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Cost-cutting hits courts

Tresa Baldas / Staff reporter

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The economy has snagged its latest victim: the judicial system.

A growing number of courts across the United States are taking cost-cutting measures that include postponed trials, full- and half-day shutdowns, reduced hours for court personnel and unfilled judicial vacancies. Furloughs, both voluntary and involuntary, are being implemented.

According to the National Center for State Courts, at least 20 states have either cut their budgets, reduced their court hours or postponed trials to save money.

New Hampshire has taken the most drastic measure, halting all civil and criminal jury trials for one month to save on juror per diems. Most of the furloughs are taking place this month. Also, last week New Hampshire Governor John Lynch proposed closing a quarter of the state's district courts to help deal with the state's budget deficit.

Vermont recently ordered six one-day shutdowns of all courts to save money, in addition to closing courts half a day per week. Minnesota has shut down many clerks' offices a half day each week to save

money, closed a satellite court in one county and reduced use of retired judges to hear cases. Iowa recently ordered all courts closed on Feb. 16.

"I think it's a tragedy that the courts have to take this step," said Ray Blase, an assistant county prosecutor in Polk County, Iowa.

To limit the effect on the public, Iowa's Feb. 16 shutdown falls on a federal holiday ? Presidents' Day. But for Blase, there are still negative, legal consequences to the closure. It means the courtroom at the county jail will be closed for a day, essentially forcing all inmates to wait 48 hours instead of the usual 24 before they can see a judge.

"We've always had someone there, 365 days a year. I guess now it's 364," he said. "Justice delayed is justice denied."

Blase's comments are being echoed by lawyers all over the country, many whose own cases, they claim, are being compromised due to budget cuts and court closures.

77 trials delayed

In New Hampshire, Rockingham County Attorney Jim Reams, the county prosecutor, has had to postpone 77 criminal trials ? including rapes ? for up to six months because of the state's monthlong court

furlough. This, he explained, has turned into an administrative nightmare for his staff, which now has to reissue subpoenas for scores of witnesses, and make sure they're available come trial time.

"We're talking about a couple hundred witnesses. I didn't dare ask my staff how many subpoenas had to be reissued. It's adding insult to injury," said Reams, asserting that trial delays always hurt the prosecution. "The cases sit around longer. You get witness fatigue, victim fatigue, and they refuse to cooperate with the system. They get frustrated and they go away. It undermines the system fairly dramatically."

But for now, prosecutors just have to stick it out and bear it, Reams said.

"I think everybody's just hoping that it's only one month. If it goes into additional months, that's when it will really start to hurt," Reams said, noting that the civil docket is "really getting hammered."

For criminal defense attorney Michael Ramsdell of Manchester, N.H.'s Kacavas Ramsdell & Howard, New Hampshire's court closure is more of an annoyance than an injustice. He disagrees with the "prosecutions suffer" theory, saying "we certainly haven't seen cases that prosecutors are deciding not to pursue, or fail to pursue, because a case has been continued for a month, or two months.

"I just don't think it's resulting in wholesale injustices," Ramsdell said of the furlough.

Sure, criminal defendants aren't happy about it, Ramsdell said. They're expecting to go to trial, anxiety builds up, "then they find out, nope, they're going to have to go through this at a later date.

"It's unfortunate for everyone, but there doesn't appear to be any way around it, either," said Ramsdell, who also does civil defense work. "Everybody would like to have a different situation, but we don't. It's an unfortunate set of circumstances."

Civil litigator Dennis Ducharme of Manchester, N.H.'s Wiggin & Nourie can attest to that.

He litigates routine negligence cases, such as auto accidents and slip-and-fall cases, which take a back seat to criminal trials during court closures. Ducharme has six trials scheduled that had to be rescheduled for the fall because of the February shutdown.

"Those who it's toughest for are the [civil] plaintiffs. They want closure, and it's really tough on them," said Ducharme, who believes one of his cases recently settled because the plaintiff couldn't endure the trial delay.

"It was better to take the money now than wait six months for a trial."

On the flip side, Ducharme, who mostly does defense work, said civil defendants aren't too upset by the furlough.

"Some breathe a sigh of relief and say, 'Well, a delay is fine.' And they cross their fingers and hope it settles," he said.

But this doesn't settle well with Ducharme, who believes the justice system "shouldn't be driven by forces like this."

In California, budget cuts are also creating some legal and procedural headaches for attorney Raymond Chandler of the Law Office of Raymond Chandler in Santa Barbara, who has watched his multimillion-dollar wage-and-hour class action endure several delays.

Chandler said that, due to lack of funds and budget cuts, vacant positions for retiring judges are not being filled in California, causing his class action to go through several temporary judges before being assigned to a permanent judge. This creates procedural delays and requires more time for each new judge to get up to speed, which winds up hurting plaintiffs, he said.

"Delays cause witnesses' memories to become unreliable. Witnesses often move and can't be located. This generally helps defendants but hurts plaintiffs," Chandler said, noting that plaintiffs in today's economy are especially eager for their cases to move along quickly.

"They aren't upset because they know that lawsuits take lots of time, especially class actions," he said. "But many are out of work and need money, and hope that we will win, and soon."

Make no mistake, said Kerri J. Nelson, a civil litigator in Minneapolis, the justice system is suffering at the hands of the economy, and things could get worse.

In Minnesota, jury stipends have been cut in half while court filing fees are up. The mandatory nonbinding arbitration program has been discontinued, along with supervision of parent-child visitation.

And more cuts for the state's court system ? another 5% ? are being proposed.

"Given how many court services are being cut ? including public defenders ? I think it's clear that access to justice is being compromised," said Nelson, an associate at Minneapolis-based Holstein Kremer.

Nelson said her law firm has been most affected by Minnesota's half-day closure of all clerks' offices. Filings take weeks instead of days to show up on the court's docket, she said, and other court services are delayed as a result.

"While many larger corporate clients can ride out delays without too much harm, smaller companies and individuals feel the pain more quickly," she said. "Despite this, I think it will be a while before we see courts closing altogether."

Has it been worse?

True, times are bad for the legal profession, but Samuel Hoar Jr., a partner at Burlington, Vt.'s Dinse, Knapp & McAndrew, said he's seen worse in his 23 years practicing law in Vermont. Specifically, he recalls the early 1990s, when the state suspended all civil trials for six months.

"Now that's far more draconian," said Hoar, noting that Vermont's recent court closures don't seem so bad.

Six times this year, Vermont will close its courts for one day.

One of those days happened to fall in the middle of a high-profile medical negligence trial that a lawyer in Hoar's law firm is handling. Not an ideal situation, Hoar conceded, but not the end of the world, either.

"Losing a day here and there at a time when we're all being asked to tighten our belts a notch might not be the way I would do it . . . but it's

certainly a lot less severe than other measuresWe wish this weren't the case, but it's relatively minor."