvements would be necessary to have video and Internet access from “limited court service centers” versus “full court service centers?”

- Bandwidth
- Hardware
- Software
- Internet Access
- MNCIS Access
- ITV Availability

What role would electronic file management serve in operating a trial center? With improved capabilities, would there be foreseeable changes in the future delivery of services?

Would a substantially reduced number of service centers require (or benefit from) substantial e-initiatives such as e-warrants, e-citations, e-complaints, e-jury administration, etc.?

### Access Issues

What is the reasonable distance a person could be expected to drive to get to a “full service center”? (Current maps show radii of 50, 60 and 70 miles as the crow flies.)

With full service trial centers potentially 50/60/70 miles away, what impact will it have local bar associations...and law practices?

Travel and access by law enforcement agencies may be more expensive to local units of government.

Would using trial court centers reduce or minimize 'access to justice' for indigent members of the public and those that do not have transportation to court? This could impact greater Minnesota trial centers more dramatically due to lack of public transportation.

Would parties and other interested persons appear at the trial center, or would ITV be used for some cases?

Could electronic filing and electronic case management replace physical delivery of documents at the courthouse? If so, could filing be accepted and processed regionally or centrally?

Could MNCIS be used at the trial centers for judges and court administration to have electronic access to court documents?

### Political Issues

Would this action reverse the "single tier trial court" concept?

What impact would this have on Court Administrator assignments and classifications?

Would trial center Court Administrators be compensated at a higher level?

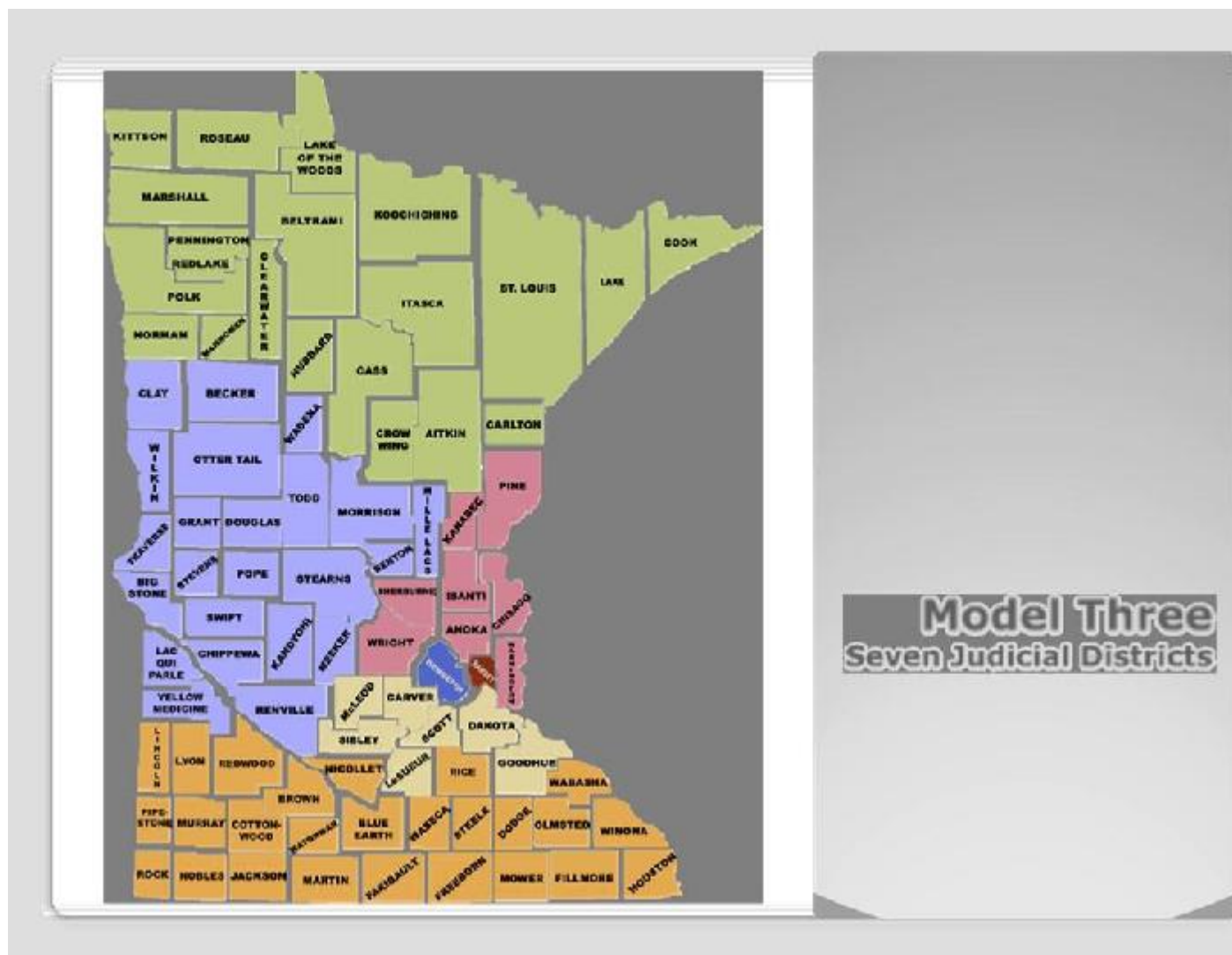
Does the current poor funding climate, along with bad demographics for the next decade, give us political leverage to garner acceptance? Will municipalities and counties be willing to trade local service for budget relief? Will municipalities be willing to move prosecution toward regional prosecution based on perceived budget relief?

