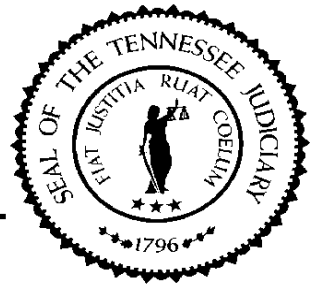


# Juridicus



Tennessee Supreme Court - Administrative Office of the Courts

Spring 2004



**Appellate Court Clerk Mike Catalano takes the oath of office during a swearing-in ceremony in Nashville. The new clerk, who succeeds Cecil Crowson, assumed his duties Jan. 1. He formerly was associate solicitor general in the Office of the State Attorney General.**

## EAP Available to Help Judicial Employees

*By Pamela Taylor*  
Human Resources Manager

The Employee Assistance Program (EAP) provides professional, confidential services to full-time state employees and eligible dependents. Employees and their family members may seek counseling and referral services to help deal with stress, marital problems, family and child rearing issues, chemical dependency, emotional difficulties and financial and legal matters.

The short-term counseling (up to six sessions)

*(Continued on page 2)*

## New Rule Designed to Expedite TPR Appeals

*By Leslie Barrett Kinhead*  
Court Improvement Program Coordinator

A new rule expediting appeals in termination of parental rights cases will become effective July 1 if ratified by the General Assembly. Tennessee Rules of Appellate Procedure, Rule 8A, adopted by the state supreme court, establishes special procedures to improve the process in appeals as of right in TPR proceedings.

The expedited appellate process should decrease the time children linger in foster care waiting for permanent adoptive homes. The rule provides a balance of the rights of parents and the need for early permanency for children.

Significant changes include:

- The notice of appeal in a termination of parental rights proceeding shall indicate that the appeal involves a termination of parental rights case.
- The date for filing the transcript has been decreased from 90 days to 45 days after the notice of appeal is filed.
- Filing objections to the transcript must be made within 10 - rather than 15 - days after service of notice of the filing of the transcript.
- In addition to papers excluded from the record pursuant to T.R.A.P., Rule 24(a), any portion of a juvenile court file of a child dependency, delinquency or status offense case that has not been properly admitted into evidence at the termination of parental rights trial shall be excluded from the record.
- Approval of the record by the trial judge is reduced from 45 days to 20 days after the expiration of the period for filing objections. If not ap-

*(Continued on page 6)*

# Employee Assistance Program Available to Help

*(Continued from page 1)*

and referral services are provided by EAP counselors at no cost to employees. United Behavioral Health, the contracted EAP vendor, is available at 1-877-237-8574 to schedule off-site appointments.

There are 45 seminars scheduled across the state focusing on the topic "Recognizing the Positives- Catching Others At Their Best!" The seminars will help us emphasize positive experiences in our everyday lives - family relationships, job performance, social contacts, etc. Seminar dates were included in the Feb. 28 paycheck stuffers and are available on the EAP website at: [www.state.tn.us/finance/ins/eap/eap.html](http://www.state.tn.us/finance/ins/eap/eap.html)

EAP services are offered at no cost to all full-time state employees and their eligible dependents, regardless of whether they participate in the State's Group Insurance Program.

Where Do You Stand?

■ One out of every five adults may experience depression at some point in their lives.

■ One out of every 13 adults has a serious problem with alcohol.

For confidential depression and alcohol screening: call 1-800-433-4468 or go to [www.mentalhealthscreening.org/screening](http://www.mentalhealthscreening.org/screening). The keyword is: tnscreen.

## ***Test Dates Announced for Prospective Interpreters***

The next written examination for those interested in becoming credentialed foreign language court interpreters will be April 24, and the next oral examination is May 15. For additional information regarding the credentialing process, call Karen Yacuzzo at the AOC, 615-741-2687. Information also is available on the court system website at [www.tsc.state.tn.us](http://www.tsc.state.tn.us).

