

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee October 4, 2022
Rough Draft

LATHROP: OK. Good morning and welcome to the Judiciary Committee. My name is Steve Lathrop. I represent Legislative District 12 and I chair this committee. If you're planning on testifying today, please fill out one of the yellow testifier sheets at the back of the room and hand it to the clerk when you come up to testify. We'll begin today's hearing with an opening statement by the introducer of the resolution followed by public testimony. Please begin testimony by giving us your first and last name and spell them for the record. As a matter of committee policy, we'd like to remind everyone the use of cell phones is not allowed during public hearings. And at this time, we'd ask everyone to look at their phones and make sure they're in the silent mode. I'll start out by having the members identify themselves. Before I do that, though, because of the nature of the hearing being an interim hearing-- I know we have Justice Funke here to talk about a study-- I'm not going to put people on a timer, OK, unless you make me. [LAUGHTER] I, I think it's important. They'll probably be a lot of questions from folks up here, given the interest in problem-solving courts and the topic. And so I'm not going to put people on a timer, but please be thoughtful about how much time you're taking up. I'm, I'm fairly confident there'll be questions today. And with that, we will have the committee introduce themselves, beginning with Senator DeBoer.

DeBOER: Hi, my name is Wendy DeBoer. I represent District 10, which is northwest Omaha. And that's all.

BRANDT: Senator Tom Brandt, District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties.

MORFELD: Adam Morfeld, District 46, northeast Lincoln.

GEIST: Suzanne Geist, District 25, which is the southeast corner of Lincoln and Lancaster County.

LATHROP: Assisting the committee is Laurie Vollertsen, our committee clerk, and Josh Henningsen, one of our two legal counsel. The page today is Malcolm Durfee O'Brien, who is a UNL student. Thanks for being here. And with that, we'll begin our hearing today. I'm just going to introduce it from right here unless you guys have a problem with that.

MORFELD: No objections.

LATHROP: So I put in LR399 for a couple of reasons. When we began the work of the CJI Committee, we were looking into criminal justice reform. I think everybody on the panel that was assembled to work on criminal justice reform, regardless of where you came down on LB920, recognized the importance of problem-solving courts as a solution. And I think-- I don't think there is an exception to a member on this committee that, that sees the importance of problem-solving courts. And the recommendations that came out of the, the committee's work included expanding problem-solving courts. To my knowledge, there was no objection to that. And in fact, historically, the Legislature, and I mean the Appropriations Committee, the Judiciary Committee, and the entire body has embraced the idea of problem-solving courts as a, as a process for people to be involved in who are criminal justice-involved. We have recognized those of us that have done work on problem-solving courts, that we have far more people who would be suitable candidates than we do resources to process and to sort of take them out of the normal criminal justice track where they are tried, convicted, and sent to the Department of Corrections. And so the point today is-- and one of the things that we recognized as we did this work was judicial resources became sort of a pinch point. And for those of you that aren't aware of this, a lot of what happens with the problem-solving courts are district court judges who basically volunteer for the extra duty in addition to carrying significant case loads in their jurisdictions. They volunteer to do problem-solving courts because they see the value that the, the data shows that they're more effective and it's sort of an uplifting thing, I believe, for those district court judges that volunteer. What we've-- where we find ourselves now is a place where we, we are limited in our ability to expand this opportunity to other criminally and justice-- criminal justice-involved individuals because we don't have enough capacity at the judge level. And that was the purpose in putting the hearing in. I know that the judiciary-- am I correct in calling it the judiciary has done a study?

JEFF FUNKE: Judicial branch.

LATHROP: The judicial branch has done a study. Justice Funke is here to talk about that. I'm looking forward to hearing what their conclusions are, what the study shows. I would encourage the committee to ask a lot of questions, particularly those of you that'll be here next year, because this, this really is one of the tools that we need to invest in to address criminal justice reform. I happen to not think it's the only thing, but it's certainly an important piece of it. And with that introduction, we will begin with testimony. It's not a for

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and against, so you're welcome to come up. I think we'll start out with Justice Funke because he's here to talk about the study that was done by the judicial branch. Your Honor, welcome to the Judiciary Committee. It's a pleasure to see you. Good morning. Welcome.

JEFF FUNKE: Good morning. Thank you. For the record, my name is Jeff Funke, J-e-f-f F-u-n-k-e. I'm a member of the Nebraska Supreme Court. I've been on the court for six years, just over six years. Prior to that, I was a trial court judge for nine years, six of it in the county court and three of it in district court. My-- one of my duties on the Supreme Court is to be the liaison with the problem-solving court-- courts throughout the state. So what that means is I'm a member of the problem-solving court committee that meets at least twice a year, if not more. And then I report back to the Supreme Court about the work of the problem-solving courts across the state. So first, let me thank you for being here today to speak with you about this. I also want to thank you for your support of problem-solving courts. It does seem to be kind of a unanimous project that we do that gets support from the judges and probation court staff. And the, the Legislature has been very, very helpful in giving support as we need it so I want to thank you for that. Problem-solving courts have been proven to help individuals restore their lives, bring families back together, make communities safer, reduce prison population, save taxpayer money. And it's very rewarding for our judges. Senator Lathrop said most of our problem-solving courts are done by district court judges throughout the state. It's a voluntary responsibility. What that means is when it started in roughly 1999, Lancaster County, I believe, was the first problem-solving court in the state and it was because of judges' desire to do that. They'd learned about it and wanted to try it in Nebraska. And because of that, it was successful. And since that time, we have had problem-solving courts in places, jurisdictions where judges volunteer to do that. We may approach judges occasionally and say we would like to see a problem call-- problem-solving court in certain areas. Would you be willing to do so? Other times, the judges come to us and say, we want to do this specific type of problem-solving court and when we look at it, determine the financial responsibilities. We look at the needs and see if that's something that can be done. So we've been very fortunate in Nebraska to have this group of judges dedicated to doing what they're doing and serving this group of, of defendants. What we have found is that we have 32 problem-solving courts now across the state; 20 of them, I believe, are drug courts. So there's adult drug court. There's now a DUI court, a young adult court, veteran treatment courts,

reentry courts, mental health courts, family treatment courts, and juvenile drug courts. There are in all 12 judicial districts. There's been a 31 percent increase in problem-solving courts since 2014. So we are increasing our, our participants, the people we serve. In the fiscal year 2022, problem-solving courts served almost 1,100 individuals. We found that recidivism rates are about 19 percent. Supervision costs per participant per year is approximately \$5,387. So as you can see, we are serving a good number of people. We are doing it in an efficient manner. We've had some, some really positive accomplishments over the years. In 2020, we adopted a five-year strategic plan. The AOC, AOC-- Office-- Administrative Office of Courts and Probation, has instituted a, a fidelity review process for all problem-solving courts to ensure compliance with best practice standards. What that means is over the last year, Adam Jorgensen, our problem-solving courts state coordinator, and his staff have gone to every court, problem-solving court in the state. They review their practices and their standards. They physically watch the judge and the staff-- the, the team prepare for court, actually conduct court. They've timed them to see how long a judge meets with individuals per case, and they put together reviews, kind of a scorecard of how things are going. This is our first time of doing this so it obviously came with some concern about what we're going to do with it and how we're going to use it. But really what this was was an opportunity to ensure that we had these best practice standards that have been adopted from national standards in Nebraska. And so we've asked our courts to follow them. We have found that if you do those standards, you have more success. Keys to that are having judges as part of the team, having prosecutors and defense counsel at every meeting, at every court hearing, having a, a good coordinator and, and supervision officer from probation, having law enforcement as part of the team. So those are things that the review group have looked at. And so now we're starting to begin to roll out the results of those and we've been very pleasantly surprised that courts do really what the standards ask of them. So we're excited about that. We have implemented training requirements for all members of the problem-solving courts. So what that means is problem-solving court team members now have a requirement of eight hours per year to educate on problem-solving court work. We just had a summit, behavioral health summit, last week in Sarpy County, La Vista. Nine-hundred fifty people attended as behavioral health and problem-solving court, kind of a dual track. So we're excited about making sure that our team members are educated on the most up-to-date processes for problem-solving courts. We've adopted best practice standards for mental health

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courts. There really weren't any nationally. And our problem-solving court committee put together a team and spent a good part of about 18 months reviewing literature and studies to determine what standards there should be for mental health courts. And they've put together, and we've now adopted-- Supreme Court adopted a set of standards. We have best practice standards for family dependency courts. Judge Heideman, Juvenile Court from Lancaster County, was on the national team to put those together. Nebraska's now adopted those. We are-- we just recently increased the capacity for the veterans treatment court and the DUI court in Lancaster County. We found that the DUI court, which is a pilot project, started out as a one-year project. We now extended it for two more years so we can collect data to determine how effective that court is. It's growing, and we're at about 25 individuals now on that court. We are collecting the data from that so that we know at the end of this pilot project that's something that is-- we should do across the state. We believe that there will be a positive effect on, on these participants, and we do believe it's going to be cost-effective. And we do believe we're going to come back and suggest that we do this in other locations and jurisdictions throughout the state. We are collecting data now to ensure that Lanca-- our, our Sarpy County mental health court, which is also a pilot project, is effective. Mental health courts are kind of their own unique beast, so to speak, with problem-solving courts. If you ask some of the experts nationally, they can-- they'll tell you you can do more harm in, in mental health courts than you can do in any other court that we do. If you don't address the mental health issues appropriately and consistently, you can do more harm to the participants. So we are watching that court very closely to make sure that we are doing the things the standards say we should do and we're having the results that we want. And we anticipate that that will be a program that is effective as well, cost-efficient. And again, we'll be asking for additional resources to expand that. We are also collecting data necessary to ensure that problem-solving courts are addressing racial and ethnic disparities. That's something that in 2020 was part of our strategic plan. We didn't believe we had a problem, but it's-- you're not sure until you look. So we're collecting data to ensure that we are addressing those things, those issues as well. We have, as Senator Lathrop discussed, as part of the strategic plan, we, we talked about sustainability of problem-solving courts. And the concern we have is that we have volunteer judges, as I mentioned, doing this. District judges, I've, I've said many times, I believe they have the most difficult job in the judiciary. They carry a heavy caseload. The caseload is very complex, lots of trials, lots of lengthy trials, very