### Redistricting Resource Information

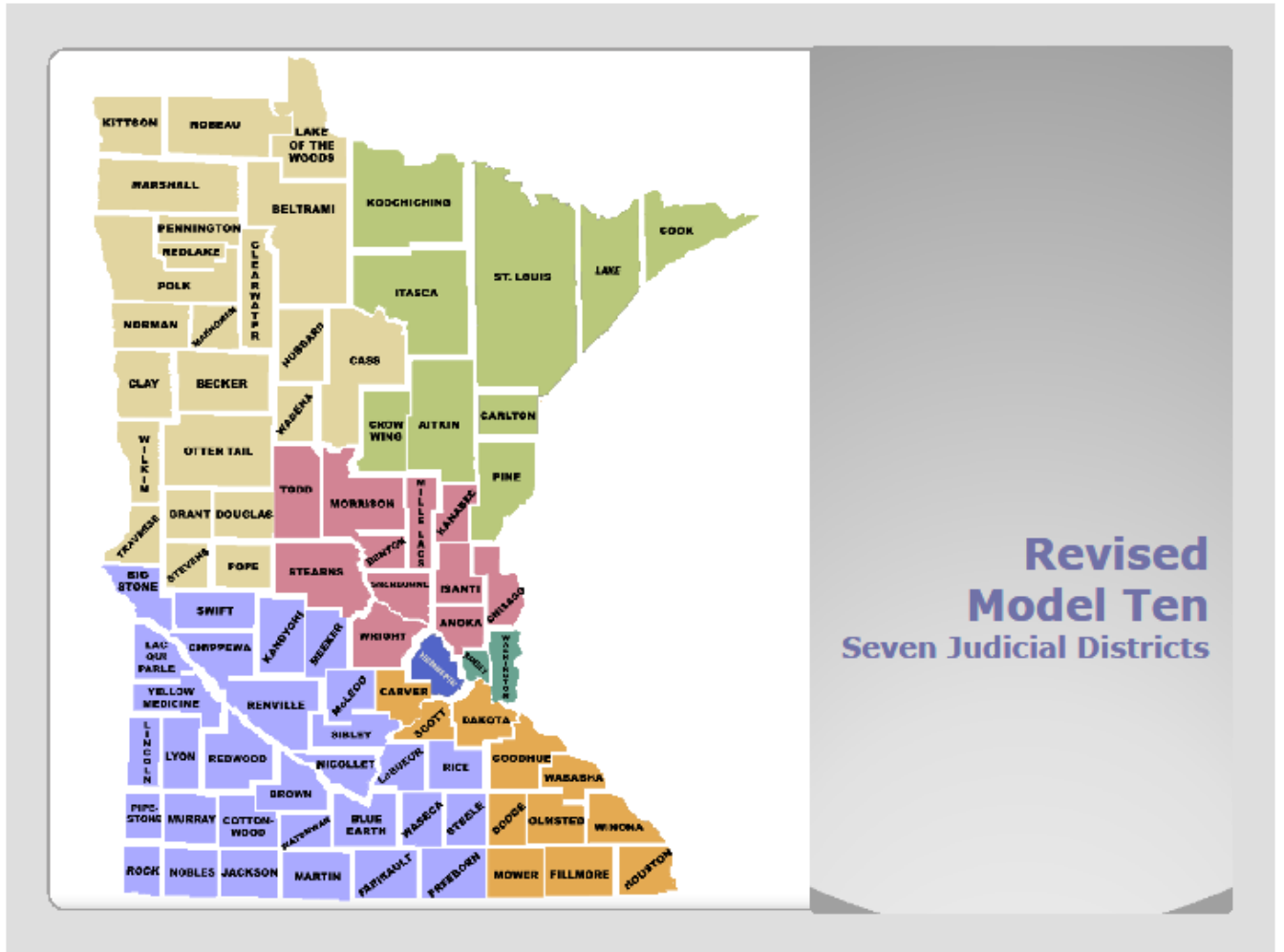
(Binders Available for Review on Request)

