

The Non-human Touch

Can reliance on technology help the state cut millions from the judicial system budget? The Senate thinks so.

By PHILLIP BANTZ and AMBER NIMOCKS

phillip.bantz@nclawyersweekly.com

amber.nimocks@nclawyersweekly.com

Funding cuts outlined in the budget recently approved by the state Senate have some legal professionals worried that lawmakers hope to save big money by substituting machines for people in the judicial system. Those opponents argue that lawmakers are too eagerly discounting the value of human intelligence and experience.



The Senate budget proposes cutting \$2.89 million from N.C. Prisoner Legal Services, a nonprofit law firm that has contracted with the state's Indigent Defense Services since 1989 to help prisoners navigate the legal system. The state would instead provide prisoners access to the courts by setting up computer terminals, where inmates could use legal research software.

In a similar move, the budget would eliminate \$1.94 million in funding for court reporters, and cut the number of the state's court reporters in half. The budget directs the courts to spend half of the money saved by these cuts to contract with private vendors for court reporting services. It also allocates \$1 million for more audio equipment "in courtrooms in lieu of an assigned court reporter."

Other cuts include \$3 million from the Administrative Office of the Courts' administration division and the elimination of 12 special superior court judge positions. (See story, page 6.)

The Senate approved the budget May 22 in a party-line vote. The House is expected to approve a final version of its budget this week. The two houses have until June 30 to hammer out a compromise plan and get approval from Gov. Pat McCrory.

Spike in inmate lawsuits

Cuts to North Carolina's justice system mirror a national trend in the depletion of funding for state courts. Charlotte attorney Keith Merritt, a member of advocacy group Justice Initiatives, says funding for North Carolina courts as a percentage of the budget has decreased steadily since 2009. That trend has resulted in the loss of more than 600 jobs, a 10 percent reduction of the court system's work force.

The group also contends that justice delayed is not only denied, but also more expensive. Justice Initiatives cites an economic study which suggests that sluggish court systems contribute to a sluggish economy. Slower courts mean employees spend more time away from work, sitting in court as their child custody or civil litigation claim meanders through the system. Furthermore, criminal suspects spend more time in jail awaiting trial.

Mary S. Pollard, executive director of N.C. Prisoner Legal Services, says her group not only provides inmates with their constitutional right of access to the courts, it also prevents frivolous litigation by discouraging the filing of meritless actions.

Last year, the firm's 19 staff attorneys fielded more than 12,000 requests for representation from inmates in the state's 66 prisons and declined to take on about 99 percent of the cases because they were meritless, she said.

Like Pollard, Thomas K. Maher, executive director of Indigent Defense Services, predicted that the courts would see a significant spike in inmate lawsuits, many of them frivolous, if the state gets rid of Prisoner Legal Services.

"One thing PLS does is educate prisoners about what their rights really are and persuades many of them not to file claims that would not get them relief and would clog up the court system," Maher said. "If PLS isn't screening and educating there's bound to be a significant increase of pro se filings, which the judges are going to have to sort through."

Under the Senate plan, the state's prisons would have to give prisoners access to the courts by setting up computer terminals with legal research software by July 1, a deadline that the N.C. Department of Public Safety, which oversees the state's prison system, is unable to meet, according to spokesman Keith Acree.

DPS supports Gov. Pat McCrory's budget plan, which slightly reduces the money going to Prisoner Legal Services based on the state's declining prison population, but still includes enough to keep the firm afloat, Acree said.

The Senate's budget also makes no mention of hiring trained staff to help inmates use the legal software, which would be necessary considering that a sizeable chunk of the prison population lacks legal and tech savvy, Pollard said.

Pollard also said that an adequate prison law library would end up costing more than Prisoner Legal Services. She also doubted that the bar would have enough pro bono time to compensate for the loss of PLS and answer legal questions from more than 37,000 inmates statewide.

Legal Aid of North Carolina, which provides free legal services to low-income residents in civil matters, wouldn't be able to pick up the slack either because the agency's federal funding agreement prohibits it from representing prisoners.

But most prisoners don't know that, and Legal Aid spokesman Sean Driscoll was concerned that his agency, which already receives about 2,000 calls a month, would be inundated with inquiries from inmates if Prisoner Legal Services dissolved.

"If they can't get help they're probably going to call us," he said. "Having any more people call us who we can't help is still somewhat of a burden."

Errors in the record

Justice Initiatives puts the number of court reporter positions to be cut at 52. Merritt predicts the possibility for errors in the official record will grow as the number of experienced court reporters taking notes dwindles.

"Think about it this way, if you have a tape recording of something, people talk over each other, it's difficult to understand what one person said, what the other person said. A court reporter can ask witnesses to clarify, say, 'I didn't hear that, can you repeat it,' " Merritt said. "There are benefits to having a live person that you just don't get from a recording."

Sharon Gladwell, a spokesperson for the AOC, predicted that cuts to its administration division would be disruptive and also found troubling the potential elimination of court reporter positions, which are overseen by the AOC. "We are very concerned about the accuracy and completeness of court proceedings being preserved in the fair administration of justice," Gladwell said.

Attempts to reach Sen. Thom Goolsby, and Sen. Stan Bingham, co-chairs of the appropriations committee on justice and public safety, were unsuccessful.

Sen. Eleanor Kinnaird, a Chapel Hill Democrat and an attorney who serves on the committee, said she was alarmed by the continued trend of budget cuts to the court system.

"We really have understaffed and underfunded our court system for several years now, and these would undercut it even more," she said.

Kinnaird also questioned the long-term economic soundness of trading full-time employees for contract workers. "This further erodes their ability to make a living," she said.

Court reporters are invaluable to the process of creating the judicial record, she said: "The unique experience of a courtroom cannot be replicated. Those transcripts have a long life."