

Part One: Judicial Branch Overview

Introduction

Fair and impartial courts are essential to provide access to justice for all Vermonters and to protect individual rights under the Constitution.

The Vermont Judiciary, as a co-equal branch of state government, is an important element in the constitutional balance of power among the Executive, the Legislative, and the Judicial Branches. This balance of power is essential to the vitality of our democracy.

The courts provide a forum for resolution of disputes involving the range of human conflict, including cases that address the protection of individual rights, public safety, and business and commercial concerns. The Judiciary is an important element in the preservation and maintenance of an orderly society.

The Vermont Constitution

Generally speaking, in the United States, the law is created by a combination of:

- Federal and state constitutions;
- Legislation passed by the Congress and by the applicable state legislature; and
- “Common law” [historical rules and precedents of the English legal system that evolved in the United States after the time of the American Revolution through court decisions; common law is applicable unless changed by a constitutional provision or statute.] This was adopted as the law of Vermont by Title 1, Section 271, of the Vermont Statutes Annotated.

The Vermont Constitution recognizes each separate branch of government as follows:

- The “Supreme Legislative power” shall be exercised by a Senate and House of Representatives [Chapter II, Section 2];
- The “Supreme Executive power” shall be exercised by a Governor; or in the Governor’s absence, a Lieutenant Governor [Chapter II, Section 1]; and
- “The judicial power of the State shall be vested in a unified judicial system which shall be composed of a Supreme Court, a Superior Court, and such other subordinate courts as the General Assembly may from time to time ordain and establish.” [Chapter II, Section 4]

Chapter I, Article 4 of the Vermont Constitution provides as follows:

“Every person within this state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which one may receive in person, property, or character, every person ought to obtain right and justice, freely, and without being obliged to purchase it; completely and without any denial; promptly and without delay; conformably to the laws.”

Constitutional Allocation of Judiciary Responsibilities

Vermont Constitution	Vermont Supreme Court
Ch II, Section 29	Consists of the Chief Justice and four Associate Justices
Ch II, Section 30	Has administrative control of all the courts of the state
Ch II, Section 30	Hears appeals from all lower courts and handles related writs in all cases
Section 30	Original jurisdiction [determining facts and law, as opposed to hearing appeals from lower courts] “only as provided by law”
Section 30	Has disciplinary authority concerning all judicial officers and attorneys in Vermont
Section 31	May not be divided into geographical or functional divisions
Section 30	Rulemaking authority “not inconsistent with law” re: appeals
Section 31	Rulemaking authority “not inconsistent with law” re: lower courts
Section 31	Rulemaking authority re: establishment of geographical and functional divisions of lower courts “not inconsistent with law”
Section 37	Rulemaking authority “governing the administration of all courts and governing practice and procedure in civil and criminal cases in all courts,” provided that “any rule adopted by the Supreme Court may be revised by the General Assembly”

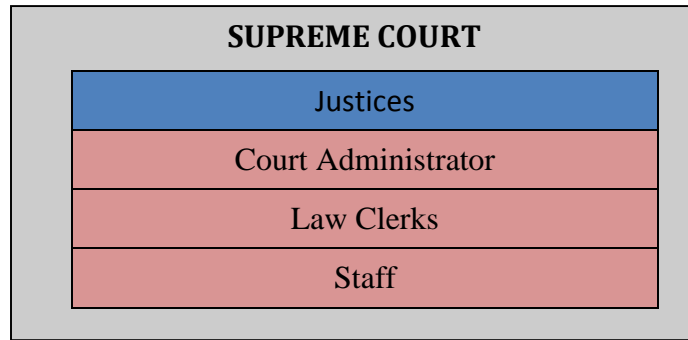
Vermont Constitution		Superior Court	
Ch II, Section 4		Identified as one of the components of the unified judicial system [along with the Supreme Court and "such other subordinate courts as the General Assembly may from time ordain and establish"]	

Vermont Constitution		Other Lower Courts	
Ch II, Section 31		All other lower courts of Vermont shall have original and appellate jurisdiction "as provided by law". All courts except the Supreme Court may be divided into geographical and functional divisions as provided by law or by judicial rules adopted by the Supreme Court "not inconsistent with law."	