- **Tab One** - State Court Structure Charts and Maps
- **Tab Two** - Minnesota State Bar Local Association
- **Tab Three** - AJN by County 2008/Q4
- **Tab Four** - Consolidated Court Administration Positions
- **Tab Five** - Judicial District Administration Organizational Charts
- **Tab Six** - Judicial District Budget and Resource Allocation Spreadsheet (Version 45)
- **Tab Seven** - Correctional Delivery Systems Maps
- **Tab Eight** - Miscellaneous Agency and Organizational District Maps
- **Tab Nine** - Population Trends by County and District
- **Tab Ten** - MNET Enterprise Communication Levels
- **Tab Eleven** - Major Interstates and State Highways
- **Tab Twelve** - Minnesota Colleges and Universities
- **Tab Thirteen** - Minnesota Demographic
  - Distribution of Population 65 and Over
  - Population Density – Generally (2000)
  - Population Density – Hispanic or Latino (2000)
  - Population Density – Asian (2000)
  - Population Density – American Indian or Alaska Native (2000)
  - Population Density – African American or Black (2000)
  - Minnesota’s Nonwhite and Latino Populations, 2007
  - Primary Home Languages of Minnesota Students (2006)
  - School District Enrollment Changes (2000-2003)
  - Minnesota Foreclosure Rates (2007)
- **Tab Fourteen** Fifty Mile Trial Center Concept Map  
Sixty Mile Trial Center Concept Map  
Seventy Mile trial Center Concept Map

## APPENDIX R



## APPENDIX S



## APPENDIX T

### Service Center Concept Considerations

In its broadest sense, a trial center could be defined as a single location serving a geographic region. The location could be the hub and sole site for all activities that occur in a courtroom. The trial center could supplement or replace some or all county courthouse activity in the region served by the trial center.

The trial center could *potentially* consist primarily of courtrooms. In addition, the trial center would *potentially* have conference rooms; jury assembly space; chambers; secure holding areas; and administrative offices, the size of which would be determined by the level of administrative activity performed at the center.

The following are some of the issues and concerns the Minnesota Judicial Branch should consider and discuss if it is interested in pursuing a regional trial center concept in the future.

11. What is the vision of the trial court for the future, and how does the trial center concept fit that vision?
12. What judicial functions and related services would take place at the trial centers?
13. Where would the trial centers be located throughout the state?
14. What would be the source of funding for facilities and services now provided by the counties?
15. What constitutional, statutory, and rule changes might be required?
16. How would election districts be affected?
17. How would administrative services be provided to the trial centers?
18. How would the delivery of services by the county court administration office, district administration, and SCAO change?
19. How would the Judicial Branch move from the current model, to the trial center model?
20. Would court services be provided at locations other than a trial center?

#### Legal Issues

What constitutional changes, statutory amendments and rule modifications would have to be considered and enacted to put this concept in place?

