



West Virginia State Bar
April 11, 2022
Chief Justice John Hutchison

ICA ADVISORY COUNCIL: MARCH 18, 2022



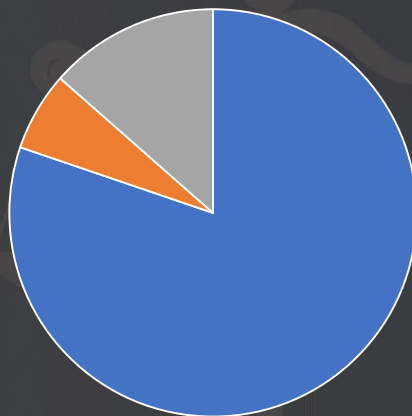
BUDGET

- Div. of Regulatory and Fiscal Affairs
SB 275 Fiscal Note:
\$5,159,564 Year 1 Costs
- FY23 Budget Request:
\$5,084,026 Year 1 Costs

Actuals \$75,000 less than estimate

YEAR 1 BUDGET: \$5,084,026

ICA Budget



■ Pay & Benefits(80%) ■ Equipment (6%) ■ Current Exp (14%)

BUDGET

- Court absorbing FY22 start-up costs through existing appropriations

FACILITIES

- Search for office space for 39 FTEs
- Consulted with WV Real Estate Division
- Compared options for “traveling” court or court with established location
- Explored options for courtroom location

FACILITIES: 4700 MACCORKLE AVE. SE



- Benefits: Current use, technology investment, location, quality
- Court would have paid around \$851,000 in annual rent
- \$7.5M purchase price
- Court will occupy 75% of the building & will lease remainder of space to offset maintenance
- Breakeven by 2030

FACILITIES

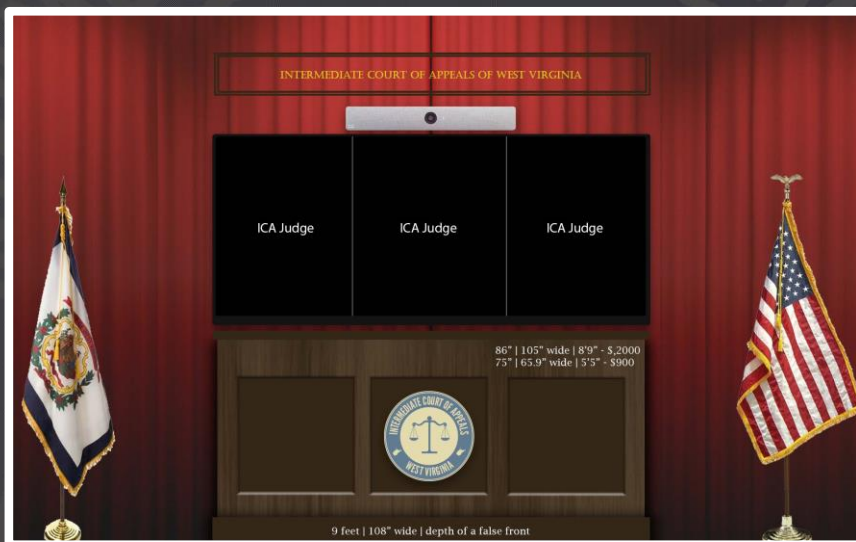
Satellite Hearing Locations

- Goal of a maximum 1.5 drive time
- Selection based on:
 - Geographic diversity
 - Ease of road access
 - Space availability
 - Technology access
 - County Commission engagement
 - Access to parking