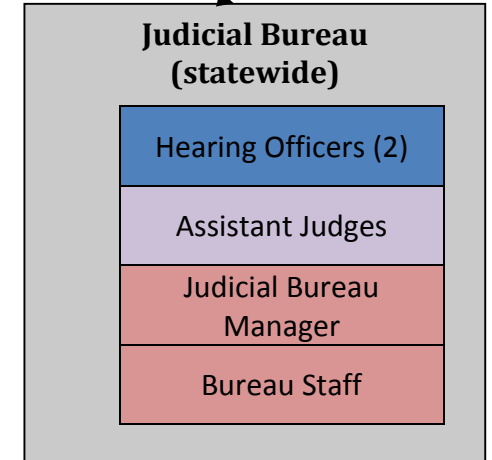
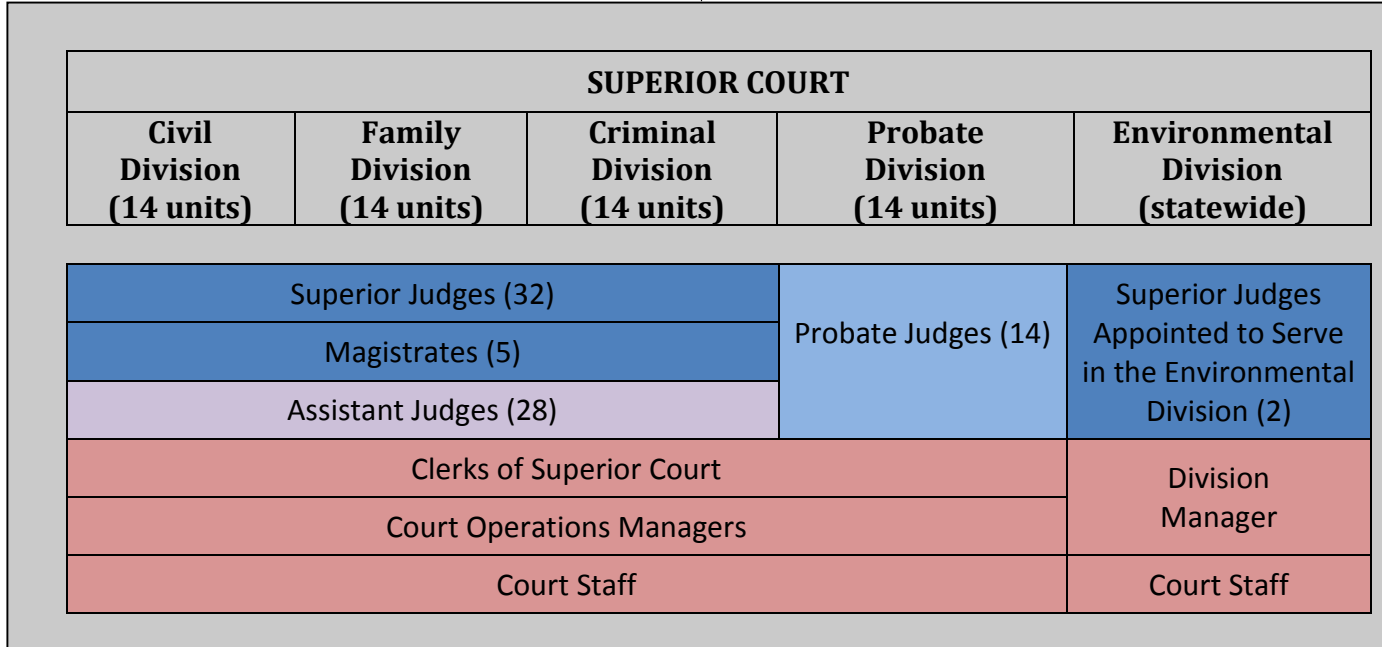
Vermont Constitution		Assistant Judges	
Ch II, Section 50		The Assistant Judges shall be elected by the voters of their respective districts "as established by law." Their judicial functions shall be "established by law." Their term of office shall be four years and shall commence on the first day of February next after their election.	
Ch II, Section 53		The manner and certification of election and filling of vacancies shall be "as established by law."	

Vermont Constitution		Judges of Probate	
Ch II, Section 51		Judges of Probate shall be elected by the voters of their respective districts "as established by law. " The General Assembly may "establish by law" qualifications for the election to and holding of such office. Their term of office shall be four years and shall commence on the first day of February next after their election.	
Ch II, Section 53		The manner and certification of election and filling of vacancies shall be "as established by law."	

THE VERMONT UNIFIED COURT SYSTEM



- Appointed;
Statutory Salary
- Elected;
Statutory Salary
- State Employee; Hired by
Supreme Court or Designee
- Elected;
Paid by State when sitting
alone
Paid by County when sitting
with judge



THE SUPREME COURT

The Chief Justice and the four Associate Justices constitute the Vermont Supreme Court.

Justices are appointed by the Governor from a list of qualified candidates submitted by the Judicial Nominating Board and confirmed by the Senate for six-year terms. When a justice's term expires, the General Assembly votes whether to retain the justice in office.

Supreme Court Justices

Honorable Paul L. Reiber, Chief Justice
Honorable John A. Dooley, Associate Justice
Honorable Marilyn S. Skoglund, Associate Justice
Honorable Beth Robinson, Associate Justice
Honorable Harold E. Eaton Jr., Associate Justice

THE SUPREME COURT'S JUDICIAL DUTIES

The Supreme Court is the court of final appeal in Vermont. It hears cases primarily in Montpelier. On occasion the full Court will travel to the Vermont Law School or another courthouse in the state to hear cases. The court hears appeals from the Vermont Superior Court and from certain administrative agency proceedings. It also may, in its discretion, accept the appeal of certain Judicial Bureau and small claims cases. In special types of cases, the Supreme Court has original or exclusive jurisdiction. This is when a case is brought directly to the Supreme Court without having to be heard first in one of the lower courts.

