
SOUTH CAROLINA



JUDICIAL DEPARTMENT

2010 South Carolina Bar Annual Conference

January 22, 2010

by

Chief Justice Jean Hoefler Toal



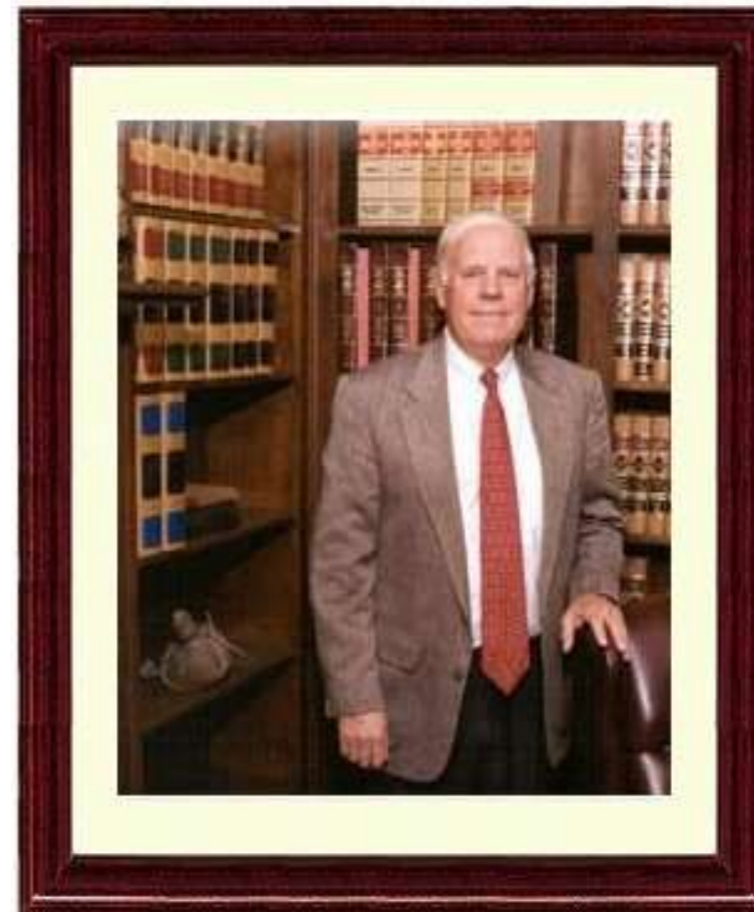
In Memoriam

Circuit Court Judge Wyatt T. Saunders



September 20, 1942 - September 29, 2009

Family Court Judge Berry L. Mobley



November 6, 1932 - September 29, 2009



New Supreme Court Justice



Justice Kay G. Hearn

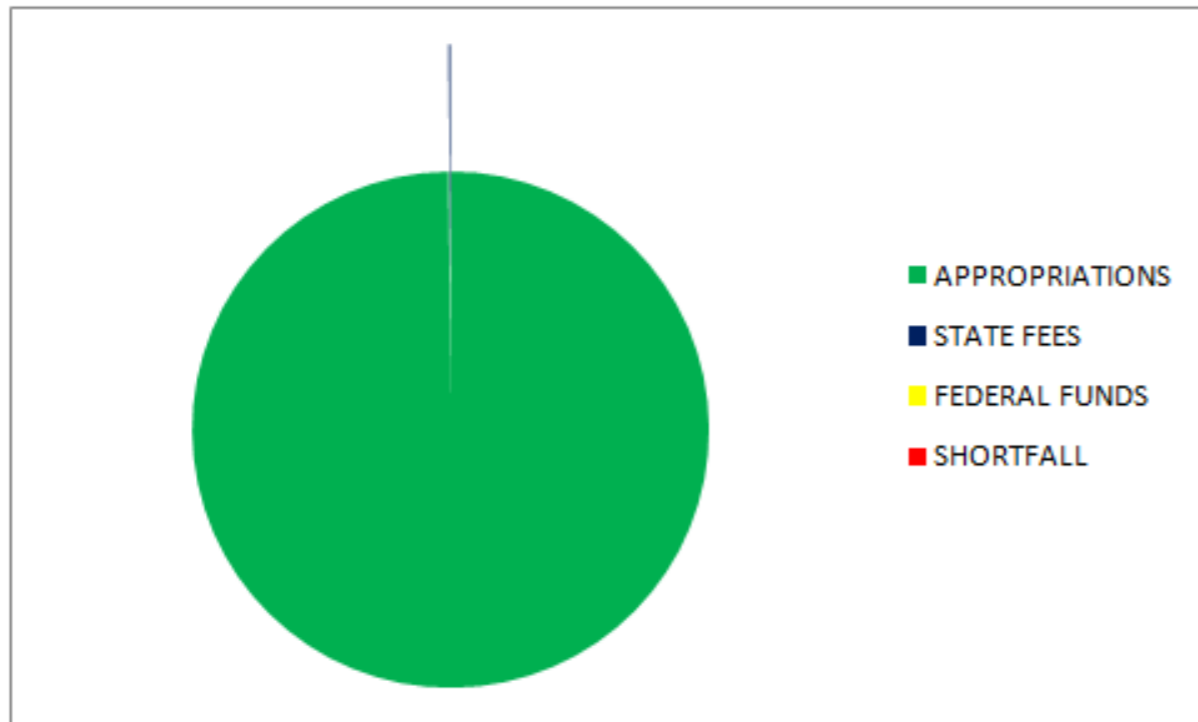
Investiture January 14, 2010



Funding Sources in 2000 Compared to Now

Over this decade, the Judicial Department has developed several different funding sources so that all funding is not completely dependent upon the Legislature

FY 2000 - 2001



FY 2009 - 2010





SCJD Funding Sources and Expenditures for Recent Years