## ***Judicial Cookbook Is Back By Popular Demand***

The judicial cookbook, "Justice Is Served," is back by popular demand. The hardcover book filled with recipes provided by AOC staff and members of the Supreme Court sold out quickly when the first 460 were delivered. Ramona Riling of the AOC said copies of the new book have arrived and are available. Cost of the book is \$8, or \$10 if it has to be mailed. Profits are given to the AOC's Funshine Fund. The cookbooks include 380 recipes for appetizers, main dishes and desserts.

***Please send me \_\_\_ copies of 'Justice Is Served' at \$8.00 per copy and \$2.00 for shipping and handling per book.***

***Enclosed is my check or money order for \$ \_\_\_\_\_ and made payable to 'Ramona Riling'.***

***Mail Book To:***

***Name:*** \_\_\_\_\_

***Address:*** \_\_\_\_\_

***City:*** \_\_\_\_\_ ***State*** \_\_\_\_\_ ***Zip*** \_\_\_\_\_

***You may order by contacting either Cindy Eaton or Ramona Riling at (800.448.7980) / (615.741.2687) or by returning this order form and your check or money order to:***

***Administrative Office of the Courts  
Tennessee Supreme Court  
Attn: Ramona Riling  
511 Union Street, Suite 600  
Nashville, TN 37219***

# Overview of Judicial System Budget

*By Tim Townsend*  
Assistant Director, Fiscal Services

In light of necessary belt-tightening in state government, the court system fared relatively well in the budget presented by Gov. Phil Bredesen during the annual State of the State address. As we all know, TennCare and education remain the major components of the budget, and both are badly in need of any new dollars that are generated next fiscal year.

The court's budget recommended by the governor totals \$91,596,900 and includes improvements for the judges' 2.3% mandated compensation increase and \$450,000 for the indigent fund due to previously-approved .08 DUI legislation. Our original budget request included several high priority items that the Executive Conference and you, individually, felt were needed and justified. Some items not included

in the governor's budget were:

- Judicial education funding
- Salary increases for the judges' assistants
- Salary upgrades for attorneys
- Security personnel for the Supreme Court

Buildings

- Enhancements for court reporters' compensation

We will continue to push for funding for these items this year through the legislative process.

The big news for next year's budget is that the governor did not recommend reductions in our base budget. Losing base funding from the previous year was and is the greatest budgetary concern we face from year to year. Our budget is now in the hands of the General Assembly and members may add to or reduce it as they see fit. So, we are not out of the woods yet, but a very significant first step has been accomplished.

## Study: Parenting Plan Having Positive Effect

*By Mary Rose Zingale*  
Programs Manager

The state's Parenting Plan Law has had a positive overall effect on the divorce process in Tennessee, a new study has found.

As required by statute, the Administrative Office of the Courts recently provided a comprehensive report on the law to several legislative committees. Three primary components reviewed in depth included parenting education seminars, mediation in divorce and post-divorce cases involving parenting issues and the parenting plan statutory process.

Information for the report was obtained through surveys distributed to judges, clerks, parents, attorneys, mediators and parent education providers. Discussions were held with members of the groups and the eight parenting plan coordinators.

In general, respondents said they are satisfied with the process. The study and resulting report did cite several areas needing review:

- Education of attorneys, parents, mediators, clerks and parent education providers concerning the availability of reduced cost educa-

tion and mediation services;

- Uniform parenting plan issue to be presented to a Self-Represented Litigants Task Force the AOC has convened. The group is reviewing domestic relations/family law forms for possible uniformity throughout the state;

- Ongoing policy discussions relating to the use of the parenting plan law and its processes in juvenile court paternity and custody issues; and

- Review the development of parent education courses specifically for post-divorce issues.

To obtain a copy of the, contact Mary Rose Zingale at 615-741-2687 or, by email, at [mrzingale@tscmail.state.tn.us](mailto:mrzingale@tscmail.state.tn.us).