The five justices of the Supreme Court resolve approximately 500 cases per year by deciding whether the trial court judge accurately applied Vermont law to the facts in the case. In its appellate role, the Supreme Court does not take evidence, listen to witnesses or receive exhibits in a case. Instead, the court focuses on the legal issues in the case and determines whether the lower court correctly applied the law to the facts. Decisions of the Vermont Supreme Court are final unless the case presents a federal question involving the United States Constitution, statutes, or treaties. If there is a federal question, decisions of the Vermont Supreme Court may be appealed to the United States Supreme Court.

THE SUPREME COURT'S ADMINISTRATIVE DUTIES

The Vermont Constitution gives the Supreme Court the responsibility to administer the Vermont Court system. It authorizes the Supreme Court to make rules regulating practice and procedure. The Supreme Court also has the power to discipline judges and attorneys, to license attorneys, and to regulate the practice of law.

The Supreme Court has established the following Principles for Administration of the Vermont Judiciary:

- Vermont judicial officers will be people of integrity who are fair, impartial, and competent.
- The Supreme Court will operate the state court system as a unified system, in accordance with the Vermont Constitution, Ch. II, Sec. 4, which provides that "the judicial power of the State shall be vested in a unified judicial system..."
- The Vermont Supreme Court will deploy resources in a manner that is cost efficient for the taxpayer, while providing access to court services that are cost effective to litigants.
- Court services will be provided through a system that is open, affordable, and understandable and that offers a level of service that is appropriate to the characteristics of the case.
- Court services will be provided through a system that ensures access to justice and respect for all litigants and members of the bar.
- Case decisions will be made by appropriately educated and well-trained judicial officers.
- Trial court judges will be capable of working in any court, hearing any case that needs to be heard on a particular day.
- Judicial officers will issue timely decisions that do justice for the litigants, establish clear and ascertainable law, and apply the law correctly to the facts.
- The Judicial Branch will be organized to minimize redundancies in court structure, procedures and personnel, and to provide an efficient balance of workload among courts.
- Funding authorities will provide resources that are appropriate to the court structure and provide long-term stability in the budgeting, funding and operations of the Judicial Branch.

The Supreme Court Justices administer the Vermont Court System with the assistance of the Chief Superior Judge for Trial Courts and the Court Administrator.

The Chief Superior Judge assigns the judicial officers to the trial courts; resolves attorney conflicts; and, in cooperation with the Court Administrator, assumes general administrative control of the work of the trial courts.

The Chief Superior Judge assigns a Presiding Judge to each unit of the Vermont Superior Court.

The Chief Superior Judge also assigns superior judges to sit in the various units of the Vermont Superior Court and in the divisions in each unit for a specific length of time, generally one year. Depending upon the size of a unit, individual judges may be assigned to sit in particular divisions or in smaller units; the same judge may be assigned to sit in the civil, criminal and family divisions concurrently (especially when all three divisions are located in the same building).

The environmental division, where the environmental judges hear and dispose of environmental cases, has statewide jurisdiction. The Judicial Bureau also has statewide jurisdiction.

The Court Administrator provides leadership and support to the judges and court staff to enable them to resolve disputes fairly, expeditiously and inexpensively. The Court Administrator is responsible for the overall management of the court system, including judicial and employee education, budgetary and personnel matters, computer services, recordkeeping and court security. The Court Administrator serves as liaison between the Supreme Court and its boards and committees and between the Judiciary and the legislative and executive branches of government.

CRIMINAL DIVISION

Each unit of the Superior Court has a criminal division. This division of the Superior Court is responsible for the thousands of criminal cases that the State's Attorneys, Attorney General and Municipal Grand Jurors file each year:

- Through jury trials, court trials and the acceptance of guilty pleas, the Superior Court Judges assigned to the criminal division in Superior Court determine the guilt or innocence of persons charged with crimes;
- Through sentencing decisions, the Superior Court Judges:
 - punish persons who engage in acts not tolerated by society,
 - protect the public by separating violent persons from society,
 - protect the public by deterring others from violating the law, and
 - attempt to rehabilitate criminals so that they will be productive members of society.
- Through determinations of probable cause and decisions on requests for arrest warrants, search warrants, and motions to suppress evidence, the Superior Court Judges protect the public from the arbitrary use of government power.

The criminal division also has jurisdiction over the most serious fish and game violations and traffic violations, as well as Judicial Bureau appeals, civil suspension cases, civil contempt for non-payment of municipal ordinance cases, fugitives from justice, forfeitures, and DNA testing. The criminal division is also the site of various treatment court dockets that involve offenders with substance use disorders and individuals with severe and persistent mental illness, and domestic violence offenders.

FAMILY DIVISION

Each unit of the Superior Court has a family division. The family division is responsible for the divorce, legal separation, civil union dissolution, and annulment actions, other domestic actions (primarily parentage) and post-judgment actions. Most of the post-judgment actions involve attempts by parents to modify or enforce child support, visitation or custody orders.