FISCAL YEAR	APPROPRIATIONS	STATE FEES	FEDERAL FUNDS	AMERICAN RE-INVESTMENT and RECOVERY ACT	SHORTFALL	TOTAL EXPENDITURES
FY 2000 - 2001	\$46,486,500	\$66,575	\$0	\$0	\$0	\$46,553,075
FY 2001 - 2002	\$39,014,860	\$2,849,873	\$928,311	\$0	\$0	\$42,793,044
FY 2002 - 2003	\$35,685,629	\$6,683,806	\$2,897,322	\$0	\$0	\$45,266,757
FY 2003 - 2004	\$31,849,253	\$10,105,241	\$5,831,459	\$0	\$0	\$47,785,953
FY 2004 - 2005	\$32,650,207	\$12,207,897	\$4,664,535	\$0	\$0	\$49,522,639
FY 2005 - 2006	\$33,958,408	\$14,390,096	\$5,755,279	\$0	\$0	\$54,103,783
FY 2006 - 2007	\$36,631,439	\$15,065,443	\$5,053,703	\$0	\$0	\$56,750,585
FY 2007 - 2008	\$38,758,746	\$15,676,166	\$5,495,072	\$0	\$0	\$59,929,984
FY 2008 - 2009	\$28,736,067	\$18,682,454	\$6,262,290	\$0	\$6,653,495	\$60,334,306
FY 2009 - 2010	\$22,576,817	\$18,085,225	\$6,208,216	\$4,000,000	\$7,589,642	\$58,459,900