experienced attorneys that deal with specific issues in district court. So district court judges already have a very challenging job. And then on top of that, we ask them to dedicate perhaps a day, half a day, a week to do problem-solving courts. And when we have a judge in a certain district that perhaps doesn't feel the urge or desire to do a problem-solving court, we may not have a problem-solving court in that jurisdiction. That's happened and that's a concern. Fortunately, one jurisdiction, the judge is now retired and we have a new judge that has been appointed, willing to do problem-solving courts in a, in a district that really needs it. So we're excited that as part of our budget process, we're going to be asking for some money to open that, that drug court, get that started. So we have volunteer judges that are overworked. And so we, we know that there is a concern in that respect. We also know that as justice reform, we cannot keep, as judges, placing people in, in prisons. We know there has to be better ways to do that. We are convinced, as I believe you are, that problem-solving courts are an effective way to do that. They bring people that maybe are not fully ready to change, they give them an opportunity to be intensely supervised. They give them the support and the skills to be successful. They give them a judge that will look them in the eye and say, you can do this. We think positive of you. We think you can be successful. We bring families together to assist them. So we, we know that this is something that can be an effective way to address criminal justice reform issues in Nebraska. The judicial needs study was done by our, our research department. Hazel Delgado is present today. She's the director of that department and, and she's reviewed, and I think you all have a copy of it, all the felonies that were filed in the last five years. Now those felonies, some may or may not be eligible for drug court based on individual jurisdictional decisions. But there's a large number of felonies that don't go into problem-solving courts. I think the overall average was 4.2 percent of all felonies over the last five years that got into problem-solving courts. That's a low number. When I say we served 1,100 people in 2022, that may be a little bit higher number than a 4.2 percent of the 11,000 felonies that were filed. But when you look at the issues that go into determining whether someone gets into drug court or not, first of all, the research says it's important to get-- good morning, Senator.

PANSING BROOKS: Good morning.

JEFF FUNKE: Nice to see you.

PANSING BROOKS: Nice to see you.

JEFF FUNKE: The research says that problem-solving courts are most effective if they reach the individual within about 30 days of their arrest. In Nebraska, we're higher than that, 60 to 90 days. So that's a concern. If somebody is incarcerated and they see a way out of their predicament or recently arrested, the problem-solving courts could offer an opportunity for someone when they're still maybe reeling from their arrest, the trauma of, of the incarceration. Individuals may be more willing immediately to consider problem-solving courts, knowing that they could get some help, knowing that they may be able to avoid criminal charges or criminal convictions or, or incarceration, additional incarceration. So that's an important factor. We looked at it and suggested last year expeditors and to be put into the jails in at least four or five judicial districts across the state. What we think these expeditors would do is they would come in within a day of an arrest, get an opportunity to do a quick assessment of an individual to see if their charges are suitable for a problem-solving court, look at their chemical dependency issues, substance abuse issues, and determine if they are eligible for problem-solving courts. And then prepare a report and submit that to the county court judge, to the prosecutor, and to defense counsel. Lots of times when people go to jail, they don't know there's a problem-solving court option. They're not aware of it. And they don't know about it until they meet with their defense counsel, which could be weeks down the road, and once appointed, they meet with them. They don't know about it so they don't take advantage of it. So if we have an expeditor in the jails, they can immediately meet with them and talk about that option. So another problem is kind of uniform admission standards in the problem-solving courts. We have eligibility best practice things that we consider but those are not-- they're more guidelines than rules, so to speak, and each individual district, county have their own considerations. So perhaps some uniform admission requirements would be a possibility so that everybody knows that if you scored this level, which is a high, high, high-need, high-risk level and your offense qualifies, you would become potentially eligible for problem-solving courts early on versus 60 to 90 days down the road. And then prosecutors, defense counsel, and the court can consider and make that final determination. So I think that's one possibility. If we were to do that, we'd need-- we suggested about five expeditors for the first year, maybe five more the next year. We could start in Douglas and Lancaster and Sarpy and the 10th Judicial District, 9th Judicial District. So those are areas that we think it's important to consider. But with this needs assessment, if we're only gathering or, or representing-- serving 4.2 percent of the felonies that have been

filed in district court, then I think there's obviously some huge room for improvement. Phase two of our judicial needs study is beginning. Phase two is kind of what we consider a supply of resource consideration. We're going to be looking at closely the judges and what we need for judges and, and probation staff to fill additional courts. We're going to be reaching out to prosecutors, defense attorneys, county officials, law enforcement, treatment providers to see what their capacity is, because this is one piece of the puzzle. If we have enough judges to do so, we still have to have enough prosecutors, we still have to have enough defense counsel, we still have to have enough mental health providers. And the behavioral health providers are a big issue across the state and we know that. We're addressing some of that through telehealth and things of that nature, but that's still a concern and we need to continue to look at that issue as well. But our possible expansion, and I think we shared some of this with you last year, obviously, we wanted to expand-- or excuse me, establish the adult drug court in Platte County, Columbus. We want to establish a veterans treatment court in Sarpy County. We have judges in both of those jurisdictions ready to go, really. The veterans treatment court judge in Sarpy County has taken the training already, is geared up, waiting for the go-ahead from us, which means getting the go-ahead from you all financially. The-- we want to establish a young adult court in Sarpy County. We've also found 18-to-25-year-old individuals are, are the most incarcerated and the most crime-committing individuals. And we believe we can address them in a different and better way, as opposed to just merely incarceration. We have a young adult court in Douglas County that's been in existence since 2004 or 2006, really ahead of its time. We were part of a conference that talked about these emerging adults and some of the states were very proud of the fact that they had a young adult court for three or four years, and we've been doing it for 15 or more. So we think that there's some real benefit to addressing those young adults before they get saddled with or laden with a felony. Because once they get laden with a felony, life is even more difficult for them. Job wise, it's a challenge. We can associate with those types of things. So it's, it's important that we look at that and we've had good success in, in Douglas County. We have standards that we follow there. We think that we can roll that out in other jurisdictions as well. So those are potential growth, immediate growth. We also would like to establish reentry courts in the 3rd, 4th, and 6th Judicial Districts. Those reentry courts are really the people coming out of prison that want to get a little more help. It's a complicated situation, I think, with reentry courts a little bit. With a lot of these courts, we have

a pretty good carrot. We can have them plead guilty to a felony, have them complete the court and dismiss the felony, but reentry court is not quite as easy because they've already been convicted, they've already gone to prison. But there may be some possibilities of lengthening sentences, getting them into reentry courts before they would normally get out, get them assistance, and get them back on track. So we think reentry courts are, are a real positive. We have one in Sarpy County that's doing good things right now. So obviously we, we believe there's a huge need. We have identified where those needs are. And now the question, I think what we're here for today is really how do we address at least the judicial part? The problem-solving court committee, as I mentioned, identified this as part of their strategic plan in 2020 and had concerns about it. This last year, that committee put together a work group made up mostly of district judges and myself and talked about some options of what would work. And as you recall, there was discussion last year about magistrate judges or referees or judicial hearing officers, however the term you like to call them, coming in and assisting district judges by overseeing some of the work of problem-solving courts. The district judges were concerned, and rightfully so, that they were being-- the key element in having a judge in front of the individual in court would "deminimize" or minimize the effect of the problem-solving courts. So this group got together and talked about some options. That group is not fully-- the, the work has been done by the work group. It's going to be submitted to problem-solving court committee later this month for their consideration, ultimately submitted to the Supreme Court for the Supreme Court's consideration, and then coming back to you all for proposed legislation. The things that we found from that work group include that there was a strong preference from that work group that would utilize existing judges. As I mentioned, I have some concern about that because of their workload already and their volunteerism, which just means we're kind of at the whim of district judges who would choose not to do this. There-- the work group suggested that we, we provide enhancements to district judges. That may assist them in their, in their workload to allow them to dedicate more time to problem-solving courts and perhaps encourage some district judges who are not inclined to do so because of their concerns about workload to do the, to do the, the different courts. Enhancements would be things like magistrates to assist them in their dockets. So district courts have lots of different cases that they handle. Part of that work is what we do in civil cases, civil lawsuits. The civil trial attorneys like to try their cases-- Senator Lathrop may know this, try their cases in what we call motion

