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EQUAL OPPORTUNITY EMPLOYER

Krivosha says state courts busier, police departments lacking money

By Melinda Norris

The Nebraska Supreme Court is nearing its maximum workload if it hasn't reached it already, Chief Justice Norman Krivosha told the Nebraska Legislature.

In his State of the Judiciary Address, Krivosha told senators Tuesday that the size of the Supreme Court docket grew by 188 cases in 1981 to a total of 929, forcing judges to devote more time without additional costs to Nebraskans.

The Supreme Court is coping with the enlarged caseload by increasing the time it sets to hear oral arguments by 30 percent. It is scheduling prehearing conferences for some cases, eliminating the writing of some legal briefs, and "fast tracking" or cutting down oral arguments in some cases, Krivosha said.

The court has resisted creating an intermediate court of appeals because of the additional cost to the state, Krivosha said. But if the caseload growth does not end, it will be necessary to employ additional law clerks, he said.

Krivosha said although the number of cases reaching the Supreme Court is significant, the problems are minor.

A solution to the overflow of cases would be a change in attitude of the public and lawyers, he said.

"While no one could argue that having open courts available to everyone is indeed the hallmark of an open and free society," he said, "no one must be led into believing that bringing every dispute to the court can do anything but ultimately clog the wheels of justice."

Mediation needed

Krivosha suggested that certain groups, such as employees and employers, tenants and landlords, neighbors, and husbands and wives, could be better served through mediation rather than litigation.

"It is imperative that we once again establish the image of the lawyer as the peacemaker and not the litigator; as the mediator and not the hired gun," he said.

Krivosha then turned to the "passing concern" of crime and the government's

methods of dealing with it.

"Historically, we have attempted to attack the matter of crime by gathering together rational people to design rational solutions for irrational behavior," he said.

"The threat of punishment alone has never in the past successfully deterred crime," Krivosha told the senators. "It is not the severity of the punishment which deters crime but the certainty and swiftness with which the criminal is apprehended and punished that deters crime."

In Omaha, where the greatest number of criminal matters are handled by the courts, the average time from arrest to sentencing in 75 percent of the cases is less than 60 days, Krivosha said.

"The Nebraska courts are not only operating efficiently and swiftly, but as fast as a democratic, due process system will permit," he said.

Certainty not ensured

"Passing legislation to make the punishment for the crime more severe does not in any manner ensure that the offender will be apprehended," he said.

Krivosha suggested the Legislature turn its efforts and money to the law enforcement agencies so they could perform their job with greater efficiency.

"I am extremely proud and complimentary of what they (the law enforcement agencies) do, considering the severe handicaps under which they must operate, particularly now with the loss of (federal) Law Enforcement Assistance Administration funds," Krivosha said.

The government should also be responsible for educating inmates, Krivosha said.

"Perhaps the most significant deficiency existing in the prisons today, is the lack of educational opportunity," he said.

Krivosha said as many as 20 percent of those incarcerated are either illiterate or virtually illiterate.

"Is it so hard to understand why one, who after spending three or five or seven years in prison, is released without a trade and without the ability to recognize his or her name in neon lights, returns to crime?" he asked.



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