**FY 2009 – 2010
BUDGET
ESTIMATE**

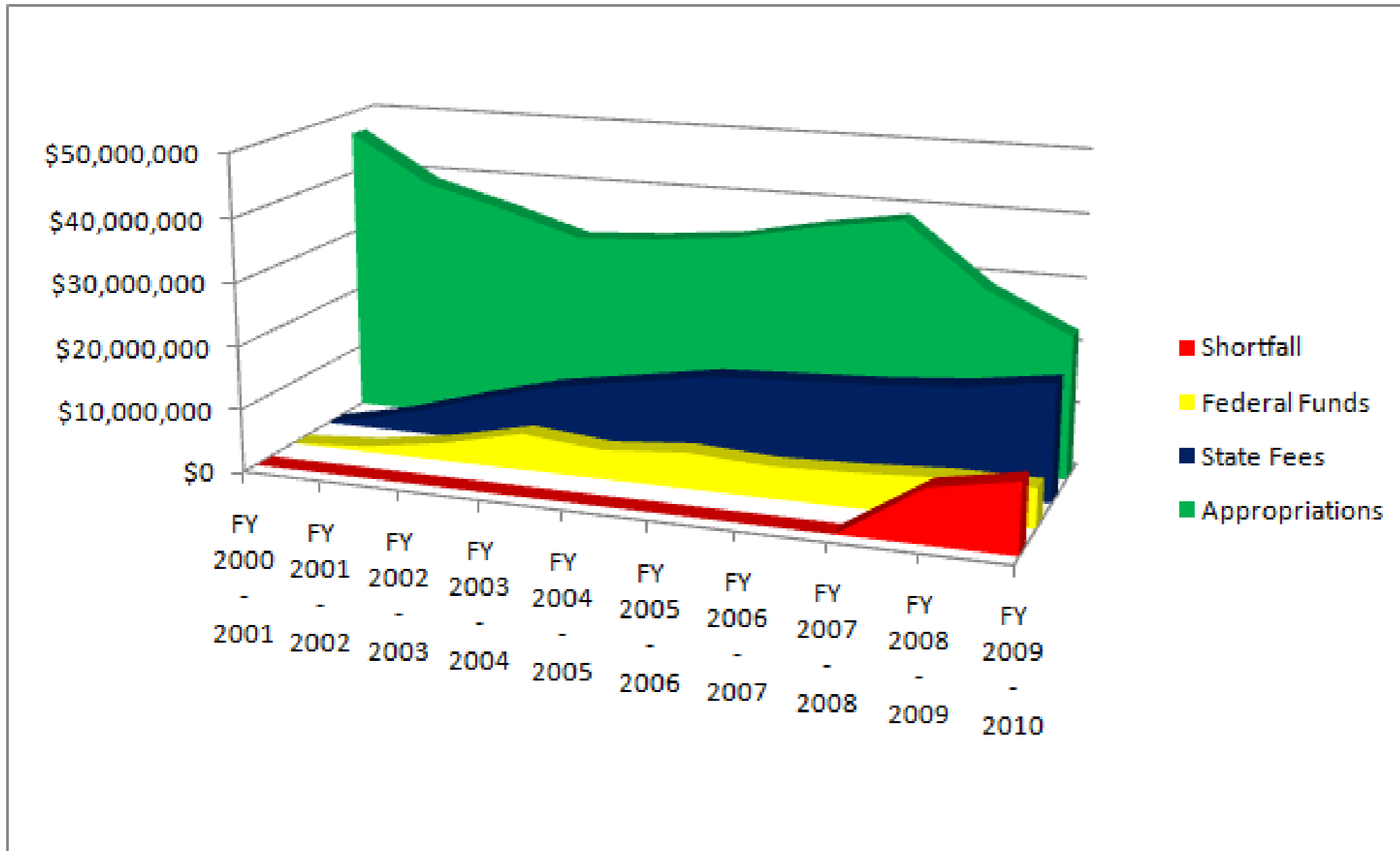
CATEGORY	EXPENDITURE
Salaries	\$32.7M
Benefits	\$13.6M
Operations	\$12.1M
TOTAL	\$58.4M





SCJD Funding - Appropriations

Legislative appropriations to the Judicial Department have been CUT by 40.75% in the last 19 months



➤ **State fees and Federal Funds have been steady**

➤ **Shortfall experienced for first time last year and is increasing with the severe Legislative cuts**



Steps Already Taken by SCJD to Address the Financial Crisis

- **Reduced judges' travel**
- **Eliminated travel for law clerks**
- **Restricted travel for court reporters**
- **Authorized county Clerks of Court to operate with skeleton staffs on local furlough days to keep the courts open for the public to file court papers and provide public access to court records**
- **Hiring freeze put into effect**
- **Cut the reimbursement of the monthly office allowance to judges**
- **Printing, postage, and mailing of Supreme Court and Court of Appeals Advance Sheets are terminated – they now are only available online from the SCJD website**
- **Family Court Judges sharing administrative staff**
- **Innovative new programs that apply new ways of thinking and managing are being piloted and implemented that require no new additional expenditures**