The family division is also responsible for motions to establish, modify or enforce child support, juvenile delinquency cases, cases involving the abuse and neglect of children, cases in which the state seeks to terminate parental rights, petitions for relief from domestic abuse and other family matters including how the state should care for persons with mental illness and developmental disabilities.

CIVIL DIVISION

Each unit of the Superior Court has a civil division. The civil division has jurisdiction over all civil actions. Many of these actions involve businesses seeking the collection of unpaid debts, individuals seeking damages resulting from the negligence of others, general lawsuits involving the failure to abide by the terms of a contract, landlord/tenant disputes and mortgage foreclosures. State consumer protection and civil rights actions are filed in the civil division. People may go to the civil division to seek protection from those who have stalked or sexually assaulted them. The civil division also hears appeals of some governmental actions.

The civil division also has jurisdiction over small claims matters. Citizens and businesses seeking up to \$5,000 for various kinds of claims, such as unpaid debts, shoddy home improvement jobs, and returns of apartment security deposits, may look to the civil division to resolve their disputes.

ENVIRONMENTAL DIVISION

The environmental division is responsible for hearing and deciding cases that fall into four general categories: (1) requests to enforce administrative orders issued by various state land use and environmental enforcement agencies; (2) environmental enforcement proceedings from various municipalities; (3) appeals from municipal zoning boards, development review boards and planning commissions; and (4) appeals from land use determinations made by the various Act 250 district commissions and jurisdictional determinations by the Act 250 district coordinators. The main office and courtroom of the environmental division is located in Chittenden County, although the two superior judges assigned to hear environmental division proceedings travel throughout the state to conduct site visits and trials in the county where the project is located, as is directed by state law.

PROBATE DIVISION

The probate division is responsible for guardianships, adoptions, decedent estates and testamentary trusts. The probate division works to:

- Assist persons and families to administer and settle estates and any resulting trusts, and if necessary, resolve any disputes over the distribution of the assets of the estates;
- Determine whether guardianships need to be established for incompetent persons;

- Assist persons wishing to relinquish parental rights for the purpose of placing a child up for adoption; and
- Monitor the processing of the cases in the court to insure fiduciaries meet their responsibilities to the estates and guardianships.

THE JUDICIAL BUREAU

The Judicial Bureau has statewide jurisdiction over civil violations. Police and other government officials have authority to charge civil violations, including for example:

- Title 23
 - Traffic violations
- Municipal ordinance violations
- Title 10
 - Fish and wildlife violations
- Burning and waste disposal violations
- Environmental violations
- Lead hazard abatement violations
- Cruelty to animals violations
- Titles 2, 5, 7, 9, 10, 13, 16, 18, 19, 20, 21, 24 includes but not limited to:
 - violations for: Motor carrier, railroads, alcohol, tobacco, marijuana, scrap metal, water rules, waste transportation, humane treatment of animals, hazing, environmental mitigation, labor, littering and illegal dumping

The Judicial Bureau processes between 80,000-90,000 civil violation complaints per year. If a person denies the alleged violation, a court hearing will be scheduled before a Hearing Officer.

The Judicial Bureau has one Hearing Officer who is appointed by the Chief Superior Judge. An elected Assistant Judge may also be assigned to act as a Hearing Officer. The Judicial Bureau Manager and staff are responsible for the daily operations of the court. The Judicial Bureau Manager's Office is located in the courthouse at White River Junction.

JUDICIAL OFFICERS

Judicial Officers in Vermont:

- Chief Justice (1)
- Associate Justices of the Supreme Court (4)
- Superior Judges (34)
- Superior Judges appointed to hear environmental cases (2)
- Magistrates (5)
- Judicial Bureau Hearing Officers (1)
- Probate Judges (14)
- Assistant Judges (28)

Appointment: The Governor, with the advice and consent of the Senate, fills vacancies for the offices of Chief Justice, Associate Justices, Superior Judge, and Magistrate from a list of nominees presented by the Judicial Nominating Board as determined to be qualified. Probate Judges and Assistant Judges are elected. Judicial Bureau hearing officers are appointed by the Chief Superior Judge. The Supreme Court appoints one superior judge to serve as the Chief Superior Judge for the Vermont trial courts.

Qualifications: With the exception of Probate Judges who were sitting at the time the new judicial restructuring law was passed in 2010 and Assistant Judges, all judicial officers must be attorneys licensed to practice law in Vermont.

Term of Service: Supreme Court justices, superior judges, and magistrates hold office for a six-year term. At the end of each six-year term, the question of their continuance in office is submitted to the General Assembly in a process known as retention. The justice, judge, or magistrate going through the retention process continues in office for another term of six years unless a majority of the members of the General Assembly voting on the question vote against continuation in office.

Assistant Judges and Probate Judges are elected. In each case, the term of office is four years.