Could this initiative begin with a pilot program for one or two particular subject areas such as family and/or juvenile and thus need fewer constitutional, statutory, and rule changes at the front end; gain acceptance for the regional center concept through a successful pilot; and thus reduce resistance to the greater constitutional,

statutory, and rule changes that would be necessary to implement it for all court business?

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Would this system require a regional probation/corrections orientation as well, thus requiring a melding of the three existing correctional delivery system models currently operating in the state?

Who would pay for corrections?

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How would services traditionally provided by the SCAO and by district administration offices such as HR, Finance, EOD, and technology be performed, and by whom?

Would administrative districts continue to serve a role, and if so, would they be re-drawn to better align with the trial centers?

How would law enforcement agencies determine what judicial center would be cited to when they write a ticket in the far reaches of greater Minnesota?

Would a court administration presence remain at the county courthouse, the facility for which the county would remain responsible?

Is the perceived 'gain' from creating the trial center concept worth the financial and system 'pain' that would be caused by the upheaval needed to create the trial centers?

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Would counties still build and maintain court facilities and security? Who would pay?

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Would the state participate by funding of only “full service court centers?”

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At the trial court center would space be available for public defender and prosecutor offices? Could the Judicial Branch share a trial center facility with other regional executive branch offices?

How would current satellite facilities be treated (an issue not only in the metro area but also on the range)?

How would we address the need for jail beds if existing court houses are chosen as a “service center” and sufficient jail beds are not available nearby?

How would municipalities cover the cost of increased travel time for their officers to make court appearances if the regional service center is located farther away from the current court house used by the municipality? There could be similar questions regarding the transportation of prisoners by the sheriff.

### Technology Issues

What technological improvements would be necessary to have video and Internet access from “limited court service centers” versus “full court service centers?”

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### Access Issues

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With full service trial centers potentially 50/60/70 miles away, what impact will it have local bar associations...and law practices?

Travel and access by law enforcement agencies may be more expensive to local units of government.

Would using trial court centers reduce or minimize ‘access to justice’ for indigent members of the public and those that do not have transportation to court? This could impact greater Minnesota trial centers more dramatically due to lack of public transportation.

Would parties and other interested persons appear at the trial center, or would ITV be used for some cases?

Could electronic filing and electronic case management replace physical delivery of documents at the courthouse? If so, could filing be accepted and processed regionally or centrally?

Could MNCIS be used at the trial centers for judges and court administration to have electronic access to court documents?

### Political Issues

Would this action reverse the “single tier trial court” concept?

What impact would this have on Court Administrator assignments and classifications?

Would trial center Court Administrators be compensated at a higher level?

Does the current poor funding climate, along with bad demographics for the next decade, give us political leverage to garner acceptance? Will municipalities and counties be willing to trade local service for budget relief? Will municipalities be willing to move prosecution toward regional prosecution based on perceived budget relief?

## **APPENDIX U**

### **EXECUTIVE SUMMARY**

**of the**

### **NONFELONY ENFORCEMENT ADVISORY COMMITTEE**

**FINAL REPORT (JANUARY 15, 1997)<sup>31</sup>**

#### **Committee Scope and Membership**

The Nonfelony Enforcement Advisory Committee ("NEAC" or "the Committee") was established by the 1993 Legislature in response to concerns about the proportionality, prosecution, and enforcement of nonfelony offenses. The Committee's specific mandate, as amended in 1995, was to:

- analyze relative penalty levels for nonfelony crimes against the person, low-level felony property crimes, and crimes for which there are both felony and nonfelony penalties; and
- recommend any necessary changes in Minnesota law to achieve the following:
- proportionality of penalties for gross misdemeanors, misdemeanors, and petty misdemeanors;
- effective enforcement and prosecution of these offenses; and
- efficient use of criminal justice system resources.

The Committee consisted of a broad cross section of the criminal justice community, including legislators, city and county attorneys, judges, criminal defense attorneys, probation officers, law enforcement, law professors, and public members. Appointments to the Committee were made by the chairs of the senate crime prevention and house judiciary committees. The Committee was chaired by Sue Dosal, the State Court Administrator.