Next Steps to be Taken by SCJD

- Lay-offs for the Circuit Court law clerks may occur this Spring 2010
- Court of Appeals staff may be reduced from 3 to 2 staff personnel per judge
- New law clerks may not be hired next year
- Reduction of court reporters being considered
- Judicial Department may be forced to run a deficit in the upcoming fiscal year
- Consideration being given to NOT filling some upcoming judicial vacancies and associated non-judicial positions for further costs savings
- Current funding levels jeopardize the Court's ability to adequately fulfill constitutional functions
- Furloughs and reductions in force (RIF) may be required as a last resort; however, they are of limited use since much of the judicial personnel is constitutionally mandated



Technology Update

2000

Getting Started



2001

Establishing Fundamentals

2002

Changing Court Operations

2003

Relying on Court Technologies

2004

Expanding Synergies

2008

Consistent Focus

2007

Enterprise Perspective

2009

Judicial Effectiveness and Efficiencies

2005

Becoming Model For Others

2006

Collaboration Results

2010

National Recognition



Yester Years

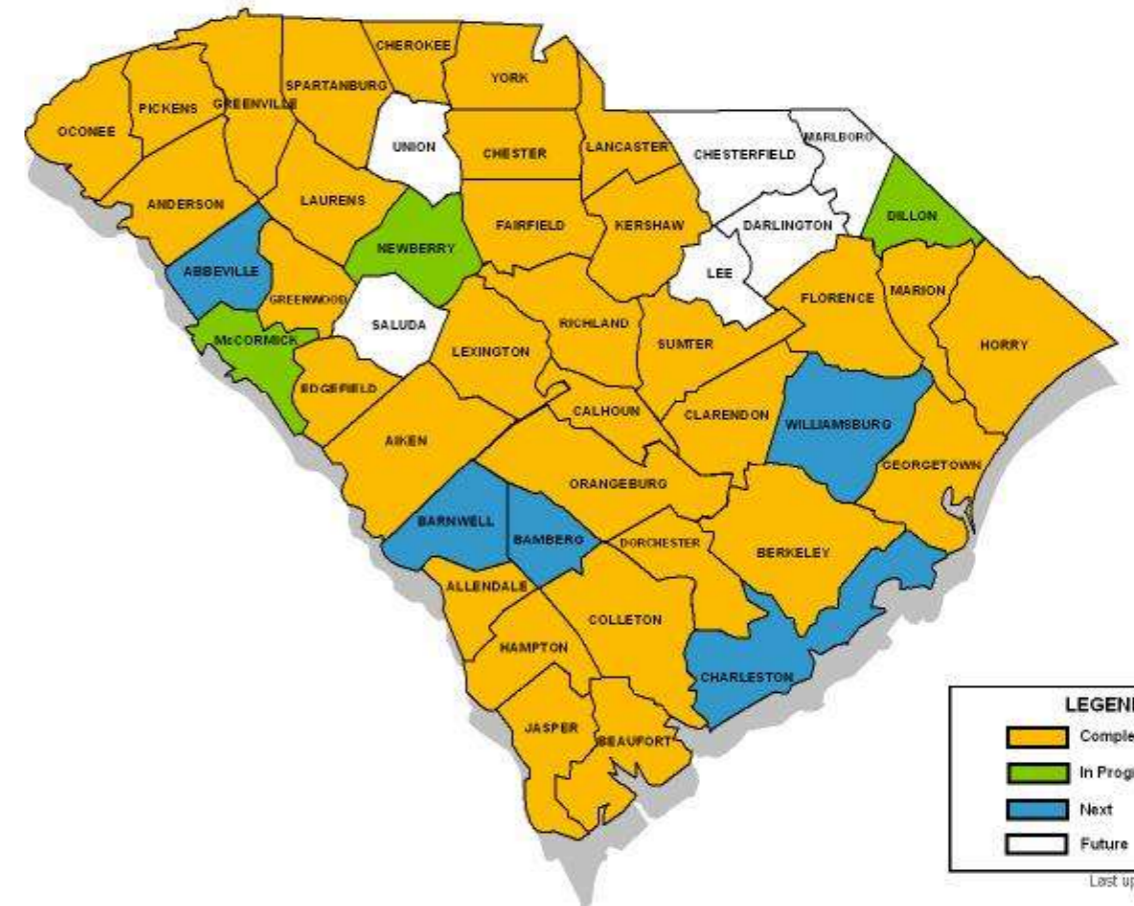