Jurisdiction:

Superior Judges hear cases in the civil, criminal, and family divisions of the Vermont Superior Court. Superior Judges appointed to hear environmental cases (also known as "environmental judges") preside in the environmental division. They may also be specially assigned by the Chief Superior Judge to hear other matters in the civil, criminal, and family divisions.

Magistrates sit in the Family Division and are authorized to hear cases involving the establishment, enforcement or modification of child support, as well as certain other issues that arise in domestic (divorce and parentage) cases. They may also be specially appointed by the Chief Superior Judge to hear cases as an acting Superior Judge.

Judicial Bureau Hearing Officers hear cases in filed in the Judicial Bureau. They may also be specially appointed by the Chief Superior Judge to hear cases as an acting Superior Judge.

Probate Judges hear cases in the probate division, but may be specifically assigned by the Chief Superior Judge to hear cases as an acting Superior Judge in other divisions.

Assistant Judges may choose to sit as side judges [next to the Superior Judge] as triers of fact on cases in the civil division and on cases in the family division in the domestic and abuse protection dockets. Assistant judges do not sit as triers of fact on juvenile cases.

Assistant Judges who meet training requirements established by the Court Administrator's Office are authorized by statute to hear and decide civil ordinance and traffic violations in the Judicial Bureau and uncontested divorces in the Family Division.

Assistant Judges in Caledonia, Rutland, and Bennington counties who were authorized to hear small claims cases prior to the new judicial restructuring law, may continue to sit on small claims cases filed in their respective counties. They have an annual continuing education requirement.

COURT MANAGEMENT

Each unit of the Vermont Superior Court is managed by a Superior Court Clerk appointed by the Court Administrator, and a Presiding Judge [chosen from among the Superior Judges] appointed by the Chief Superior Judge. Court Operations Managers in each unit, who report to the Superior Court Clerk, manage court staff.

The Vermont Supreme Court has directed that the Presiding Judge and the Superior Court Clerk work collaboratively on issues related to case management, scheduling, and calendaring; court programs (e.g., litigant education, treatment court dockets, *Guardians ad Litem* etc.); the use of court facilities; the relationship with the local bar; the relationship with the community; and other issues related to the effective and efficient operation of all divisions in the county unit.

Part Two: Court System Funding

The courts are primarily financed by the state general fund (approximately 86%) to fund general court system operations.

In addition, the Judiciary receives approximately \$2.9M in specialized funding from federal grants and other state entities to support targeted court activities. Examples of federal grants include: the Stop Violence Against Women Act (STOP VAWA); the HHS State Court Improvement grants, including Basic, Training and Data; and the Washington County Adult Treatment Drug Court Expansion (SAMHSA).

Examples of interdepartmental transfers from other state agencies include: aspects of treatment court dockets from Alcohol and Drug Abuse Programs (ADAP); determination and collection of child support from Office of Child Support (OCS); on a sub-recipient basis, certain federal formula grants, such as the STOP VAWA formula grant from the Vermont Center for Crime Victim Services (supporting court programs, education and trainings around the issue of domestic violence), and the Alcohol Traffic Safety and Drunk Driving Prevention Incentive Grant as a sub-recipient from the Department of Public Safety.

The fees users pay are generally credited to the state general fund and not dedicated to the courts. Attorney licensing fees are used to fund the boards that oversee licensing, oversight of judicial officers and attorneys, and bar examinations. Many fines may have administrative fees or surcharges attached that the legislature has specifically identified for use on specific projects.

Part Three: Meeting the Challenges of the Future

Technology in the Vermont Judiciary

For many years, the Vermont Judiciary has had the goal of a paperless court system, with all case files and related documents filed in electronic form. In recent years, the Supreme Court has expanded that goal to include digital video and audio capture of all in-court events to complete the electronic case file and to allow people to participate by video from any county in the state. Currently, the Judiciary is addressing its technology needs from two perspectives. First, we have migrated our server, virtual desktop, and networking infrastructure to the State of Vermont Private Cloud. This virtual infrastructure provides the Judiciary with a scalable, solid and reliable technical foundation for current and future operations. Secondly, we are actively maintaining and enhancing our legacy case management systems to

meet the evolving operational needs of the Judiciary through extension and modification of our existing tools.

The Judiciary is actively evaluating its short- and long-term strategic goals and is developing a long-term technology roadmap to support those goals. Replacing the Judiciary's case management system is an essential component of this roadmap. Additionally, the Judiciary intends to combine a new case management system with statewide e-filing and electronic case files. The ultimate goal is a paperless court system. The system will replace paper-based exchanges of information with executive branch agencies – e.g., Department of Corrections, Department of Motor Vehicles or Department for Children and Families – with automated electronic exchanges, acting as a central hub for over 20 information partners. As funds are available, the Judiciary will introduce digital audio and video capture into all court rooms, integrated with the case management system. The Judiciary is in the process of revising its website. The new website should be available in early 2017.