practice. So before they get to trial, they like to get the cases resolved the best they can. They do that by discovery. There's lots of discussions about what discovery should be, and there's arguments about that in hearings. There's what we call motions for summary judgments where they come in and try to resolve the case based on the pleadings and the pretrial discovery. So that work takes a lot of time. So perhaps magistrates could assist in, in those types of situations. Magistrates could assist in criminal cases with pretrial motions, such as a motion to suppress, motion in limine, things of that nature. You could see a magistrate assist in perhaps temporary hearings and, and divorce modification cases, and then the trial judge would be responsible then for trying the case as opposed to a magistrate or referee. So that's one possibility that, that we have considered. Another possibility is to appoint specialized problem-solving court judges. What we think-- if we were to double the size of our problem-solving courts, if we're at 4.2 percent and we got 10 percent, we think that would be really, really good. It may take six to eight additional judges across the state to do that. The concern we have with just six to eight new judges is you may not need a full judge in a certain district. So let's say, for example, the 5th District. We find we doubled the problem-solving courts in the 5th District, that may not equate to a full judge. So now we have half a judge in the 5th District and we need a quarter of a judge in the 6th District. Well, because of judges being bound to their districts, it would be more difficult for them to go back and forth. So we see potentially a, a possible resolution would be is problem-solving, problem-solving court judges that would do just problem-solving courts. That's all they do. They wouldn't be limited by judicial district. They'd be statewide, and they would travel a circuit, so to speak, and they would do majority of the problem-solving courts in the, in the districts. A downfall of that is, if we do that, we're going to pull away from the current judges, the work that they're doing. As we've talked about, it's very rewarding. If you've not been to a graduation for problem-solving courts, you're missing how rewarding it can be. People change their lives and they are extremely appreciative of the team that helped them do it and the judge most particularly. And judges do a lot of challenging things in their job. And when they get an opportunity to see positives, they enjoy that. So I'm reluctant to say that we are going to take those responsibilities away from our, our judges, our current judges, these new judges, maybe to kind of fill in or stopgap or take on additional growth, but not replace the current judges. So those are things we think about. Under our workload study, it's about 683 minutes per case per year that a

judge spends at problem-solving courts. A typical felony, I think, is about 149 minutes per case per year. So that gives you some idea of the level of commitment and responsibility and time and effort put in by our judges to these participants. You can understand then why there is a two-way street of appreciation and respect and they're-- being rewarding. They put a significant amount of time to do so. So we think that that is a possibility of adding additional judges in that respect. We still not have-- not abandoned the idea of magistrate judges assisting problem-solving court judges. That's still a possibility. You may hear from some of our district judges that they don't agree with that. And, and I understand and appreciate it. But just as a doctor has a PA to assist on some of the smaller things and comes in and deals with the bigger things, I think magistrates could assist problem-solving court in some of the smaller efforts, time-consuming things and have the judge come in and, and do the, the court proceedings. We in the 8th District used county judges because we didn't have district judges available to do problem-solving courts. And, and district court, they have a different set of jurisdictional abilities and authority than county judges do. So county judges couldn't do everything that a district judge does. But the county judges still come in and do the problem-solving courts. They do a very good job. We don't see any deficiencies, any reduction in recidivism rates, anything of that nature. We had a, as I mentioned, a summit last week, behavioral health summit with a national expert. And a question was asked of that expert, does it matter if it's a judge or a hearing officer? And the, the expert said there was no national research to say one way or the other. But based on his experience and anecdotal information he relied upon, he believed that the person in authority in a row sitting on a bench treating somebody with dignity and respect was really what mattered. So I don't want to throw out the baby with the bathwater and say that that magistrate issue is completely off the table. We have judges that care about problem-solving courts. We have judges that want to do problem-solving courts. They want to see expansion of problem-solving court. And we're going to continue to part-- partner with them in the next few months to try to come to a conclusion or a recommendation for you all so that you can make informed consideration of what legislation should be considered and hopefully adopted. And you may hear from Judge Otte today. He's present as well. Judge Otte and I spent a lot of time talking about these issues and I respect all of our district judges. Me being one for, for some time, I, I know what their workload is like. And so I appreciate their insight and I enjoyed working with them on this issue and will continue to do so. So I envision over the

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next couple of months, we will refine what our ask is going to be and hopefully will be able to give you some, some answers. That's all I have for my comments. I've gone beyond my light system here, but I would be happy to answer questions for you and give you any other thoughts that I can share.

LATHROP: I will just make this comment that the next time I'm in front of the Supreme Court, perhaps I can get a little [LAUGHTER], a little more than ten minutes or you'll understand if I run over by a couple of sentences.

JEFF FUNKE: I, I-- I'll be happy to talk to the chief.

LATHROP: All right. Thanks. I very much appreciate your being here today and your presentation. Did you have a question? Senator Geist.

GEIST: I do. Thank you for all that information. And I have several questions and they're kind of all over the board. Do you know how a problem-solving court's recidivism rate compares to prison recidivism in Nebraska?

JEFF FUNKE: I don't have that exact number. I can give you some idea about probation. I apologize, I didn't bring my glasses. So here we go. Adult probation has a recidivism rate of about, statewide, 18 percent.

GEIST: OK.

JEFF FUNKE: I don't have the, the prison recidivism rate before me. The thing you have to remember, probation versus problem-solving court is probation deals with all ranges: low risk, low need, high risk, high need.

GEIST: Right, and this is high risk, high need?

JEFF FUNKE: Problem-solving courts are high risk, high need.

GEIST: OK.

JEFF FUNKE: Exactly kind of like our pretrial release or our post-release supervision, people who are high risk, high need. We're supervising people that we never anticipated we'd be supervising in probation. So the numbers are a little bit, a little bit skewed in that respect.

GEIST: Is there any thought of, of changing the, the level of felony that's, that can enter problem-solving courts, for instance those who are violent?

JEFF FUNKE: That is-- I-- we don't have a-- the best practice standards don't have a limitation right now on violent felonies.

GEIST: OK.

JEFF FUNKE: Really, it's, it's a jurisdiction-by-jurisdiction determination.

GEIST: OK.

JEFF FUNKE: So we, we think there's some potential for-- that study shows you lots of different cases. There's certain ones that just will go out. You know, obviously, murder, manslaughter, rape, kidnapping, those types of cases we would probably never see in, in problem-solving courts. But there are cases where it potentially could be an assault case, maybe not a domestic assault, but assault case, additional property crimes, things of that nature. So there are potential for expansion of those issues. And if we have uniform eligibility requirements across the state as opposed to jurisdiction by jurisdiction, I think you would have a, a better capture of those individuals in the problem-solving courts.

GEIST: That's just good for me-- us to know going forward, kind of what you all are thinking. And I just have two more. I'll make it quick.

JEFF FUNKE: Sure.

GEIST: You talked about the ex-- expediter, which I think is a great idea. What are-- what does that-- what are-- is that person an attorney? Is it a, a former judge? What's the requirements for that?

JEFF FUNKE: We think it would be a probation officer--

GEIST: OK.

JEFF FUNKE: --somebody with the ability to interview and assess these potential participants, perhaps even a clinician, somebody that has some specialized training. We have some probation officers that have that specialized training. So it would be potentially clinicians

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trained as probation officers to come in and do that because really you're doing an assessment of their, their substance abuse issues.

GEIST: OK. And then one about-- one more question is about the magistrate or the, the enhancement. Is what-- you referred to the specialist that said it doesn't matter as long as they're someone who treats them with dignity and respect. Does it matter that that person be somewhat consistent, that it be the same person, or is that taken into consideration?

JEFF FUNKE: I, I don't know the answer to that. I can tell you that the research shows that judges that have two years of experience or more in problem-solving courts are more efficient or more effective than someone that has less time. I think that's because of that issue. If you are following the standards, you're trained in the standards, and you're consistent with the individuals-- I mean, they're going to-- in a problem-solving court, you're going to see one person meeting with the judge in a room full of other people watching, waiting for their turn. They're going to recognize if you're not consistent. They're going to recognize if you don't follow the standards. They may not know exactly what the standards are, but they have a pretty good feel for what, what the process is all about. So consistency is huge, training is, is huge as well. So those are things that we-- if, if we were to have a magistrate system, we would train them like we would train district judges as far as the education, knowledge of the standards, those types of things.

GEIST: Does-- but does that need to be the same person--

JEFF FUNKE: In that?

GEIST: --or alter-- or one of two or is--

JEFF FUNKE: Yeah, I would think so, yes. I think you'd want it to be. So like, for example, if you had a, a roaming district court judge that did multiple districts, that would be the same judge potentially doing all of those courts in that, that territory. I think that's important to have that consistency.

GEIST: OK. Thank you. That's all.

LATHROP: Senator Morfeld.

MORFELD: Thank you for coming in today. I think I know the answer to this question, but I don't want to assume. And you listed out several

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different hurdles and I think I got all of them in terms of expansion of problem-solving courts. But in your view, what do you think are the one or two biggest hurdles that the state is uniquely positioned to up the court system?

JEFF FUNKE: I think the, the treatment providers are a huge hurdle. We've been trying to prop up those. I know there's been an increase in, in the rates that they've been paid, decisions made by, by the Legislature to increase that, so I think that's helped. But we need more treatment providers. If we increase, I think we can resolve the judicial resource issue. I think we can get that fixed. I don't know what impact--

MORFELD: By increasing the judges or--

JEFF FUNKE: Increasing the judges or magistrates--

MORFELD: --magistrates, OK.

JEFF FUNKE: --in some form to either do problem-solving courts or assist judges in their pretrial-- or their motion practice, things of that nature. I think there's a way we can get that resolved. I don't know the answer of what it's going to do to the counties. I mean, we, we ask a lot of the counties. They help support these courts financially. Prosecutors and defense counsel have a very busy docket already and then we say we're going to take a day of your time and have you go do a problem-solving court, so I don't know the answer to that. That's why the second stage of this, of this needs assessment is so important, so that we can reach out to them and find out what their capacity is. Because if we solve this judicial resource problem and we don't have any prosecutors, defense counsel show up, it, it won't work. We have to have that team, that court team as well.

MORFELD: OK. Thank you.

LATHROP: Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for being here, Justice Funke, and for all you do to safeguard our courts and keeping the integrity of our legal system across the state. Very grateful. I've been able to work with you a couple of times, so I know how wonderful you are. So my questions revolve around the fact that you were talking about six to eight new judges, but you don't have necessarily a full-time judge for each of the districts. So did redistricting the judicial districts at all come up or is that just out of the--

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JEFF FUNKE: That's, that's a pretty big fish to fry. We haven't, we haven't gotten to that, that part yet.