Today



Status of the Statewide Court Case Management System (CMS) for Circuit and Magistrate Courts

➤ **COMPLETED** – approximately **81%** of the total state caseload

- | | | |
|---------------|---------------|---------------|
| Greenville | Sumter | Horry |
| Pickens | Beaufort | Lexington |
| Richland | Jasper | Anderson |
| York | Georgetown | Edgefield (H) |
| Dorchester | Spartanburg | Clarendon (H) |
| Cherokee (H) | Lancaster (H) | Colleton (H) |
| Orangeburg | Laurens (H) | Kershaw (H) |
| Greenwood (H) | Aiken | Oconee (H) |
| Allendale (H) | Hampton (H) | Chester (H) |
| Florence (H) | Calhoun (H) | Fairfield (H) |
| Berkeley | Marion (H) | |



➤ **IN PROGRESS** - approximately **2%** of the total state caseload

- | | | |
|---------------|--------------|------------|
| McCormick (H) | Newberry (H) | Dillon (H) |
|---------------|--------------|------------|

➤ **NEXT** – approximately **11%** of the total state caseload

- | | | |
|---------------|------------------|--------------|
| Abbeville (H) | Bamberg (H) | Barnwell (H) |
| Charleston | Williamsburg (H) | |

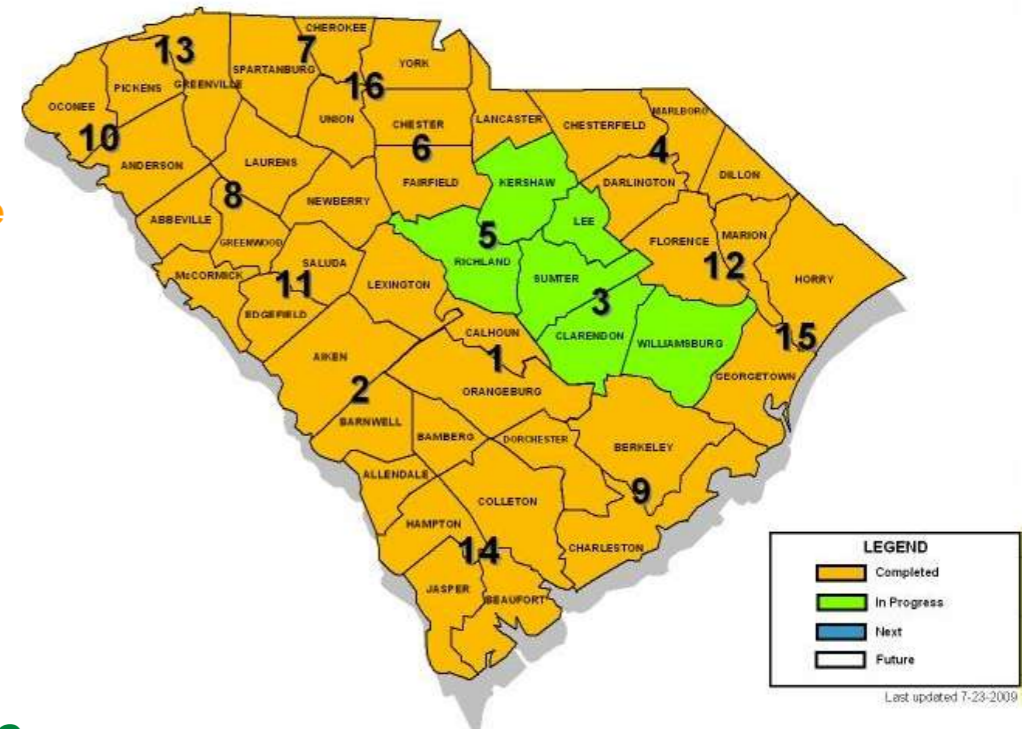
NOTE: (H) indicates county is hosted by SCJD