## Rule 31 Evaluation Underway

The Alternative Dispute Resolution Commission has recently started an evaluation of Supreme Court Rule 31 as required by the rule. The commission will evaluate the success of Rule 31 ADR proceedings based on participant satisfaction, quality of results and effect on case management. The evaluation should be completed by late summer.



**Pamela Taylor (center) is a recent graduate of the Tennessee Government Executive Institute. Pictured with the AOC human resources manager at her graduation ceremony are (from left) Nat Johnson, deputy commissioner of the Department of Personnel; AOC Deputy Director Libby Sykes; Tom Ballard, UT vice president for public and government relations; and AOC Director Connie Clark.**

## Judiciary Loses Beloved Long-Time Members

The judicial community lost two long-time and beloved members Dec. 13 with the deaths of Judges William "Slick" Williams of Memphis at age 77 and John K. Byers of Knoxville at age 73.

Although Judge Byers retired in 1992, he continued as a senior judge, assisting the trial and appellate courts in the state until his death. Judge Byers sat on the Court of Criminal Appeals for 16 years, the last two as presiding judge. He also served on numerous boards and committees, including the Tennessee Judicial Council and the Tennessee Sentencing Commission.

Judge Williams, a former prosecutor and county attorney, served 22 years as a criminal court judge before his retirement in 1998. Last June, the Tennessee Judicial Conference presented him with the "Conference President Emeritus" award and announced the William H. Williams Law Scholarship had been established in his honor. The following letter is from Betty J. Williams.



**Judge William Williams**

He fervently believed in nurturing good law students who will make good lawyers who will one

To the Colleagues of Judge William H. Williams:

Our family would like to express our sincere appreciation for the outpouring of support, kind letters, tribute gifts and prayers to honor and celebrate the life of my husband, Judge William H. Williams. He was very

passionate about all aspects of the Tennessee Judicial Conference and the law scholarship bearing his name was a great source of pride and hope in his final days.

day make good judges. He was so pleased that future jurists would be assisted through the "Judge William H. Williams Law Scholarship."

Our family wishes to thank all of his colleagues who have contributed to the fund. This important legacy in his name will allow my husband in spirit to continue to support and contribute to the law profession he loved so much.

Our family is richly blessed and comforted that all of you are making this possible in honor of his memory.



**Judge John K. Byers**

Fondly,  
Betty Williams

# Society Created to Preserve Court's History

By Gil Campbell, CAE  
Executive Director

Tennessee Supreme Court Historical Society

In late 1995, then-Chief Justice Riley Anderson had a concern. He sensed that there was little attention being paid to the records of the Supreme Court. The historical records were basically unorganized and gathering dust on the fifth floor of the State Archives.

From colleagues in other states, the chief justice had learned about the work of supreme court historical societies - organizations dedicated to the preservation of unpublished reports and related materials, as well as the implementation of projects designed to improve public understanding of the court and the law.

Justice Anderson conveyed his concern to Nashville attorney Val Sanford, who eagerly embraced the concept of a Tennessee Supreme Court Historical Society and set about making it a reality. Mr. Sanford recruited many of his friends, notably Nashville attorneys Charles Warfield and Ward DeWitt, Jr., to assist in the undertaking.

After many hours of preparation, the society's board of directors held its initial meeting on November 16, 1995. At that meeting, Val Sanford told the board that the society's first



Retired Justice William H.D. Fones

project would be the publication of a comprehensive history of the Tennessee Supreme Court. He spent the last five years of his life selecting the seven authors, securing a publisher, analyzing and arranging distribution channels and assisting the authors when asked. *A History of the Tennessee Supreme Court* was published by the University of Tennessee Press in 2002. It promptly won the "Best History Book of 2002" award from the Tennessee Library Association. Unfortunately, Val Sanford did not live to see his idea in print. It is fitting that the book is dedicated to him and will keep his memory alive.