PANSING BROOKS: OK.

JEFF FUNKE: I would be reluctant to have that be the--

PANSING BROOKS: To begin that kind of process. OK, so--

JEFF FUNKE: This would be a quick-- this would be a quicker fix if we did some of these.

PANSING BROOKS: OK. And, and what about video conferencing? Has there been discussion about that, about trying to merge that in more? I know that states, some states like Illinois are doing that more. And it seems like with the specialty courts, it might be highly appropriate.

JEFF FUNKE: Yeah, we are doing that in certain districts right now, video conferencing, partly was because of the pandemic. We found that it worked and so we continued to do so. We've had judges offer to assist other judges in, in their different districts to appear by video conference when the judge isn't available. I know that's happening as well. So we've asked our district-- our trial courts across the state to put together what we call remote hearing rules. And so they have been in the process of doing that so that there is some consistency in each judicial district on what the rules look like for remote hearings. Those have all been done and they're going through the vetting process right now. So that is something that is very much in the forefront and would help assist, especially some of the rural areas, more rural areas to have that resource available.

PANSING BROOKS: Are there any legislative fixes that need to happen to make that more seamless?

JEFF FUNKE: Well, I think there was some discussion last year about some, some remote hearing legislation. I'm not as fully informed on that issue. That was not one of my projects that I worked on. But it's important, I think, for the judges to have some consideration on remote hearings. Judges have a pretty good feel on what the cases are, what they need, how much time and so I think having judges have a say in that is important.

PANSING BROOKS: Thank you, Justice.

LATHROP: Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Justice Funke, for appearing today. If I did the math right, it costs about \$5,000 to do what you do. I'm pretty sure with inflation this year, it costs us about \$50,000 to incarcerate an individual at the Penitentiary. And if I did my math correctly, that's, like, a 1,000 rate of return. So we-- there should be, you know, a lot of money saved to justify what we need to justify here. So you listed a wide variety of problems. If, if you rank these, which is-- of all these problems, which is the most difficult? Is it the DWIs? Is it the drugs? Is it the veterans?

JEFF FUNKE: The mental health court is probably the most difficult, I believe, just because there's so many different challenges associated with it. Now, we all know that mental health treatment in Nebraska is lagging behind what it needs really across the country. And as a county judge, I spent lots of-- every morning, I went in at 8:00 a.m. to Sarpy County Jail and did arraignments for all the people that were arrested the night before and the number of mental health issues in that jail were staggering. They're doing a jail expansion and they're doing a wing for mental health patients or inmates with mental health issues. So they're addressing that and that's why they were so excited about having a mental health court in Sarpy County. They have bought in as a county with a theory that if they can address mental health, they can resolve some of their, their bigger problems on the criminal justice side of it. So I think the mental health is the biggest thing. We will be able to do more mental health courts as we go along. But again, we don't want to just start doing mental health courts because that's what everybody else is doing. We want to do it because we know it works. We want to do it because we know the way we're doing it works to make sure we have people trained. So the mental health court is a huge piece of that. That's not just even there's some things we can do mental health wise before people get arrested. It's a 24/7 crisis center, so to speak, so people can get in and get kind of adjusted medically, medication wise. So there's some things we can do there. So I think that's the hardest one. The DUI court right now, the numbers are growing and these are Class-- or third offense or higher DUIs. They don't get their convictions wiped out or dismissed, they end up-- if they complete the program, they plead guilty to a first offense, which is used for enhancement down the road. But I think that's a, that's a court that can have some really good success. I mean, those individuals have an addiction problem more so than a criminogenic problem. And if we can address those addictions, that's, that's a big deal. And the drug courts are just-- they are just proven effective. And so I think there's-- I think it's kind of a low-hanging

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fruit. We have 20 of them across the state now. We can expand them greatly and reach more people.

BRANDT: OK. And then one other question. I was pleased to hear you talk about racial and ethnic problems. So 12 percent of my district is Hispanic. So what do you do in a situation like that?

JEFF FUNKE: That is-- racial/ethnic issues are not anything to do with eligibility. So we don't take that in consideration as far as excluding somebody from the program. But we need to look to see if there are participants-- and you see the numbers of kind of what, what the percentages are-- we need to look to see if people charged with a crime, what their racial/ethnic backgrounds are and are we capturing and getting those people into problem-solving courts? So we don't really know yet fully that issue, that's why we put it on the strategic plan. That's why we created a process to gather that information because we need to make sure we're, we're including all people who need to be in problem-solving courts, not just a certain racial/ethnic group.

BRANDT: All right. Thank you.

LATHROP: Senator DeBoer.

DeBOER: Thank you. Thank you, Justice Funke, for being here and being patient with all of our questions.

JEFF FUNKE: Sorry I took so long.

DeBOER: No, no, no. It was perfect. You mentioned that you thought maybe we could start with five expeditors, that that might be the right number. And then you said, and then maybe five more the next year, that sort of thing. What is the number that gets us to enough for the number of problem-solving courts we currently have? Just back of the envelope.

JEFF FUNKE: I don't think it's going to be too much more than that.

DeBOER: Ten probably?

JEFF FUNKE: Probably, probably ten more, I would think--

DeBOER: OK.

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JEFF FUNKE: --across the state. Now really, this is a-- we've never done it in Nebraska. Most states have not done it. This is an opportunity. We now know that 11,000 felonies were filed and 4.2 percent get into problem-solving court, so we can find out why there's not a higher percentage. We can come back in a year and answer some of these other questions and maybe direct legislation that would assist in getting more people in.

DeBOER: Thank you. You mentioned the reentry court and you talked about, you know, the problem is inducing someone to participate in the program, to complete the program, to want to complete the program. You said, well, maybe they could be let go a little bit early or something like that to do that. And I wonder if you could kind of talk about the difference between that and parole, right? So--

JEFF FUNKE: I'm not able to speak about parole. I'm not sure exactly-- I understand the process. I understand what they have to do, what their statutory charges are, but they don't have a judge involved in parole ensuring that participants feel empowered to make change. I think that's why the judge is so important in what problem-solving courts do. That's a crucial piece of that. So parole would, would give services. They would have supervision officers, so to speak. But they don't, I don't believe they have-- coming back to the Parole Board on a regular basis and checking on your status and see how you are doing. With reentry courts, you do that. They have to come back to a judge and the judge is doing it correctly. And I think our judges do, they treat them with dignity and respect. They're positive. They're encouraging. We give incentives for good behavior. We try not to do sanctions for minuscule issues. We try to save those for bigger issues. But we're-- this is really an effort of building somebody up and preparing them and giving them the skills to be successful. I think that may be the big difference between parole and reentry is we have the judge as part of that process.

DeBOER: And the judge itself, you think-- I mean, it sounds like there are a number of things that would distinguish parole and, and reentry court. But you think the, the most important would be having that one judge as opposed to a parole officer? The one judge who would--

JEFF FUNKE: We have parole officers and we have probation officers with both supervision, really in the supervision role. And people on parole may want to satisfy their parole officer, but I think they may be more inclined to want to satisfy a judge. They may be more

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inclined. Plus, if they know there's potentially some type of sanction afterwards, that's always a, a consideration as well.

DeBOER: How would, how would that process work with the reentry court? Would that be something where they would have to have met their parole eligibility date before they would be possible for that? Is it something that could be before the parole eligibility? I'm just-- I'm sorry, I'm trying to flesh out some of this.

JEFF FUNKE: Well, and that's a, that's a good question that I don't think we've fully vetted yet either and we haven't brought any proposals to you all. I haven't heard the criminal justice reform people bring any specific issue, but I would think that if you have a, a lengthy sentence and you have somebody that can get out of jail, out of prison, and a reentry court, knowing that if they don't do well on reentry court they could go back to prison. They have to be with the judge on a weekly or every other week basis. They have intense supervision. They get tested, drug tested, two, three times a week. They're getting the skills for employment. And housing, housing is a big issue. I think that's going to be a key part of that. If you can do those things in a reentry court, I think more people will want to do that because now there's an incentive. There's a carrot and you still have the potential sanction of "reincarceration." So potentially there could be some revision of the criminal justice system to take that into consideration.

DeBOER: Yeah, because there would have to be some sort of legal change in order for folks to get out before the parole eligibility date or even potentially get out before that date.

JEFF FUNKE: Correct. Correct. I see that as a statutory change.

DeBOER: Yeah. OK. That's very helpful. It's a fascinating idea. Very interesting to look into it more. Another topic you talked about were the uniform admission standards. And you all mentioned that you're working on a study to look at those potentially or you're, you're still including that within your inquiry.

JEFF FUNKE: That's part of our strategic plan is to look at that issue as well.

DeBOER: Do you, do you have a sense of ballpark, like, how long you think that will take? Is that like a five-year plan?

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JEFF FUNKE: Well, I, I don't think so. I think-- it's not queued up yet, but it'll probably be 12 to 18 months.

DeBOER: OK. Thank you. That's helpful.

JEFF FUNKE: But I think the expeditors is a big piece of that. We don't know what information we don't know.

DeBOER: Right.

JEFF FUNKE: And so the expeditors give us a chance to gather that information to compare district to district, county to county to see what the issues are.

DeBOER: Is that now decided-- are sort of the admission standards now decided judge by judge or jurisdiction by jurisdiction?

JEFF FUNKE: It's-- I think it's team by team. I think it's the judges may have some say in it, but I think the prosecutors, defense counsel have a big say in it and, obviously, the participant has a huge say in it. Participation is about something they have to do.

DeBOER: Sure, yeah.