#### **Underlying Premises**

The Committee identified five underlying premises that provide the basis for the Committee's recommendations. These were:

- The current criminal code (Chapter 609) and pertinent statutes contained in other chapters need to be revised to achieve an appropriate balance between person and property crimes. For example, domestic assault, order for protection violations, driving under the influence (DUI), and fleeing a police officer are currently sanctioned as misdemeanors and gross misdemeanors, while property offenders are subject to felony sanctions for offenses involving losses of \$200 (or less if there are prior offenses).

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<sup>31</sup>The report (105 pages) is supplemented by recommended criminal and vehicle codes (1,000 pages).

- The current criminal code, whose basic structure was created in 1963, is chaotic and disorganized with offenses of like kind scattered throughout the code (or in other chapters), making it difficult for all users (from law enforcement to judges) to work with the code. Data collection and evaluation are also hindered, forcing policy makers to rely on anecdotal information.
- Charging practices have been dramatically altered since the last criminal code overhaul in 1963. At that time, the majority of nonfelony cases were prosecuted as ordinance violations, rather than under the state's criminal and vehicle codes, because ordinance violations could be tried to the court rather than a jury. With the adoption of the Minnesota Rules of Criminal Procedure in 1975 and accompanying court decisions, criminal defendants secured a right to a jury trial for any charge under ordinance or statute for which they could be subjected to incarceration. Thus, by the early 1980's the state's criminal and vehicle codes served as the basis for most nonfelony prosecutions - with ordinance prosecutions generally limited to minor vehicle violations, housing code violations, and other areas of local concern.
- Misdemeanors have become "devalued." "It's only a misdemeanor" is a common refrain from both within the system and from the public. The problem is that the current nonfelony structure provides the legislature little flexibility to designate which nonfelony offenses are deemed to be more serious. This contributes to a continued escalation of penalties and increased costs to the already overburdened criminal justice system.
- Where practicable, offenses for which first time offenders typically do not receive incarceration should be handled informally to conserve the scarce resources of the criminal justice system.

### **Overview of Reorganized Criminal And Vehicle Codes**

The Committee recommends a complete recodification of the state's criminal and vehicle provisions, including reformatting, renumbering and reorganizing both felony and nonfelony crimes. Highlights of the reorganized codes are:

- existing statutes relating to criminal offenses (currently in chapters 152, 609, 611A, 617, 624 and 626A) are consolidated into a new family of 609 chapters (609A through 609N). The result is a new criminal code that groups offenses of a like kind together within that code (*e.g.*, Chapter 609E entitled "Weapons Offenses," would consolidate weapons-related crimes which are now split between Chapters 609 and 624) and includes a revised numbering scheme that was developed in conjunction with a separate task force that is dealing with information systems issues and the criminal justice system.
- existing statutes relating to traffic offenses (currently in chapters 168, 169, 171 and 609) are consolidated into a new family of 169 chapters (169A through 169N).
- two additional penalty levels are established for nonfelony offenses, resulting in a five-tiered penalty structure (gross misdemeanors, first degree misdemeanors, second degree misdemeanors, third degree misdemeanors, and infractions).<sup>32</sup>

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<sup>32</sup>The maximum sentences for these offenses would be: (1) gross misdemeanor, one year and/or \$3,000 with probation of up to 2 years, (2) first degree misdemeanor, 180 days and/or \$1,500, with probation of up to two years, (3) second degree misdemeanor, 90 days and/or \$1,000, with probation of up to one year, (4) third degree

- infractions take the place of existing petty misdemeanors and are treated as purely “civil” in nature. The burden of proof is “clear and convincing evidence” rather than “proof beyond a reasonable doubt.” Failure to pay the penalty (or to appear in court on the offense) on an infraction would be dealt with through enhanced fine collection tools. Bench warrants would no longer be issued for failure to appear on a parking violation or speeding ticket, or to pay a fine that has been ordered by the court for such offenses.<sup>33</sup>

### **Penalty Levels for Certain Offenses**

The Committee recommends changes in the penalties for a wide range of offenses to achieve greater proportionality in penalties. Although most felony penalties are not being revised, penalty adjustments are included for those crimes with both felony and nonfelony penalties. These recommendations include the following:

- modify penalties for certain property crimes (theft, check forgery, credit card fraud, worthless checks and damage to property), by increasing the dollar levels that determine the level of offense.<sup>34</sup>
- retain current penalties for major substance-related vehicle crimes (DUI and criminal vehicular homicide), but provide lesser penalties for certain minor violations, such as open-bottle passenger violations and consumption of alcohol by 19 and 20-year-olds.
- reduce the penalty for first-time offenses of driving without a license, driving after suspension and driving without insurance<sup>35</sup> to an infraction; with misdemeanor penalties for repeat offenders.
- allow first-time driving after suspension and driving without insurance offenders to avoid a revocation or suspension of their license (that would otherwise result from a conviction) if they become validly licensed and/or insured. This change is intended to encourage first-time offenders to become compliant and should also reduce overall caseloads for the offenses of driving after suspension and revocation by reducing the number of persons who will have their licenses suspended or revoked.
- moving traffic violations (except where the offense has endangered persons or property) should be infractions without regard to the number of prior moving violations. Current law provides that the

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misdemeanor, 30 days and/or \$750, with probation of up to one year, and (5) “infraction,” a fine of up to \$500 and other sanctions (community service, where available, and restitution).

<sup>33</sup>This change would of substantial benefit to larger counties (e.g. Hennepin County) where sheriff’s offices have to process thousands of warrants for such offenses.

<sup>34</sup>These recommendations only include those portions of these offenses which are based on the dollar level of the loss. Theft of a motor vehicle, theft from person, damage to property with a foreseeable risk of bodily injury and other portions of these statutes which provide for a specific penalty (usually a felony), without regard to the dollar amount of the loss, are retained without any changes.

<sup>35</sup>No insurance offenses with an accident or where the offender is also charged with DUI would continue to be misdemeanors, even for first offenses.

third violation within twelve months is a misdemeanor, giving offenders the right to a jury trial, even though courts rarely incarcerate such violators.

- limit the authority of local units of government to enact ordinances. Criminal ordinances would be limited to infractions and third degree misdemeanor. Ordinances that carry only “civil penalties” would have a maximum administrative sanction of \$500, except ordinances relating to tobacco sales, environmental regulation, or licensed activities would have no limit other than the \$2,000 limit on regulating alcohol established under current law.

### **System Effectiveness**

The Committee also examined system effectiveness and recommends several improvements, including:

- expand and improve criminal justice information systems particularly at the nonfelony level.
- allow the district courts (on an optional basis) to make expanded use of violations bureaus and hearing officers in disposing of infraction violations.
- require the payment of any outstanding fines as a condition of renewing motor vehicle registration tabs.
- encourage cooperative agreements between prosecutors to improve system effectiveness. For example, prosecutors are often not present at the initial arraignment, and a second court appearance is needed on many cases that could otherwise be resolved at the initial arraignment.

## APPENDIX V

NEAC Theft Offense Penalties				
1997 Penalty		1997 Proposed Penalties		Implemented?
Classification	Property	Classification	Property	
Felony (20 year)	\$35,001 +	Felony (20 year)	\$50,000 +	No
Felony (10 year)	\$2,501 - \$35,000	Felony (10 year)	\$10,000 - \$49,999	Partial; \$5,001-35,000
Felony (5 year)	\$501 - \$2,500	Felony (5 year)	\$3,000 - \$9,999	Partial; \$1,001-\$5,000 or \$501 - \$1,000 w/ priors
Gross Misdemeanor (\$3,000 +/- or 365 days)	\$201 - \$500	Gross Misdemeanor (\$3,000 +/- or 365 days)	\$1,000 - \$2,999	Partial; \$501-\$1,000
Misdemeanor (\$700 +/- or 90 days)	\$0 - \$200	1st Degree Misdemeanor (\$1,500 +/- or 180 days)	\$500 - \$999	No
		2nd Degree Misdemeanor (\$1,000 +/- or 90 days)	\$250 - \$499	Partial; \$0-\$500
		3rd Degree Misdemeanor (\$750 +/- or 30 days)	\$100 - \$249	No
Petty Misdemeanor (\$200 fine)	N/A	Infraction (\$500 fine)	Up to \$100	No