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Nevada justices' caseload balloons

Some in state call for intermediate appellate courts
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For the first time, the number of cases filed with the Nevada Supreme Court topped 2,000 in 2005, raising questions once again about whether the state should create an intermediate appellate court to help the highest court handle the heavy workload.

The 9 percent increase in cases filed -- from 1,852 in fiscal year 2004 to 2,022 in 2005 -- meant that on average, the number of cases per justice totaled 243, well above the national average and far beyond the standards set by legal organizations, Justice Nancy Becker said Friday.

In comparison, Supreme Court justices in Montana handle 80 cases per year, and in Maine, justices review 74 cases per year, according to a recently released annual report on the judiciary.

While the Nevada Supreme Court has implemented a number of fast-track programs to improve its efficiency, the sheer numbers of filings are making it difficult for the court to provide the attention each case deserves, Becker said.

"Our goal is to do the best we can do for the state of Nevada," Becker said. "But I would say that not every case is getting the attention that's recommended for it by the American Bar Association. Not every case is getting as much individual justice supervision as the standards imply."

As it stands, the Supreme Court must review every appeal, Becker said. They don't have the discretion to accept only those cases that it deems most important.

Intermediate appellate courts common

in the U.S.

Today, 11 states operate without an intermediate appellate court, according to the National Center for State Courts.

But on three different occasions, voters in Nevada rejected a call for an intermediate appellate court. In 1997, the Legislature passed a measure calling for its creation, but the question did not go to voters that time.

Instead, the size of the Supreme Court was increased from five to seven justices, and a panel system was created, consisting of three justices on the southern panel, and three in the north.

The court decided to see whether these changes would be enough to address the increasing caseload without the intermediate appellate court, said Justice James Hardesty. But the numbers suggest some relief is still needed.

"One thing is very clear," he said. "When you compare the workload with other states in our population range, the number of cases filed per judge per year is off the charts.

"I just don't think it's acceptable to the citizens of this state for an appeal to take two to three years for a deposition."

Lawyers, public defender offer insights

Reno lawyer Tom Valoria, who has a handful of cases pending before the Supreme Court, said in considering whether to add another layer in the judicial process, voters and the state must weigh the costs of creating a new court with the benefits of having cases resolved faster.

But lawyer Scott Freeman, who has handled a large number of appeals, said the high court needs help.

"I'm very much in favor of an intermediate appellate court," Freeman said. "There would be more immediate attention to cases. When you have a case that could change somebody's life, and it takes a year to decide, that's difficult to deal with."

Rick Cornell, a Reno lawyer who handles mostly appeals, said despite the court's creative measures to deal with its workload, the cases that go before it are being strangled.

Nevada Supreme Court cases filed and disposed

	2004	2005	2006	2007	2008	2009
Total cases filed	1,940	1,760	1,752	1,841	1,852	2,022
Total cases disposed	1,932	2,008	1,906	1,889	1,750	1,980
Cases pending	1,890	1,628	1,474	1,426	1,528	1,570
Number of opinions written*	106	102	77	85	78	91

* Includes opinions that do not dispose of cases.

SOURCE: Nevada Supreme Court Clerk's Office

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"It still concerns me that so many cases get decided without oral arguments, including death penalty," Cornell said. "When their caseload is so horrific that they don't have the time to listen to the most serious cases that society is deciding, that shows that they really are jammed. I think it's unconscionable that death penalty cases get decided without oral argument."

And Washoe County Public Defender Jeremy Bosler said he supports the creation of a new appellate court.

"The Supreme Court has shown a great work ethic to try to streamline the process in recent years, but the numbers keep increasing," he said. "We need to start to plan," he added. A new court would require a change to the constitution, which requires two votes of the Legislature and voter approval.

Legislature plays a part

During the last session, the Legislature ordered the Supreme Court to conduct a study to determine whether an intermediate appellate court was needed, and the impacts one would have on the judicial process in Nevada.

Newly appointed Chief Justice Bob Rose is in charge of setting up the panel to study the possibilities. The report is due to lawmakers at the next legislative session in 2007.

Hardesty said a number of factors would make it easier to add an intermediate court.

If the Supreme Court was reduced back to five justices, two could shift to the new court, thus requiring only three new judges. In addition, the space used in Las Vegas by the three-judge southern panel could be used instead by a new intermediate appellate court, he said.

"In an ideal world, I think the Supreme Court should consist of a panel of five justices," Hardesty said. "That court could focus on the most serious legal questions, and that would allow adequate time for research and the analytics of legal opinion.

"We fight for minutes to write with the caseload we have," he said. "There's just that much to do."