JEFF FUNKE: And so I think they have a huge say in whether they participate or not. And so if we can gather that information, we find out where the bottlenecks are. We find out why 4.2 percent of felonies are not in-- or only 4.2 percent are in the problem-solving courts. We can double that. Senator Brandt's numbers, I mean, it's-- that's a significant cost and we know it works. And if we know it works, it saves money, it's better for our communities, it's better for participants, I think we all have responsibility to try to make that, make that happen.

DeBOER: Do you have a sense or-- I mean, this is something obviously the expeditor program would, would help you with more. But do you have a sense generally or is there anecdotal discussion of why folks generally say no to the program?

JEFF FUNKE: I don't, I don't know that anecdotally. I think lots of times, it's-- when you're incarcerated initially, I'll use the term pretty raw at that point. You've just been arrested. You committed-- most likely committed some type of offense. There's some trauma involved. You're probably under the influence when it happened. And, and you start to, you know, really appreciate the direction your life

is heading, get them quickly when that is still deep in, you know, in their system and they feel it and, and they want to make a change. Then, then we're better off. If you get to 60 and 90 days out, now they posted bond. Now they've gone back to their normal life, back with friends that they've committed offenses with. Now it's change doesn't seem so important. And so if you can get them early on when change is, is really something that they're considering, when you have an opportunity, then I think they're more inclined to follow.

DeBOER: And-- sorry, I have so many questions. One kind of last area. It sounded like when-- and as, and as I recall too, the juvenile problem-solving courts you have are typically drug focused, is that correct?

JEFF FUNKE: Yes, family and dependency treatment, those types of, those types of cases.

DeBOER: Is there opportunities for expanding those-- doing something like the young adults court with juveniles, or are there opportunities there?

JEFF FUNKE: There is. And I should have caveated this, this study that we distributed to you is all adults. It doesn't deal with the juvenile courts at all. But, yeah, I think there is. Lancaster County Judge Heideman, Judge White are doing some really good work. Judges in Douglas County are, are working some of these areas as well. So I think there's some expansion of that as well. But the numbers we talked about today were purely adult driven. Again, we're doing huge juvenile justice review by the Robert F. Kennedy Foundation and, and getting an idea of how effective our juvenile courts are and are we following what the national experts say we should be doing in juvenile courts and actually it will be coming out here in the next probably month or so. And what that-- I think the important thing to that is what I've, I've talked about in those meetings and preached to is if we can address some of these problems around juvenile court, we may not get to the 18-to-25-year-olds, we definitely won't get to the, to the older inmates, criminals, so if we can, we can fix the juvenile court system and address those, those issues early, then we're ahead of the curve for stopping some of the, the flow of those, those cases into adult court.

DeBOER: It seems to me that some of what the initial idea behind juvenile court was to sort of use some of these models that underlie the problem-solving court in many ways.

JEFF FUNKE: They're already somewhat of a problem-solving court.

DeBOER: Yeah.

JEFF FUNKE: They really are. I mean, if, if you look at it, juvenile court is, you know, you, you have pretty solid supervision, pretty intense supervision. You're going back for reviews repeatedly in front of the judge and the judge is weighing in on what that dispositional plan is. It's ongoing, it's changing. It's addressing current needs at the time. So really juvenile court, and especially in separate juvenile courts, are kind of problem-solving court models already.

DeBOER: Yeah.

JEFF FUNKE: But they're becoming even more specific. Now there's a DV track that's being worked on so that juveniles involved with domestic violence inside their homes are, are going to get some special education training, treatment opportunities. So you're absolutely correct, that's what juvenile court is really kind of built on.

DeBOER: That's great. I think that's all the questions. Thank you very much.

LATHROP: I got a couple just by way of-- and maybe by way of summary, but when you say that 4.2 percent of felonies are going into problem-solving courts, it sounds from your testimony that you think that number could be or, or perhaps should be closer to 10 percent?

JEFF FUNKE: Yes.

LATHROP: And when we talk about expeditors, the, the idea behind an expeditor is somebody that's going to go into jail after somebody has been picked up. They did something stupid last night. They're feeling remorseful. They're contemplating sitting in jail and someone's offering them an opportunity. And that would increase the demand for problem-solving courts and we would, we would be able to get it up to 10 percent. In other words, we could get expeditors into the jails and find more people to do this. The problem and what we're here to talk about today is actually a limitation on the resources available to allow for that expansion, right?

JEFF FUNKE: Right.

LATHROP: And if I understand your testimony, the group has considered a number of options and they include, for example, we have some county

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court judges that are doing sort of the day-to-day work and having the district court judge step in when somebody needs to be sentenced. Is that right?

JEFF FUNKE: Yes.

LATHROP: And that, I think is happening-- is it in Holt and Broken Bow?

JEFF FUNKE: Yes, the 8th District. Judge Schendt and Judge Burdick are the county judges doing it.

LATHROP: And in terms of their effectiveness and recidivi-- recidivism rates, their numbers look like the district court judges who handle it all by themselves.

JEFF FUNKE: Yes.

LATHROP: So involving county court judges is an option that you're looking at, having these folks that we-- that I had the bill on last year, referees or magistrates that come in and they do that sort of the work those county court judges are doing in a couple of places. They do the day-to-day. They provide the consistency. And when somebody won't accept the medicine, then they refer it to the district court judge who then imposes the sentence.

JEFF FUNKE: Correct.

LATHROP: And the third option you're looking at, if I understand it, is more of a federal court system where we free up district court judges' time by having them having-- and available to the district court judge, a magistrate. That magistrate would, much like they do in federal court, handle the motion practice. And a lot of the motions that get done, including motions for summary judgment that involve a great deal of time, like reading a million pages of depositions that eventually make their way to your office.

JEFF FUNKE: Yes.

LATHROP: And so are the-- do-- have I covered the three, three things that you're looking at?

JEFF FUNKE: You have.

LATHROP: Is there anything-- this sounds like it's phase one of your study. And here we're looking at the demand, and phase two is going to be looking at the, the resources.

JEFF FUNKE: Correct.

LATHROP: So when we have these two pieces come together, when is phase two going to be complete, if you know, Justice Funke?

JEFF FUNKE: That's going to take a little while just because it's outside. We have to ask external individuals to participate in the survey. So it's going to take a little more time. I don't know that it will be done by the end of the year.

LATHROP: OK. When that's done, we should have a picture of both the demand and the resources, and we ought to be able to see where the bottleneck is.

JEFF FUNKE: Correct.

LATHROP: And so in terms of our ability to have judges process the folks that get into problem-solving courts and, and all of the people that support the court in that endeavor, the probation folks and, and folks like that, we also have another-- I'll call it an issue with respect to getting people into problem-solving courts and that is that the admission into problem-solving courts is entirely at the discretion of the county attorneys--

JEFF FUNKE: They're--

LATHROP: --initially.

JEFF FUNKE: Part, yes.

LATHROP: So if I have a client that I think is a suitable candidate for problem-solving courts, I don't make a pitch to the district court, I have to make the pitch to the prosecutor.

JEFF FUNKE: Yes.

LATHROP: And in your work with this subject, have you seen-- I don't want to call them inconsistencies, variabilities from jurisdiction to jurisdiction or from county attorney to county attorney in terms of their willingness to have individuals-- similarly situated individuals admitted into the problem-solving court?

JEFF FUNKE: Yes.

LATHROP: How much of an issue is that?

JEFF FUNKE: There's at least two to three counties that I know in the last couple of years that there's been a big drop in participants based on the determination of the county attorney.

LATHROP: OK. One of the ideas behind the expeditors was that an expeditor could go in and eventually we would develop some data, right? An expeditor would go in, sit down with somebody who's just been charged with a felony or with whatever crime we're talking about. In effect, they can screen them, say you're not a suitable candidate. You've been charged with a first-degree murder. You are not a candidate. But then of those individuals who would be-- at least meet the eligibility requirements, we would be able to come up with data about how many people could have gone into problem-solving courts, but didn't.

JEFF FUNKE: Right.

LATHROP: And the best we can do today is say 4.2 percent are getting in. Maybe it should be 10, but we really don't know until we have those people who can get in there and identify suitable candidates.

JEFF FUNKE: Correct.

LATHROP: And that's the idea behind the expeditor.

JEFF FUNKE: Yes.

LATHROP: Is there a national standard or a, an average or something that we can look at nationwide to say a certain percentage of felonies should be getting to problem-solving courts?

JEFF FUNKE: I don't have that number. I don't know that there is. But we will research that and, and provide that information to the, to the committee.

LATHROP: You use the number today in your testimony of 10 percent. Is that 10 percent number-- are you comfortable with that number? So whatever number we're talking about, it's a number bigger than 10 percent.

JEFF FUNKE: Correct.

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LATHROP: So we could, we could double the number of people in problem-solving courts if the county attorneys will make the referrals and we have the capacity on the bench to handle it.

JEFF FUNKE: Defense counsel, providers-- treatment providers, yes.

LATHROP: OK. I, I appreciate your testimony. Does anybody else have any other questions? Seeing none, thank you and thank you for your work on this topic.

JEFF FUNKE: Again, thank you for your support on this topic, so.

LATHROP: Yeah.

WEBB BANCROFT: Good morning.

LATHROP: Good morning and welcome.