Other projects of the society have included the development of a newsletter containing articles on former justices and the cases which have shaped the court. A website also has been created containing information about the organization. The latest project involved the construction of five marble tablets honoring all appellate court judges in the state's history. The tablets were installed in the Nashville Supreme Court Building in December and dedicated by former Justice William H.D. Fones. The society currently is working to develop a video version of the court's history for use in high schools, Inns of Court and other interested organizations.

The society is a 501(c)(3) public educational foundation. Its members include attorneys, law firms, legal scholars and others who believe in its mission. It is funded solely by member dues and occasional grants from other foundations. It is fortunate in having a dedicated board of directors, including Chief Justice Frank Drowota.

As Val Sanford said in 1995, "In order to fully understand, appreciate or evaluate the law of any state, it is necessary to know something of the history of that law and of the people who shaped it . . . Unfortunately, there has been no organized effort to preserve the records of their lives and foster the recognition of their significance."

Now, after nine years of organized effort, we are proud of our accomplishments and pledge that we are only beginning.

# New Rule Designed to Expedite TPR Appeals

(Continued from page 1)

proved by the judge within this time, the record is deemed to have been approved.

- Transmission of the record by the clerk of the trial court to the appellate court must be completed within five days of the approval of the record by the trial judge or by operation of the automatic-approval, whichever occurs first. Trial court clerks must give priority to completion of the record in termination of parental rights cases. If the record cannot be completed within this time period the trial court clerk must request an extension from the appellate court. Extensions for completion of the record are disfavored and will be granted only upon a particularized showing of good cause. The time for completing the record shall not be extended more than 60 days after the transcript is filed.

- The appellee's brief must be filed 20 days after the filing of the appellant's brief instead of 30 days.

In order to provide notice to the respondents in TPR proceedings at the trial court level of the new appellate procedure timelines, the supreme court has adopted a new Rule 9A of the Rules of Civil Procedure and an amendment to Rule 39 of the Rules of Juvenile Procedure. Both rules require the original petition for termination of parental rights to contain the following notice:

Any appeal of the trial court's final disposition of the complaint or petition for termination of parental rights will be governed by the provisions of Rule 8A, Tennessee Rules of Appellate Procedure, which imposes special time limitations for the filing of a transcript or statement of the evidence, the completion and transmission of the record on appeal, and the filing of briefs in the appellate court, as well as other special provisions for expediting the appeal. All parties must review T.R.A.P. for information concerning the special provisions that apply to any appeal of this case.

Because there is no provision for a stay in the Rules of Juvenile Procedure, as there is in the Rules of Civil Procedure, the supreme court has adopted the following new Rule 39(g)(4):

When an appeal is taken from the trial court's disposition, the court in its discretion may stay its

order or otherwise suspend relief or grant whatever additional or modified relief is deemed appropriate during the pendency of the appeal and upon such terms as it deems proper. The trial court's decision regarding a stay, or other such relief granted pursuant to this subparagraph, may be reviewed by the appellate court pursuant to T.R.A.P., Rule 7.

## Amendments to Court Rules Ratified by General Assembly

Compiled by Rebecca Montgomery  
Assistant Director Court and Public Services Division

The legislature has ratified the Supreme Court's amendments to the following court rules effective July 1. Text of the amendments is on the AOC's website at [www.tsc.state.tn.us](http://www.tsc.state.tn.us).

