

When it comes to federal caseloads, Nebraska has the fifth busiest court docket in the country.

Of the 94 federal court districts in the , Nebraska ranks fifth in the number of annual weighted filings. Weighted filing measures the difficulty and number of civil and criminal cases.

Criminal felony filings alone put Nebraska at seventh, behind New Mexico, Western Texas, Arizona, Southern California, Southern Texas, and Northern Iowa , according to the U.S. District Court of Nebraska.

And Nebraska has only three permanent judgeships to handle the load.

For the 12-month period that ended June 30, 2006, the Nebraska judges handled an average of 603 cases each and completed an average of 38 trials. That compares to a national average of 473 cases handled and 18 trials completed per judge. There were 678 judgeships in the federal system in 2006, according to the U.S. District Court.

Due to this high caseload, Nebraska 's three congressmen believe a fourth permanent federal judgeship is needed. Reps. Lee Terry, Jeff Fortenberry and Adrian Smith have introduced legislation that would create that position.

In addition to the three permanent judgeships, the state has three senior judges. The temporary judgeship that was created by Congress in 1990 lapsed in May

2004 when that judge took senior status. At that time, the Judicial Conference of the recommended the addition of a permanent judgeship, Terry said.

Denise Lucks, clerk of the court for the district court of Nebraska , described senior status as similar to part-time work. She said the three senior judges handle very few cases compared to the judges in the permanent positions.

In Terry's floor statement to Congress, he said at least two of the three senior judges are in their 80s and the third can't take a full caseload due to health concerns. Therefore, the three senior judges provided an equivalent of less than one active judge in 2005, Terry said.

"The court is very pleased that the congressional delegation is again working to procure replacement of our temporary judgeship," said Chief Judge Joseph F. Bataillon of the U.S. District Court of Nebraska. "The court and the litigants in the state of Nebraska continue to labor under a heavy docket."

Nebraska's heavy caseload isn't a new problem. Since 1999, the caseload has risen 43.2 percent, compared to the national average increase of 12.4 percent. In 2004, Nebraska had 166 more weighted cases per judge than the average federal judge, according to the U.S. District Court.

The state's federal court was organized in 1867 with one judge. A second judge was added in 1907 and the third judge came on board in 1970, according to the Federal Judicial Center.

The federal court system is directly linked to the Supreme Court, which was created by Article III of the Constitution. Each state has at least one federal district court, and many of the more populated states, such as California and New York , have additional districts. These courts

handle both civil and criminal cases that fall under federal jurisdiction, according to the U.S. District Court.

Nebraska's federal judges are located in Lincoln and Omaha.

Hall County Attorney Mark Young said the first criteria for prosecuting a case federally include the need to determine whether the act violates a federal law. Not all federal laws mirror state laws, he said. Secondly, the case must meet the attorney's criteria. Because of the high caseload of the federal system, the federal prosecutor must be selective in the cases his office takes. For example, although distributing drugs is against federal law, the attorney's office might not take a case involving a small-time dealer because it has to manage its time, Young said.

Another determining factor in whether a case is handled federally can be where the punishment will be the greatest. Federal penalties can be

higher and defendants can be ordered to serve time at prisons in states other than the one they were convicted in, which can be particularly helpful in cases with gang connections, he said.

To help ease the prosecutor's burden, one deputy Hall County attorney has jurisdiction as a deputy federal prosecutor to handle drug cases generated by the Tri-Cities Drug Task Force, he said.

Approximately 75 percent of the cases that go federal from Hall County involve drugs and the majority of the remaining cases involve guns, Young said.

According to the U.S. District Court, those numbers reflect an overall caseload trend for federal courts. In 2003, 41 percent of the felony criminal filings in federal court were for methamphetamine violations. Another 16 percent were for other drugs and 17 percent involved weapons. The remaining cases involved fraud, robbery, burglary, immigration issues and other crimes.

Young said it would be "very helpful" to have a fourth permanent judgeship. The current judges work hard and put in long hours on difficult and complex cases, he said. A fourth judge would be an additional resource and might help ease the backlog of cases.

"The meth epidemic is pushing everything back," Young said. "That's true at the local level, also."

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