WEBB BANCROFT: I'm Webb Bancroft, W-e-b-b B-a-n-c-r-o-f-t. I am the president of Nebraska Criminal Defense Attorneys Association. I have been on the statewide problem-solving court committee for a little less than 15 years. I'm on the subcommittee that has developed the educational standards that we put into effect this year for our problem-solving courts. I'm on the subcommittee that is reviewing both the Nebraska's standards and comparing those to the national standards and I am the person that Justice Funke referred to as asking the question of the national presenter at our seminar last week in regards to the difference between a judge or a referee or a magistrate hearing the types of issues that go before the court. And Justice Funke fairly and accurately reflected what Doug Marlowe said, and that was that there was no national data that he was familiar with, but certainly in his opinion and on the cursory research that he had done, thought that it was a position of power that they looked to someone with authority. I did have an opportunity to also talk with Michael Clark, who was a presenter at that same seminar. He was very interested in the subject and thought there needed to be a deep dive into whether or not there is data that would support either of those positions. You've heard from the top of the food chain with Justice Funke. I am really the bottom of the food chain. I am the defense attorney who is involved in the problem-solving courts in Lancaster County. I am a member of the team for both the DUI courts, the vets court, and the drug court. So I, in all deference, I believe I have a little more experience, at least in Lancaster County, how our courts work and I speak certainly in favor of expanding our problem-solving courts and recognize that it

causes a ripple effect through a number of stakeholders. It is always unusual to me when I hear that judges are volunteering or declining to volunteer to be part of problem-solving courts. Again, my practice is limited solely to Lancaster County, so I can't speak to the state concerns. But judges in Lancaster County have certainly stepped up regularly to do so. And I'm not exactly sure-- and probably not smart enough to know why-- if problem-solving courts became an emphasis for the Judiciary in the Legislature, why people that were submitting their names for consideration to be a judge, why it would be, well, I don't want to do problem-solving courts any more than I would think, well, I don't like doing divorces. So if I'm a judge, I, I don't think I'm going to be doing divorces. I don't understand it. And it's probably, again, more complicated than I recognize. But I think that we can see within our system that it is an important role and just as important as a number of other duties that district judges carry out on a day-to-day basis and volunteer to do. We get buried in statistics and I know there's statistics about 4 percent. We could have more people in than we do. We certainly know that we could have 4 percent-- increase the number of people eligible for our drug courts or room for people in our drug events or other problem-solving courts. Statistics don't always help with this, though, because eligibility guidelines, it's a little more complicated in what can keep somebody from being eligible. And I'm not exactly sure the role of the expediter, if they are going in to identify people who are high risk, high need. And that is the individual who you are trying to target to get into your problem-solving courts. And that is an assessment that the earlier we can get that done, that would be wonderful. Some of the things you don't have access to is the NCIC, which is going to tell you if there are other types of criminal offenses across the country that could keep them from being eligible. They can have warrants in other jurisdictions, even nonextraditable warrants that can keep people from being extraditable and not eligible for our problem-solving courts. The national standard and both the Nebraska standards want to minimize the time between the event and when people enter into problem-solving courts. And anything we can do to minimize that period of time, I think is important to address and that expediter position that they've discussed certainly may do that. But there are a number of factors involved. I have, I have nothing to do with whether somebody gets into our problem-solving court as a defense attorney on it. How-- again, Lancaster County works-- and I know there are many other problem-solving courts-- your drug court, you make an application, the attorney makes an application, sends it off to the drug court team. They do a, a review, find if they're high risk, high need. They'll

make a recommendation, people that they find to be eligible. The county attorney's office is given an opportunity to object to that person's participation because each one of the problem-solving courts has to submit to the Supreme Court their guidelines. Here's the rules that we're going to follow and that has to be approved by the Supreme Court. Certain offenses are approved. Certain offenses are not going to get into the problem-solving court. But if they fit within those guidelines, then in drug court, the county attorney can make an objection and there's an objection hearing in front of the judge or judges that run a problem-solving court. And that decision is made by the judges. Vets court-- Senator Geist, you were asking questions about violence and I know that you have been a big supporter of our veterans court and much appreciated and have been to our graduations. We do take violent offenses into vets court, and that's done in a screening generally carried out with the county attorney because there is oftentimes victims of offenses that are listened to. You can have veterans that are suffering from a great deal of PTSD, and that will come with a mix of drug and alcohol problems. So their first encounter with law enforcement may result in threats to law enforcement. And those law enforcement officers are consulted. But we do have crimes of violence in our vets court. We don't have those in drug court and they are specifically excluded. DUI courts is, is just DUI offenses and any kind of charges that came along with that DUI offense, which could be driving during revocation, things of that sort. Justice Funke was discussing or answered a question about the DUI court because then when they are-- complete that court, they're convicted of a first offense. Well, actually, it's a third offense. As first proposed to the Supreme Court, it would have been a first offense, but it is a third offense so it can be used for enhancement. The county attorney's role in a number of these things is significant. They make decisions in regards to whether or not they are going to approve people for participation. As I indicated with drug court, they can object if they think there is a reason to object. One thing you hear all the time with our drug courts is we say it was possession and that possession or a delivery of a controlled substance, it was to support their own needs because drug addicts generally aren't working. And so however they really provide for their living, it's usually through the sale of drugs. The county attorney's office can argue to the judge that, no, that's a result of them making drug sales for a profit. So those kinds of things can impact eligibility. But our guidelines set out what is eligible and what is not eligible for consideration of certain levels of felonies, those kinds of things. So that would be true, I think, for all of the problem-solving courts. Within the subcommittees that I

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work with, both in going through the national standards and Nebraska standards, and I did just discuss with Justice Funke this week at our meeting that we may need to tweak the standards that we have in, in terms of a number of things, eligibility being one of them, timeliness of application being one of those things. But there is nobody who does not want to expand the problem-solving courts. The individual who I talked with who wanted to do a deeper dive, the one thing that he emphasized was the most successful. Why did people graduate? What was the biggest thing for them that guaranteed them getting through or why they thought they got through? It wasn't the threat of the felony conviction. It wasn't the threat of going to prison. Treatment was second or third. Most important thing for those individuals was the time they spent with the judge. They said that because it was the first time they had been in a system where they really felt somebody was listening to them and caring about them. And I say that recognizing I don't know what the data would show if you were to look at it. If you have somebody who fills in a magistrate or referee's role, if it would have the same effect. But knowing that it is the top thing that those folks who have graduated have said, it is worth the study to find that out without any doubt. It is a process where the judges, we do staffing every week and judges hear from treatment providers every week, hears from the supervising officer every week. They learn something about this individual. They take that information and they have discussions with that individual in court about their lives and they feel that support. It is hard to think that somebody could learn that much about an individual that wasn't the judge and then convey the sense of them to the judge if something-- some type of sanctioning hearing had to happen, or ultimately if someone was terminated from the court and had to be sentenced because of that volume of information that can happen over 18 months would be hard to summarize. And that information, I believe-- both I've seen and, and personal experiences with-- that has made a difference when it came time to sentencing, that the judge was very familiar with this person and the deficits or the problems that they've had. So I don't know how you could think that someone could communicate all the necessary information to a judge to just fill that role. And so that's where concerns lie in regards to how we apportion resources and what we should be looking for. But I just wanted to bring you down from the ground level, from Justice Funke to this is what it works like when you're there. This is what it's like in practice. So those are the concerns and the interests that we have. But certainly this committee, AOC's interest, the Judiciary's interest in expanding these things is wonderful.

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LATHROP: OK. Thank you, Mr. Bancroft. I do-- oh, Senator DeBoer.

DeBOER: Thank you, Senator Lathrop. Thanks for your testimony. Was wondering, this is outside of the question of sort of who is the best to head the-- with problem-solving courts in general because they're before adjudication, as a defense attorney, do you find that this will, from time to time or with any sort of regularity, prevent folks from asserting affirmative defenses that they have a right to in order to get into the program that they might then have been acquitted but they, you know, don't want to lose the opportunity to get into? Is that-- are we-- is that a thing that's happening?

WEBB BANCROFT: Well, I think that that's a, a, a very real problem. And when we talk about minimizing the time between being arrested and having to make a decision whether to enter into a problem-solving court, developing that re-- a relationship with a client as a defense attorney, you hate to go and meet with their client the first time and say, I know you just got arrested, but here's this deal that you need. If you want to do it, you need to do it right now. You need to plead to all of these charges to have a chance at this court and the relief that a particular court can have for you. That's a very difficult thing. And people certainly have, from my perspective, entered pleas to things that-- just for that opportunity where I thought that there was affirmative defenses, as you mentioned, a number of things they could have raised and chose not to do so to avail themselves of the court. And sometimes that's worked out to their advantage, sometimes it hasn't.

DeBOER: And is there any possibility that you can think of that would help with sort of limiting the number of folks who were then not given advantage of things like affirmative defenses or whatever, that they might have, any tweaks or ways that we could handle that intake process that might be more effective there?

WEBB BANCROFT: Well, there are things that I think that could be done better. But we recognize that where you have elected officials and county attorneys, getting to discovery quicker, getting police the investigative reports, having people identified if they may be eligible for one of our problem-solving courts. I can't tell you how it's done in other jurisdictions. I know people wait a great deal of time on felony cases to getting discovery. If there was a process where people charged and may be eligible for problem-solving courts, if that discovery could be disclosed to defense counsel within a week of the arrest. So you'd have it right away and be able to start going

through it so you could have an intelligent conversation with your client about, well, here's what the evidence is. Because as, as I know you understand, sometimes there's discovery. There's an investigation that you need to do. The motion practice that's been discussed some-- you, you have to represent their legal interests and knowing that this is an option. So getting that access to that information sooner would certainly benefit both the participant or potential participant and help guide them in a way that will be most successful for them making that decision.

DeBOER: And would expeditors, as they've kind of been described loosely here, would that exacerbate the problem or not exacerbate the problem, do you think?

WEBB BANCROFT: Well, quite honestly, it's the first time I've heard about--

DeBOER: OK.

WEBB BANCROFT: --expeditor. I'm assuming an expeditor is somebody-- what you want in your problem-solving courts are people-- they have quadrants, they're high risk, high need--

DeBOER: Yeah.