### **Tennessee Rules of Appellate Procedure**

Rule 3 - Appeal As of Right: Availability, Method of Initiation

Rule 4 - Appeal As of Right: Time for Filing Notice of Appeal

Rule 9 - Interlocutory Appeal By Permission from the Trial Court

Rule 21 - Computation and Extension of Time

### **Tennessee Rules of Civil Procedure**

Rule 4 - Process

Rule 5 - Service and filing of pleadings and other papers

Rule 5A - Facsimile filing of papers

Rule 6 - Time

Rule 8 - General Rules of Pleading

Rule 23 - Class Actions

Rule 30 - Depositions Upon Oral Examination

Rule 32 - Use of Depositions in Court Proceedings

Rule 41 - Dismissal of Actions

Rule 43 - Evidence

Rule 54 - Judgments and Costs

Rule 69 - Execution on Judgment

### **Tennessee Rules of Criminal Procedure**

Rule 44 - Right and Assignment of Counsel

Rule 45 - Time

Rule 49.1 - Facsimile Filing of Papers

### **Tennessee Rules of Evidence**

Rule 615 - Exclusion of Witnesses

Rule 803 - Hearsay Exceptions

# In Brief...

Thomas G. Faris has been appointed general sessions judge in Franklin County. He succeeds Floyd Don Davis, who resigned.



Circuit Court Judge Robert "Butch" Childers was a panelist at a Bar Admissions Seminar March 25-28 in New Orleans. The event provided an educational opportunity for recently-appointed bar examiners.



Parmenas Cox, grandfather of Chancellor James Cox, died Feb. 14 at age 92. The retired banker had lived in Giles County since 1924.



Martha Baras Benham, mother of Judge Robert Benham of Memphis, died Feb. 8 at age 95. Memorials may be made to a charity of choice or the Church Health Center, 1210 Peabody Ave., Memphis 38104.



**Jerry Scott, chief disciplinary counsel for the Court of the Judiciary, will leave his position to take senior judge status effective July 1. Scott, of Murfreesboro, was a member of the judiciary for more than two decades. He retired from the Court of Appeals in 1995.**

Nina Elizabeth Norman of Goodlettsville, mother of Judge Barbara Haynes, died March 28. The family has requested that memorial donations be made to Vanderbilt Children's Hospital, Shriner's Children's Hospital, Make A Wish Foundation or the charity of your choice.



Kate Reagan Wade of Sevierville, mother of Court of Criminal Appeals Judge Gary Wade, died Jan. 13. Survivors in addition to Judge Wade include her husband, Dwight R. Wade, Sr., and son Kenneth Wade. Memorial contributions may be made to the Tennessee Judicial Conference Foundation.



Dr. John Wesley Ellis, M. D., father of Chancellor George Ellis, died Jan. 1 at his home in Dyer. He served in World War II and, in 1954, began his practice of medicine in Dyer. Memorials may be made to the Dyer Cumberland Presbyterian Church.



The Annual Report of the Tennessee Judiciary for fiscal year 2002-03 is available on the court system website at [www.tsc.state.tn.us](http://www.tsc.state.tn.us). The report also is available from the AOC in book form and on CD.



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## **EZ-Open for WordPerfect Standard Opinion Forms**

by Mary Theroux

Court Technology Trainer

If you create many opinion, order, or judgment documents in WordPerfect and would like an easier way than the six step procedure using the WordPerfect menu to open a specific Standard Form, try using the following procedure:

### **Placing the Standard Opinion, Order or Judgment Form Icon on Your Desktop**

First, determine where the standard forms reside on your computer. (The booklet that accompanied your standard opinion diskette suggested that they be copied into your personal folder on the G drive. You may, however, have placed the files in a different folder.)

Double-click "My Computer" on your desktop. Navigate to your standard forms (.frm files). Use the minimize/restore button (if necessary) to un-maximize the "My Computer" window displaying your form files. (You should be able to see your desktop background as well as the form files.) For each form that you work with, use the following procedure to place it on your desktop:

Click on the .frm file you wish to copy (for example: New Standard Opinion.frm). Press the CTRL button on your keyboard as you use your mouse to drag the icon onto your desktop. Note: CTRL+ drag copies - don't drag without pressing the CTRL button or you will move the document out of its folder.

### **Using the Desktop Icon to Create a Standard Document**

Double-click the new desktop icon. Click the "Merge" button on the gray toolbar immediately above the form's text. Click the "Merge" button at the bottom of the Merge dialog box - you will immediately find that you are positioned inside the first entry field for the standard form. Continue as you would normally.

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