Part Four: Public Education and Access to the Courts

Education for Self-Represented Litigants

All parties representing themselves (*pro se*) in a Divorce, Separation or Civil Union dissolution case handled by the Family division, are ordered by the court to attend a Pro Se Litigant Education Program before they appear in court to pursue their claims (EXCEPT attendance is not a prerequisite for hearings on Relief from Abuse Petitions or child support hearings). One-hour programs are held each month and are conducted by an attorney who regularly practices in the Family Court. The purpose is to educate litigants about the following: their responsibilities while representing themselves, courtroom etiquette and general procedures affecting family cases, and services available through outside agencies to help with problems affecting families. Anyone may attend, whether or not they are party to a pending case.

Cost: Free

Relief from Abuse Education Program

This is an education program for parties to a Relief from Abuse case. It is conducted in two separate group sessions, one for Plaintiffs and one for Defendants, immediately prior to the court hearings. Many parties are not represented by attorneys, and need information about what to expect. It includes an orientation to the court process and the kinds of questions parties may be asked, information about the legal standards to be applied and the

kinds of requests that parties can make, and information about services that may be helpful to some parties involved in such cases. This is available in all counties.

Cost: Free

Part Five: Children and Families in the Court System

Attorneys for Children

In some divorce or parentage cases, including post judgment filings, the court appoints an attorney to represent the interests of a minor child. Examples include cases in which the parents have significant factual disagreements over whether a child has been physically or sexually abused by a party or household member, or when there are indications that a child has substantial physical or psychological problems that the parents do not appear to be addressing in a responsible manner, or when parents appear focused on their own needs and not those of the children.

Cost: The court determines the contribution of each party. The parties may apply for court subsidy for this program. In subsidized cases, attorneys are compensated at the rate of fifty dollars (\$50.00) per hour, with a limit set by the court. There is presently limited statewide funding for subsidy available through the Chief Superior Judge's office.

Family Mediation

The court may order parties, or the parties may choose to participate in mediation to attempt to work out agreements. Mediation is usually ordered in cases in which parties have agreed to seek solutions through an alternative dispute resolution, also known as mediation. In post judgment situations, usually a final divorce decree will require that mediation be attempted prior to any court filing, particularly in cases where the parents previously have shared parental rights and responsibilities. The mediator provides a comprehensive screening of parties to determine if they and their issues are appropriate for mediation. If the parties are appropriate, then the mediator and the parties make independent arrangements for services. Mediation is not used in cases of abusive relationships. Mediation is available in certain civil cases as well as the environmental court.

Cost: The Judiciary subsidizes the cost of mediation for litigants with limited financial means through a sliding fee scale.

Parent Coordination

An alternative dispute resolution process, parent coordination is designed to assist high conflict, separated or divorced parents and the court to develop safe, appropriate parent/child contact plans. Unlike mediation, which seeks agreement based on face-to-face, respectful discussion, the protocols for parent coordination are more concerned with safety issues and their impact on the children. Parenting plans developed in parent coordination work as tools to discourage and diminish abusive behavior between family members by setting clear boundaries and guidelines for who will do what, where, when and how – and establish penalties for non-compliance. For some families, this means blocking and scripting visitation exchanges, telephone calls and answering machine messages.

Parent Coordination takes place when there has been a determination on Parental Rights & Responsibilities but it is unclear how visits can take place without parental conflict that will be emotionally or physically damaging to the child. Parent Coordinators work separately with each parent to develop a Parenting Plan which will work for that particular family. If parents are unable to agree on a plan, the Parent Coordinator will make a recommendation for a plan to the court.

Cost: The Judiciary subsidizes the cost of parent coordination for families with limited financial means through a sliding fee scale.

Home Studies

Home Studies are offered through the Vermont Superior Court Family Mediation Program using contracted Parent Coordinators. The purpose of a Home Study is to develop information helpful to the parents and the court in making decisions about children in divorce, post-divorce and parentage cases. Its emphasis is on learning about each parent by studying his or her social history, home environment, and network of relationships with other persons connected with that home. It is a useful approach when the child(ren)'s relationship with others in the parents' lives (for example, step-parents, half-siblings, parents' significant others) may be an important factor. It is not intended to be a psychological study of family members.

Cost: The Judiciary subsidizes the cost of home studies for litigants with limited financial means through a sliding fee scale.

Guardian ad Litem Program

Under Vermont statutes and rules, Guardians ad Litem must be appointed for children in Juvenile cases (Abuse, Neglect, (CHINS)), or when a child is a witness. Guardians ad Litem are also appointed in some Divorce, Parentage, RFA, Mental Health and Probate cases. Guardians ad Litem are volunteers except for parents who serve as Guardians ad Litem in delinquency cases. Training is presently provided for Guardians ad Litem who are appointed for children in abuse and neglect cases (in partnership with the National Court Appointed Special Advocates organization) and in Delinquency cases (in participation with the Public Defender's Office).

Children Coping With Divorce

COPE is a joint program of UVM Extension and the Vermont Superior Court Family Division and is designed for parents of minor children who are separating/divorcing and filing a motion with the court. The four-hour program is required by the Vermont Superior Court's Family Division unless excused by the court for good cause shown.