WEBB BANCROFT: --both criminogenic as well as for the mental health quadrants. That's your target population. You have low risk, low needs and you have a mission there, but you want to identify that "foregroup." That's who you should be going after for all of your problem-solving courts. Sometimes those are the more serious felonies as well, but that's-- the, the data is clear on this. The more serious the felony is, the more successful problem-solving courts are and the less recidivism that you have. That data is out there and is, is available. So if expeditors were doing the evaluation assessment and saying we have a high-risk, high-need individual-- so they're within our target population-- the next thing that you want to have is what their criminal record is to know if there's anything from another jurisdiction that could interfere with their participation. Then, of course, you'd want the discovery on a particular case and see-- again, when you're looking at the possible problem-solving courts-- if it's not a DUI offense, it wouldn't-- that wouldn't be one of them-- to see if there's a problem-solving court that would be potentially available to them.

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DeBOER: So for the topic that we're discussing today in terms of how to best create the judicial resources to expand or scale up these problem-solving courts, can you see-- I mean, it sounds to me as though you are suggesting that the option of keeping it to be the actual judge is probably preferable. Is that correct?

WEBB BANCROFT: That is absolutely what my preference would be. I think that the role is so important and what goes on on a weekly basis, the staff and what they find out about the exchanges that they have over 6, 12 or 18 months is very important. It ultimately impacts both the participant and to the benefit of those, those who get to participate in the court, the staff. At graduations, I cry at every one and people make fun of me, but they are significant events. But I also think when people are terminated, when they're found violating the drug court, it makes a difference in terms of ultimately the sentencing. And I think oftentimes judges understand these individuals better for the time that they spent with them and it can lessen the sentence.

DeBOER: Thank you.

LATHROP: I see no other questions. Thanks for being here, Mr. Bancroft.

WEBB BANCROFT: Thank you.

LATHROP: Good morning. Welcome.

COREY STEEL: Good morning, members of the Judiciary Committee. My name is Corey Steel, C-o-r-e-y S-t-e-e-l, and I am the Nebraska State Court Administrator. I'm not going to reiterate a lot of what Justice Funke talked about, but I do want to fill in a hole, a few holes or gaps, and maybe respond to a couple of the questions that were asked by committee members with some answers that we were able to, to find in, in quick order. So I'm going to kind of jump around a little bit and then open it up for any questions. First, Justice Funke talked about one of the things this coming year. In the judicial branch budget, we did ask for additional funds for problem-solving courts. In fiscal year '23-24, that's \$935,347; in fiscal year '24-25, \$952,445. What that consists of is, as Justice Funke talked about, the veterans treatment court that has been a topic of discussion for, for a few years in, in Sarpy County. We have a judge that is ready, primed, gone through the education and wants to take on a veterans treatment court. We just need the staffing available for that drug court team on the probation side. So that's included in that budget package. We also

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have a newly appointed judge in Platte County that has come on and wants to start a drug court in Platte County. That is a, that is a center that we've looked at for some time. That also would include then a drug court team for that. And then we have a few other drug courts and problem-solving courts across the state that are able to expand and would like an additional treatment officer or officer to supervise additional problem-solving court clients. And then also the need of some drug testing-- drug techs for those problem-solving courts. So it's a total of ten additional FTEs. So we are looking at, again, bringing on a couple new problem-solving courts if the Legislature approves our budget package. Just a pitch, that's out there. It's in our budget proposal.

LATHROP: May be pitching the wrong place.

COREY STEEL: We'll, we'll pitch that committee as well.

LATHROP: All right.

COREY STEEL: So those are some holes that we see we can quickly fill with our problem-solving courts. And, and there are areas that we've identified that we've been talking with the judges as well. I'll, I'll talk about one in the Panhandle. We've-- we were out on the chief's summer tour this summer and we really heard about high-end behavioral health needs and substance abuse needs in the northwest part of the state. And we've talked with our district court judge in Alliance and we said Alliance would be prime. We heard from-- we had two gatherings in those areas and we heard a lot about the substance abuse and behavioral health issues in, in the northwest part of the state. And in talking with Judge O'Gorman, he said there's, there's really a couple of reasons that it will be a struggle to get a problem-solving court up and running, not the fact that we wouldn't have individuals that would be identified and that are suitable, eligible, and could participate, it's realistically, it is a couple of things. One is treatment, as Justice Funke alluded to. There is lack of treatment providers in the Panhandle, particularly in the northwest part of the Panhandle, to provide the needed treatment for those individuals. The, the second is the counties. As Webb kind of alluded to, any time we institute a new problem-solving court, it's outside. There's a lot of pieces that go into place. The Legislature could fund the judge or the team and what have you. It also then is county attorney, it adds workload to the county attorney's office, the public defender, the sheriff or the, the law enforcement officers. So there's a lot of those pieces that need to be put into place as you go on. And some of

the counties in the, in the northwest part of the state may not have the county funds to-- in order to have additional prosecutor time or county attorney or defense counsel time and so forth. So those are kind of the things that some of our judges, particularly Judge O'Gorman in the western part of the state, he alluded to as some of those barriers, as Senator Brandt talked about. What are some of those barriers in addition to what Justice Funke talked about? One of the other thing-- other questions that was asked, Senator Geist, about the recidivism rates, the comparison. So in the JRI study, it was anywhere from 27 to 30 percent recidivism rate for those that were released from prison. And as Justice Funke talked about, our probation is, is 17 percent, problem-solving court is 19 percent recidivism. Those aren't comparable because the definitions are different. The definitions of what we have for the Supreme Court adopted a recidivism rate for probation. That is a new law violation. It's a certain class of new law violation. They don't have to come back to probation. But if they commit a new law violation, that's a recidivism rate. The Department of Corrections is they must come back to the facility. So they can have new law violations or they could be out of state and get new law violations and get sent to another prison. It's if they don't come back into the doors of the Nebraska Department of Corrections, then it's not counted as a recidivism.

LATHROP: So the number is probably higher than what you just talked about?

COREY STEEL: So it's just-- I, I just want to make sure that we're not comparing a 30 to a 19 percent when definitions are, are vastly different in what recidivism is between the two, Department of Corrections and the Administrative Office of Courts and Probation as well. Senator Brandt, you also talked about some additional hurdles, I know-- or, or additional things of what could be used. We utilize one of the, one of the things that we also currently utilize is retired judges. And I think Judge Otte may, may talk about this as well as the committee is meeting on, on what are the things that are options as we talk about the, the magistrate or referee adding additional district judges, the use of retired judges. We currently use one retired judge right now here in Lancaster County. Judge Colborn is on-- and is on for problem-solving courts. We have a second request coming in from Sarpy County and the county court, retired county court judge that wants to come in and, and participate as well. And we can utilize retired judges when it's feasible and suitable. Currently, I have four retired district court judges that as they retire, we ask all judges, would you be willing to come back to, to fill in, in, in case of a

retirement or if a judge is, is sick or ill for a long period of time or participate in problem-solving courts? We have kind of a narrative that says if you retire, would you be willing to serve in this capacity? And I currently only have four judges that are in retired status for the district court, and then we have about four on the county court side and I have one juvenile court judge. So that is an option, but it's a limited option as well. And again, when a retired judge comes on, how long are they going to continue to continue problem-solving courts? Is it a year, is it two years? What's the length of time that they're willing to commit to that as well? Judge Colborn's been on for over a year in Lancaster County, and we just re-upped for another year based on our use of retired judges. So I just wanted to throw that out there. I think that'll be discussed as well. And then also redistricting was brought up. It's kind of outside of the purview of this committee. It's with Justice Stacy, Justice Funke said it's, it is a hard issue to redistrict judicial districts, to expand or what have you. But that is something I just want to put out there that Justice Stacy will be presenting at her December 9 Judicial Resources Commission. We have the current tool to look at do we need to redistrict? Do we need to become a bigger district so we can utilize judges a little more vastly? Do we need to have some smaller districts? What does that look like? As it's been somewhere around 20 years that there have been some major redistricting of our, of our judicial districts. We had a slight change a few years ago where we moved one county out of and one county into, which was a small change. Obviously, those are recommendations that come from the Judicial Resources Commission that then come in front of the Legislature for those changes as well. So those are things that are being looked at. And I think we have to also look through the lens of will this help enhance problem-solving courts across the state as we look at redistricting and some options there as well? Remote hearings, the question was asked about the uses of, of remote hearings. This is one thing we've been working with our judiciary on over the past two years as we have increased the use of remote hearings with, with COVID. We talked to our judges about continuing to incorporate that into the new world of how you operate your court system. So we have a lot of judges across the state, in courts across the state that do a lot of remote work. Our problem-solving courts are part of that. A lot of our current problem-solving courts are done in some remote capacity if need be. So I think we've incorporated that technology and we're also going through and doing a full look at our courts in general and providing the needed technology for those courtrooms so they can continue that. But it wasn't unusual for some of you, I believe, to

participate in a problem-solving court graduation remotely. We had a lot of those during the COVID time frame, and I know that there's still some that are participating in that way, and it allows for those participants as they go through the phases of problem-solving court. If they're working and those types of things and things are going very well, I know our judges are doing a good job of allowing them to remote in for some of the problem-solving court as well. But I think to do full remote problem-solving courts, you don't get that connection and that feeling that you have talked-- that you've heard about when it comes to the team and, and what takes place there. But I know there's a lot of remote technology that is being utilized as well. We've kind of hit on a lot and around a lot of different ways. I was going to outline a little bit further expediter role, but we've had-- Senator Lathrop and I have had and my team have had several conversations over the past year about that. So I'll leave that because you did a fine job of explaining that in a little bit more detail to the committee as well. We are open in the administrative office, as you see our current report-- needs assessment report that Hazel Delgado and her team have done. And we're open to if there's any further questions that you have or data that is needed that we can provide the committee to help on decisions surrounding this. Feel free to ask and we'll do what we can to get you the, the data. So I'll open it up to any questions that the committee may have.