Status of the Statewide Solicitor Case Management System

➤ **COMPLETED** – approximately **85%** of the total state General Sessions caseload

- ❖ 13th Judicial Circuit - Greenville and Pickens
- ❖ 7th Judicial Circuit - Spartanburg and Cherokee
- ❖ 16th Judicial Circuit - York and Union
- ❖ 9th Judicial Circuit - Charleston and Berkeley
- ❖ 10th Judicial Circuit - Anderson and Oconee
- ❖ 11th Judicial Circuit - Lexington, Edgefield, McCormick, and Saluda
- ❖ 14th Judicial Circuit - Beaufort, Colleton, Jasper, Hampton, and Allendale
- ❖ 15th Judicial Circuit - Horry and Georgetown
- ❖ 8th Judicial Circuit - Abbeville, Greenwood, Laurens, and Newberry
- ❖ 1st Judicial Circuit - Orangeburg, Dorchester, and Calhoun
- ❖ 6th Judicial Circuit - Lancaster, Chester, and Fairfield
- ❖ 2nd Judicial Circuit – Aiken, Bamberg, and Barnwell
- ❖ 4th Judicial Circuit – Chesterfield, Darlington, Dillon, and Marlboro
- ❖ 12th Judicial Circuit – Florence and Marion



➤ **IN PROGRESS** – approximately **15%** of the total state General Sessions caseload

- ❖ 3rd Judicial Circuit – Clarendon, Lee, Sumter, and Williamsburg
- ❖ 5th Judicial Circuit – Kershaw and Richland

*** System is based on principles of differentiated case management

➤ **BY THE SPRING 2010, 100%** of the total state General Sessions caseload will be managed by the Solicitor case management system



Proposed Revisions to the Rules of Criminal Procedure

- Task force was established on October 6, 2008 to study and propose revisions to the South Carolina Rules of Criminal Procedure
- Proposed new rules were published for public comment in 2009
- Public hearing was held on January 5, 2010 on the proposed new rules
- The Court is now conducting a comprehensive review
- Full vetting of the proposed new rules will be conducted in 2010 with submission to the General Assembly planned for the 2011 session
- Task force members:
 - ❖ Howard King, Circuit Court Judge, CHAIRMAN
 - ❖ Clifton Newman, Circuit Court Judge
 - ❖ Greg Hembree, Solicitor (15th Circuit)
 - ❖ Scarlett Wilson, Solicitor (9th Circuit)
 - ❖ Harry Dest, Public Defender (16th Circuit)
 - ❖ Jack Lawson, Public Defender (12th Circuit)
 - ❖ Jim Bannister, Greenville Defense Attorney
 - ❖ Andy Savage, Charleston Defense Attorney
 - ❖ Jack Swerling, Columbia Defense Attorney
 - ❖ Beulah Roberts, Clerk of Court (Clarendon County)
 - ❖ David Hamilton, Clerk of Court (York County)
 - ❖ Kathy Ward, Chief Magistrate (Sumter County)
 - ❖ Rita Simmons, Chief Magistrate (Beaufort County)
 - ❖ John Hayes, Circuit Court Judge (ex officio member)
 - ❖ Joan Assey, SCJD IT Director (ex officio member)
 - ❖ Rosalyn Frierson, Director Court Administration (ex officio member)