The workshop is designed to equip parents with insights, information, practical tips and tools to ensure their children's adjustment to the changes in their family is successful. Classes are held in courthouses around the state. Registration is required.

Cost: \$75.00 per participant, unless the court determines otherwise. Course is open to the public.

Justice for Children Task Force

The Justice of Children Task Force identifies barriers in the judicial system that may keep foster children in foster care for longer than necessary. The Task Force works to remove these barriers, to increase the likelihood of children finding safe, permanent homes as quickly as possible. The Justice for Children Task Force brings together leaders from groups working to improve the lives of children in foster care. Together, the Task Force finds barriers in the judicial system that may keep children in foster care for a longer than is best for them. They create solutions to remove these barriers, getting the children into permanent, safe homes as quickly as possible. These solutions must also safeguard the legal rights of everyone involved.

The Task Force measures, examines and reports on their work. Their recommendations are submitted to the Vermont Supreme Court when appropriate.

Address

Paul L. Reiber, Chair
109 State Street
Montpelier, VT 05609-0701

Part Six: Court Response to Crime in the Community

The Tri-Branch Task Force on Justice and
Mental Health (co-occurring) Collaboration

The Chief Justice Task Force on Criminal Justice and Mental Health Collaboration (now called the Tri-Branch Task Force) was convened in August 2007 with assistance from the Council of State Governments. The original charge included assembling decision-makers from all three branches of government, establishing a cohesive structure to support statewide initiatives and the development of a strategic plan to divert individuals with mental illness and co-occurring disorders at the front end of the criminal justice system into treatment and other community supports.

The Tri-Branch Task Force is a collaborative, interdisciplinary effort that will design and begin to implement a statewide strategy (unified system) to improve the response to individuals with mental illness and co-occurring disorders who are involved with, or at risk of becoming involved with, the criminal justice system.

Strategies will be designed to respect individuals and their rights and to engage the most appropriate, least restrictive community services on their behalf. Strategies will enhance public safety, address the cycle of re-offense, improve the health and quality of life of the individual and community, and make good use of taxpayer dollars.

Honorable Paul L. Reiber	Chair
Representative Alice Emmons	Chair
Hal Cohen	Chair

Adult Drug/Treatment Court Docket Projects in Rutland, Chittenden and Washington Counties

The adult drug court dockets are specially designed court calendars or dockets resulting from a coordinated effort of the judiciary, prosecution, defense bar, probation, law enforcement, substance abuse treatment, mental health, and social services to actively intervene and break the cycle of substance abuse addiction and crime. The purposes of these dockets are to achieve a reduction in recidivism and substance abuse among nonviolent substance abusing offenders and to increase the offender's likelihood of successful rehabilitation through early, continuous, and intense judicially supervised treatment, mandatory periodic drug testing, community supervision, and use of appropriate sanctions and other rehabilitation services.

Caledonia County Family Treatment Court Docket

The Caledonia Family Treatment Court Docket (FTC) has been developed to help families that have been affected by co-occurring mental health and/ or substance abuse disorders (COD). Our primary goal is to reunite families safely and permanently by offering them support and guidance as they maneuver through an integrated system of mental health and addiction services. Towards this end, the FTC offers intensive, specialized case management to help participants, who are typically parents that are involved with DCF due to issues of child abuse and/or neglect, on their path to recovery and positive personal growth.

FTC takes a comprehensive approach to each case and each individual's treatment plan must be derived from an assessment of their specific needs and the needs of their children. A goal of the FTC is to shorten or eliminate the need for an out-of-home placement, and to promote safety and permanency for the children involved. Operating with a dedicated team, FTC provides a comprehensive and integrated response to the needs of its participants.

Juvenile Drug Court Docket – Franklin County

The juvenile drug court docket is a docket within a juvenile court to which selected delinquency cases, and in some instances status offenders, where the youth is involved with drugs and/or alcohol are referred for handling by a designated judge.

Mental Health Court Docket – Chittenden County

The mental health court docket is a docket serving individuals with severe and persistent mental illness and co-occurring disorders. Modeled after drug court dockets and developed in response to the over-representation of people with mental illnesses in the criminal justice system, mental health courts divert select defendants with mental illnesses into judicially supervised, community-based treatment.

The Windsor Sparrow Project

The Sparrow Project grew out of the FY'08 Justice Reinvestment legislation (H.859). Using funding from the Department of Corrections, the Judiciary distributed a request for proposals seeking to fund an initiative that would address the needs of defendants with substance abuse and co-occurring disorders and provide cost-savings for the DOC. The Sparrow Project is a voluntary program providing substance abuse assessments at arraignment and follow-up intensive case management to provide defendants with the earliest opportunities to engage in services that will impact sentencing.