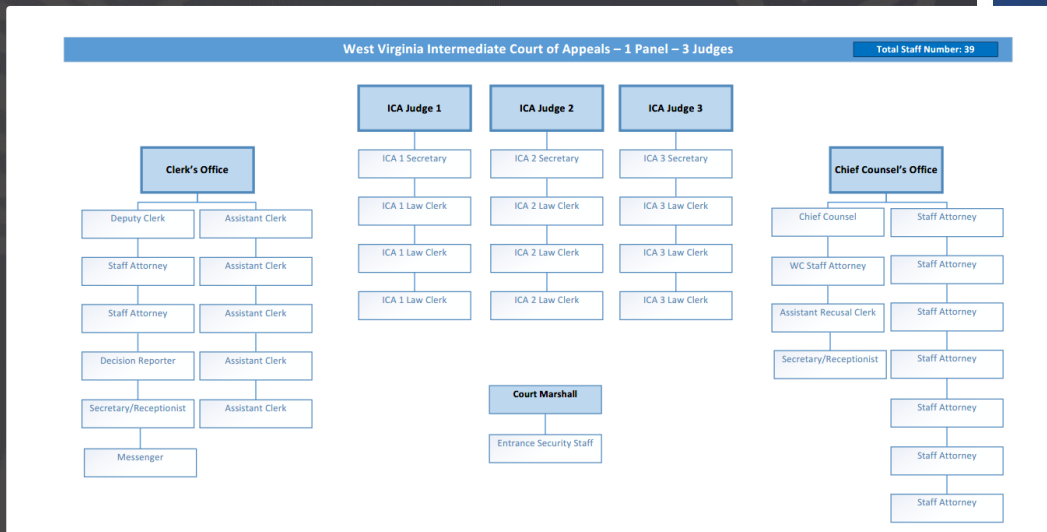
FACILITIES

Satellite Hearing Locations

- Dedicated space
- Single Room with waiting area
- Security
- Appropriate décor
- Counsel table and podium
- Professional grade video conference equipment



STAFFING & OPERATIONS



PROPOSED RULES HIGHLIGHTS

- ICA has no original jurisdiction (W. Va. Code §51-11-4(a))
- Jurisdiction is for orders and decisions entered after June 30, 2022
- Revisions to existing Rules of Appellate Procedure and not new set of rules
- Public Comment Period - April 11

PROPOSED RULES HIGHLIGHTS

- [DRAFT RULE 38A]

File & Serve Xpress™

- E-filing will be mandatory for bar members at both the SCA and ICA
- Self-represented litigants may file by paper or electronic mail
- \$7.00 transaction fee
- Includes electronic service
- Statewide CLE training

PROPOSED RULES HIGHLIGHTS

- [Draft Rule 29(f)]
- Motion for Direct Review

(f) *Motions for direct review.* Within twenty days of the date a notice of appeal is filed in the Intermediate Court, a party to the appeal may file a motion in the Supreme Court for direct review of the final order on appeal. Any party may file a response in opposition to a motion within ten days of the filing of the motion. A reply to a response to a motion may not be filed without leave-granted by order. A motion for direct review may only be granted in appeals that involve fundamental public importance and where exigencies, in which time is of the essence, warrant direct review. If the motion is granted, jurisdiction of the appeal is transferred from the Intermediate Court to the Supreme Court.

The Court, on its own motion, may obtain jurisdiction over any civil case filed in the Intermediate Court.

REMAINING QUESTIONS

- Civil cases on appeal from ICA – will there be written decisions or will SCA affirm without further order?

NOTE: ALL CASES WILL GET FULL REVIEW AT THE SCA REGARDLESS OF METHOD OF DECISION

LEGISLATIVE UPDATE

- HB 2910: Allocation of Magistrates
 - Berkeley County adds one
 - Caseload study
 - Maximum number 170 & no county loses a magistrate
 - Allows Court to study regional magistrate model for after-hours and emergencies

LEGISLATIVE UPDATE

- SB 463: “50/50 Physical Custody”
 - Rebuttable presumption for 50/50 shared physical custody
 - Presumption may be rebutted by preponderance of evidence for a number of factors
 - Evidence at temporary hearing, parties can still proffer if agreed
 - Interlocutory appeal to ICA

LEGISLATIVE UPDATE

- HB 4377: Mental Hygiene Procedure Update – Practitioners should read this
- SB 616: Victim confidentiality in certain sexual crimes
- HB 4712: Prompt enrollment in payment plans and caps plans to 3 years in Magistrate Court and 5 years in Circuit Court

LEGISLATIVE UPDATE

Bills that Did Not Pass

- HB 4344 Foster Care Reform
- HB 4006 Sentencing Rewrite
- HB 4522 Expungements for Acquittals, Dismissals, and Non-indicted boundovers

QUESTIONS AND DISCUSSION