LATHROP: Senator Geist.

GEIST: Just one real quickly. When you talked about your budget and what you're bringing to the Legislature next session, I'm assuming, do you calculate your ask? Is it just for the judge or is it for the entire staffing?

COREY STEEL: Correct. So actually, in these figures for Platte County and Sarpy County, there isn't anything for the judge because we have-- those are, those are judges that have been identified that said, I have the capacity and the time to do that. So Judge Nathan Cox in Sarpy County wants to take on a veterans treatment court, and, and Judge Bergevin in Platte County is willing to, to open up a drug court and says, I want to dedicate my time to doing this. So there isn't any judicial time in our request. It would be all of then the other resources for, for our probation staff. It would be the coordinators, it would be the, it would be the supervision and then the drug testing component regarding that.

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GEIST: But it's not any of the county services or anything like that. That's what's supplied by the county. Is that right?

COREY STEEL: Correct. So, yeah--

GEIST: OK.

COREY STEEL: --the county attorney, public defender, those types of things. It would include the treatment-based services that go along with the problem-solving courts. That's included in that as well. But the outside of the judicial branch, other pieces, those are not included in our request.

GEIST: All right, all right. Thank you. I just needed clarity. Thank you.

LATHROP: I see no other questions. Thanks for being here.

COREY STEEL: Thank you.

LATHROP: Appreciate hearing from you, Corey. Good morning and welcome.

BOB OTTE: Good morning.

LATHROP: Welcome back.

BOB OTTE: Thank you. Senator Lathrop, members of the Judiciary Committee, thank you for hearing from us. You can actually use the lights if you want to for me because I'm going to be pretty short.

LATHROP: And I don't need to use the lights. I think, I think next time if Funke's in front of the committee, though, we may.

BOB OTTE: My, my name's Bob Otte. I'm one of the district court judges in the 3rd Judicial District, which is Lancaster County. You may hear from me next year concerning a salary bill. But today I want to appear before you with the approval of Leigh Ann Retelsdorf, who's president of the District Court Judges Association. And I come really before you to really talk about supporting the expansion of problem-solving courts in Nebraska. Lancaster County, as you've heard, was a leader in establishing a drug court more than 20 years ago. We now have a veterans treatment court. We have a DUI court. And I'm one of the two judges that presides over the veterans treatment court. I can confidently say to you really two things. One, problem-solving courts are effective. I, I started in that court. That was the first

problem-solving court I'd been involved in. And, and I can confirm treatment courts are effective. And second, that presiding over a problem-solving court is the highlight of any judge's tenure when they, when they work and when they become involved in these courts. They're effective because they take high-risk, high-needs individuals and put them through evidence-based programming. While no court will ever have 100 percent graduation rate, we know the long-term successes of these courts. We have measured those in terms of, of creating law-abiding lives, reuniting people with their families and their communities. The participants take a path away from incarceration and into a life that they might not have ever contemplated or that has escaped them somehow. Presiding over these courts has been a highlight in the schedule of every problem-solving judge that I've ever talked with because we get to make a personal, direct, and meaningful relationship with those individuals, not as friends, but as really-- I think maybe Mr. Bancroft said this, really as the first person in their life that has taken an interest in them and tried to, to, to work towards their success. Accordingly, I just ask that you support the judicial branch in taking on the goal of expanding problem-solving courts. All right. Any questions that you have?

LATHROP: I got one.

BOB OTTE: Yep.

LATHROP: First of all, thanks for being here and I appreciate hearing from the district court judges. So I offered a bill last year on having these referees. Apparently that didn't get circulated enough before I introduced the bill and there was a lot of pushback and a lot of it came from district court judges. And I'm sitting here listening today and it feels like we have-- so I listened to Mr. Bancroft who said, we should keep things the way they are. Part of that is I remember his testimony from my bill. But this idea that things should be left the way they are and we should have a district court judge do all of this, as I listen to the folks that have offered that perspective today, it strikes me that we-- we're facing a two, two-choice dilemma, and that is we can expand, leave things the way they are and accept that we will have 4.2 percent of the felons go through problem-solving courts, or we can come up with an idea to expand them and then we might be able to get to that 10 percent or whatever the proper number is. So when, when folks want to just have the district court judge do this and not have any help, whether it's a county court judge or a magistrate or referee or somebody like that-- and believe me, I appreciate that this is the highlight of your day

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working with problem-solving courts, but how do we, how do we expand them if the response is leave things the way they are and we know that there is sort of a ceiling on our capacity?

BOB OTTE: I don't think that's it at all, quite frankly.

LATHROP: OK, then why don't you disabuse me of that.

BOB OTTE: I think, I think the communication you had with me last year was the district court judges saying this option hasn't been fully vetted as, as with other options. And I think I would say to you, I am all in favor of expansion. If we can get to 10 percent, I'm all in. What I am saying to you is I think there are options. And I was on the committee that looked at-- we started with maybe 20 different options over how we could do that, how we could not use district court judges, only use district court judges for the penalty phases, have referees or magistrates, add additional judges to the, to the judicial system. I'm not sure we have settled on that yet. And I, and I would say Justice Funke and I and Mr. Steel have had some conversations about what that might mean and the District Court Judges Association. What, what I'm here to say is we are all, we, the district court judges, are all in favor of expansion. We are all in favor of, of creating a system where you don't take that away from district court judges, that you allow district court judges to continue in that capacity and we figure out what that might mean statewide. It may look different in different jurisdictions. And I didn't want to come talk with this because I don't want to go into that too far because Justice Funke and I had a conversation last week about this. I think if you leave it to the judicial system to come up with good recommendations, they will, because we've been in conversation with them. The idea of just having referees do that, I think the district court judges were categorically opposed to something like that. But we're not opposed to expansion, we're not exposed to some help in, in various, in various sorts of ways. So I appreciate the, I appreciate the question, but the leave it the way it is idea is, is, is not true with how district court judges are thinking.

LATHROP: OK. And not to become argumentative and I, and I very much appreciate the work you've done in this area--

BOB OTTE: Yeah.

LATHROP: --and the time you've taken to come down here today. It's almost 11:00 and you're just getting your testimony complete. But do

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the district court judges feel like they need to be doing the problem-solving court responsibilities from the beginning to the end or are they open to some help--

BOB OTTE: I think--

LATHROP: --in between the beginning and the end if they're involved in it?

BOB OTTE: I think they're open to help.

LATHROP: OK.

BOB OTTE: I look at my own schedule, the schedule of, of Andy Jacobsen and Darla Ideus in Lancaster County who are doing problem-solved-- solving courts. We're open to help. Send me some, please. Right? But we need to have a real conversation between district court judges and, and Justice Funke and the, and the Judiciary about what that, what that can look like. Because we're, we're-- we've all endorsed this. Lancaster County is a leader in, in doing this. We're not a stay-the-same kind of district. We voted three years ago not to take on any more problem-solving courts because we were so busy. We took on the DUI court. So, you know, we're not a stay-as-you-are kind of, kind of [INAUDIBLE].

LATHROP: No, I appreciate that. And I appreciate that Lancaster County was the first one and they've been sort of leaders in this topic. I, I do have one more question and maybe to make a point. How many judges sit on the bench in, in Lancaster County?

BOB OTTE: Eight.

LATHROP: And of the eight, how many of them are involved in problem-solving courts?

BOB OTTE: Well, there's, there's three that are directly involved. John Colborn's retired, so he helps in the, in those courts. And then each of the courts kind of has a fullback, somebody that, that also participates. For example, Judge McManaman has been willing to help in my court when I'm on vacation or something else has happened or I have a trial, sometimes somebody will step in. So each of the courts kind of have a, a judge that supports them.

LATHROP: Do all eight of them, have all eight of them signed up to do problem-solving courts in the same way you have?

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BOB OTTE: No.

LATHROP: OK. What, what number have signed up for that extra responsibility?

BOB OTTE: Well, right now, right now, the primary judges are, are me, Andy Jacobsen, and Darla Ideus, OK?

LATHROP: So three out of the eight.

BOB OTTE: Yeah, Jodi just got done. Jodi Nelson-- Judge Nelson just got done with problem-solving court. She'd done it for, oh, my gosh, maybe, maybe not quite a decade. OK? Karen Flowers, Karen Flowers retired, did it. Judge Merritt, retired, did it. And then we opened up veterans treatment in the last five years and DUI in the last year.

LATHROP: OK. I really appreciate you being here.

BOB OTTE: All right.

LATHROP: I don't see any other questions. Thanks, Judge.

BOB OTTE: Thank you so much. Thank you, everybody.

LATHROP: Thanks for the input from the district court judges. Is there any other testimony? Anyone else? So I will say that when I-- and maybe by way of closing or just sort of a wrap, I very much appreciate that at least my bill last year has people coming together to talk about how do we expand the problem-solving court capacity. And it sounds like there are options that include the substance of my bill, but not necessarily exclusive to that, that include looking at magistrates generally, maybe more district court judges, maybe some retired judges. I very much appreciate the work that's going on with the bar and with the bench in terms of trying to find solutions. When I introduced the bill last year to provide for referees for problem-solving courts, we did have quite a bit of pushback from the county attorneys. And I just want to make this note. I'm not, I'm not trying to make a slight at the county attorneys, but they were offered an opportunity to be here today. And we, of course, did not have their input today so for whatever that's worth. Thank you all once again. I very much encourage you to come to some solution. I think you'll find a receptive Legislature willing to make the investments in expanding problem-solving courts and providing for that sort of path for criminal justice-involved individuals. So thank you, one and all. That'll, that'll end our hearing today on LR9-- LR399.