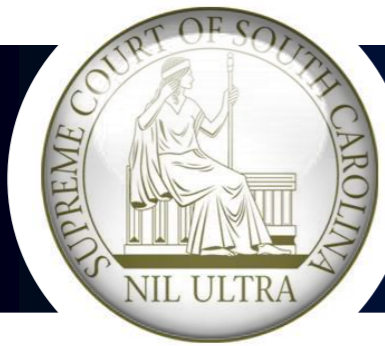




Amendments to Rule 608

- **Rule 608**, SCACR, was established to provide procedural structure for implementing the State Constitution and State Statutes that require **adequate representation by counsel for indigents**
- In 2009, SC Bar Board of Governors filed a petition to the Supreme Court to **abolish Rule 608** attorney appointments
- The Court requested that the **Access to Justice Commission** study and submit **recommendations** regarding Rule 608
- On July 15, 2009, the Commission filed recommended amendments to Rule 608 to create a **more equitable system of court appointments**
- On December 17, 2009, the Court **amended Rule 608** with the **changes effective on July 1, 2010**





Highlights of Amendments to Rule 608

1. **Attorneys will no longer be appointed as Guardians ad Litem**
2. **Modifications made to the Regional List from which attorneys may be selected to assist in handling appointments in other counties**
3. **Reduced number of appointments in an appointment year – from 10 to 7**
4. **Increased the pool of eligible attorneys by raising the age exemption to 65 years of age**
5. **Technology advances – attorneys may attend certain hearings by telephone or videoconference**
6. **Increased reporting requirements to the SC Bar so that the Court may accurately analyze the appointments by county and type of appointment**





Sentencing – South Carolina Crisis

- **South Carolina's current prison population is approximately 24,000 and will increase to approximately 28,000 in 5 years if nothing is changed based upon a simulation model developed by ARS, Inc.**
- **Cost per inmate is approximately \$14,000 - \$16,000 per year**
- **Pursuant to Act 407 of the 2007-2008 Legislative Session, the Sentencing Reform Commission was established with the mission to review:**
 - ❖ **Changes to current sentencing guidelines for all offenses for which a term of imprisonment of more than one year is allowed**
 - ❖ **Changes to the current parole system**
 - ❖ **Alternatives to incarceration**
- **Commission, chaired by Senator Gerald Malloy, is staffed is with active participants from the Senate, House of Representatives, Governor Appointee, and Judiciary**
- **Commission received guidance and expert assistance from the Pew Charitable Trust**
- **On January 6, 2010, the Commission held a public hearing on its final recommendations and will submit the final report to the General Assembly and Supreme Court by February 1, 2010**





Specialized Docket Management

- **Purpose is to improve court efficiencies :**
 - ❖ **Use resources currently available**
 - ❖ **Apply innovative thinking and management**

GENERAL SESSIONS CASE MANAGEMENT

Judge Howard King
Judge Roger Couch
Judge James Williams

CONDEMNATION CASES

Judge Ed Cottingham

MULTI-WEEK DOCKET

Judge Clifton Newman
Judge Michael Baxley

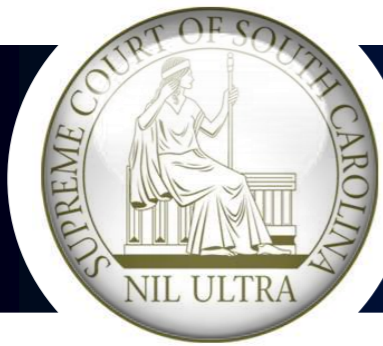
ADR COMMISSION Award Winning

FAST TRACK JURY TRIALS

Pilot Program
Charleston
Dorchester
Berkeley

BUSINESS COURTS

Pilot Program
Charleston
Greenville
Richland



Task Force on State Courts and Elderly

- Aging of the population presents challenges to the courts that can only be met through advanced planning
- In 2000, South Carolina ranked 29th in the nation with 485,333, 12.6% of the population, 65 years of age and older (per U.S. Census Bureau (SC Lt. Governor's Office on Aging, 2005))
- By 2030, the U.S. Census Bureau estimates this segment of the population to increase to 1,134,459, 22% of the population
- A significant number of these individuals live in poverty with reduced mental capacity
- Task Force established on October 6, 2009:
 - ❖ Chair is Honorable Debora Faulkner, Greenville County Probate Judge
 - ❖ Report due to the Supreme Court on July 1, 2010
 - ❖ Purpose is to improve court responses to elder abuse, adult guardianship and conservatorships
- Access to Justice Commission and the Lt. Governor's Office on Aging are performing a needs assessment to identify needs of South Carolina seniors living in poverty
- In 2009, South Carolina was 1 of 11 states awarded an Administration on Aging grant to develop and implement cost effective approaches for integrating legal help lines (telephone) for seniors and self-help resources into the state's legal services delivery networks





Justice Sandra Day O'Connor's OUR COURT Project

- Sandra Day O'Connor spoke to the South Carolina Women Lawyers in September 2009
- The more people know about the role of the judiciary, the more they approve of it
- Website, www.ourcourts.org, launched in February 2009
- Features include:
 - ❖ Online games
 - ❖ Talk to the Justice message board
 - ❖ Civics in action
 - ❖ Educational videos





Commission on the Profession

- **At the invitation of the Supreme Court, American Bar Association (ABA) conducted a review of the South Carolina grievance systems**
- **ABA recommendations were analyzed and reviewed by the Commission**
- **The Court approved substantial amendments to the rules governing the lawyer and judicial grievance systems, effective January 1, 2010 including:**
 - ❖ **Increase lay participation, now every 7 member panel will have 2 lay members**
 - ❖ **Expedited resolution of complaints including the authorization of Disciplinary Counsel to dispose of meritless complaints**
 - ❖ **Complainant is entitled to a review by a hearing panel if the complainant desires reconsideration of a dismissal by Disciplinary Counsel**
 - ❖ **Additional discovery is authorized**
 - ❖ **Definite suspensions may extent to 3 years and indefinite suspensions have been eliminated**
 - ❖ **Membership on the Committee of Character and Fitness has been expanded**





Commission on the Profession

- **Rule 403 Amendments**
 - ❖ Study and consultation conducted with trial court judges and SC Bar members
 - ❖ Rule 403 trial court experiences modified to expedite the process and make trial court experiences more meaningful
- **Bridge The Gap – work continues to provide a “bridge” from law school to the practice of law**
- **Judicial Observation Externship (JOE) Program**
 - ❖ Support Nelson, Mullins, Riley, and Scarborough Center for Professionalism
 - ❖ Rising 2nd and 3rd year law students shadow members of judiciary to receive Rule 403 credit
 - ❖ State and Federal judges at all levels have volunteered to participate
- **SC Bar’s Standards of Professionalism – The Commission reviewed and promoted their circulation**
- **Mentoring**
 - ❖ Experienced lawyer introduces a new admittee to the local bar and legal community
 - ❖ Supreme Court has approved a pilot mentoring program through a court order
- **Master-in-Equity – Commission is assessing feasibility of further incorporating the Masters into the unified judicial system**
- **Summary Court Judges – Commission is identifying ways to enhance courtroom security**



Commission on the Profession

- **Commission on the Profession was formed in 2003**
- **Substantial credit for South Carolina forming the Commission lies with former SC Bar President and legal giant, G. Dewey Oxner, Jr. who:**
 - **Served on the Commission since its inception**
 - **Initial task was the consideration and drafting of revised oaths of office for lawyers and judges**
 - **Addressed many topics to promote professionalism for the benefit of members of the Bar and for the public good**
- **Commission's charge, pursuant to Rule 420, is to "ensure that the practice of law remains a high calling which serves clients and the public."**





Special Thanks

- **SCJD team met DOJ BJA in Washington, DC during this past year regarding the grant projects**
- **While in Washington, DC, the following from the delegation met with our team and assisted in the SCJD efforts with DOJ BJA:**
 - ❖ **Senator Lindsey Graham**
 - Richard Perry, Chief of Staff
 - Andrew King, Deputy Project Director
 -
 - ❖ **Representative James Clyburn**
 - Yebby Watkins, Chief of Staff
 - Margaret Cantrell, Policy Advisor and Counsel
 - Jaime Harrison, Director of Floor Operations and Counsel
 - ❖ **Representative John Spratt**
 - Dawn O'Connell, Chief of Staff





Continue Building for the Future