Windsor County DUI Treatment Docket

The Windsor County DUI Treatment Docket is a dedicated treatment docket whose mission is to increase public safety and reduce recidivism and costs by providing coordinated, comprehensive, and intensive treatment and supervision of high risk and high level DUI offenders. The program is modeled after national best practice standards and couples enhanced supervision based on individual accountability with a multi-faceted team approach designed to protect the interests of the public, while at the same time, address the needs of the addicted individual through intensive alcohol and substance abuse treatment. Participants must screen eligible from defined legal, clinical and supervisory criteria and while the program is voluntary, once enrolled progressive compliance is required and failure to progress or to comply with the terms of the program or supervision will result in sanctions up to and including imposition of the balance of the suspended sentence. As a post-conviction model, criminal charges are neither dismissed nor expunged even for successful participants.

The Windham Integrated Domestic Violence Docket

The Integrated Domestic Violence Docket (IDVD) assimilates into one docket, before one judge, related criminal, family, and relief from abuse cases

involving domestic violence. This docket institutionalizes principles of procedural fairness, swift and certain sanctions for offenders, front-loads needed rehabilitative services for both victims and offenders, and provides legal support for all parties. Windham County convened key stakeholders which include the prosecution, defense bar, probation, court security, attorneys for plaintiffs, substance abuse, mental health, and offender program treatment providers, and domestic violence victims' advocates with a goal to actively intervene and break the cycle of domestic violence and reduce the rate of recidivism, which equates to a significant reduction in incarceration.

Part Seven: Ongoing Programs

Judicial Education

The Vermont Judicial Branch has offered a comprehensive program of Judicial Education for many years. The Division of Planning and Court Services works in collaboration with the Chief Superior Judge for Trial Courts and the Judicial Branch Education Committee to improve the administration of justice through comprehensive and quality education and training for judicial officers that enhance the quality of judicial decisions, execute legislative mandates, and/or implement uniform policies throughout the courts.

We are known nationally for the high quality of the programs we produce in-state and for the commitment of our judges to participate as skilled faculty presenting well-developed education programs, both in Vermont and, in the case of a number of our judges, at national venues such as National Judicial College.

We also support and manage an out-of-state education program whereby attendance at national programs is supported by grant and scholarship funds. A small budget of general funds supplements costs not covered by grants or scholarships.

A comprehensive training program is provided to Assistant Judges who seek to qualify to hear judicial bureau and uncontested domestic matters. Continuing education programs are provided to those Assistant Judges who preside over judicial bureau and small claims hearings.

Employee Education

The Division of Planning and Court Services works with the Director of Trial Court Operations and the Human Resources and Employee Development Manager to enhance the ability of court staff to serve the litigants and users of the court, while promoting the personal and professional development of

managers, court staff, and Judiciary administrative personnel. This is accomplished through a series of orientation programs for new employees, ethics and professionalism training, de-escalation training, and instruction on compliance with sexual harassment and ADA policies. Additional programs focus on the implementation of new legislation and rules, court policy and procedure and the use of the Judiciary's automated docketing system.

Personnel Policies

Our Human Resource Department endeavors to provide clear, consistent, rational and fair policies to govern the rights and responsibilities of the employees of the Judicial Branch.

Court Security

The effective administration of justice requires an environment that is free from threats, intimidation, and obstruction. The Judicial Branch has the highest priority for providing safe and secure courthouses for the general public, litigants, jurors, witnesses, attorneys, employees and judicial officers. Protective services must also extend to judicial officers while away from secure facilities. Our courts are a high risk entity. Nationally courts, including Vermont have seen a significant increase to threatening or violent behavior. Family court cases which involve the dissolution of families and child custody have become volatile. Risk mitigation actions in Vermont include using only one public entrance, on-site security staff, screening for weapons and contraband, and command and control. All staff must receive "all hazards" emergency response training, including evacuation, shelter-in-place, active shooter, hazardous materials, and medical situations. The Court Administrator maintains a Manager for its Security and Safety Program. Specialized equipment used to support this program include walk-thru metal detectors, x-ray screening units, closed circuit video surveillance and recording devices, access control and duress alarm systems. Background checks for staff, contractors and vendors are important for security program integrity.

Judicial Ethics Committee

In 1995, the Supreme Court established this committee of lawyers and judges to research and provide independent guidance to judges on issues that may violate the Code of Judicial Conduct. The Judicial Ethics Committee helps ensure that judges operate in accordance with the very high standards of ethical behavior that the public has a right to expect. The committee maintains and publishes compilations of its redacted opinions which are available to the courts, the Judicial Conduct Board, individual judges, and members of the

public. The committee makes recommendations to the Supreme Court regarding amendments to the Vermont Code of Judicial Conduct.

Bench/Bar Committees

Judges, lawyers, and court staff in many counties meet to identify ways of working together to improve court and attorney services to litigants. Through these routine, informal contacts, new approaches to scheduling practices, jury management, and litigant education are developed.

Boards, Committees and Interagency Task Forces

The Supreme Court has established a number of boards and committees to help it to fulfill its constitutional mandate to exercise disciplinary authority concerning all judicial officers and attorneys in the state and to make rules governing practice and procedure in the courts. A large number of judges, attorneys and lay persons meet routinely to advise the court on actions to be taken.

Several Committees advise the court on issues such as access to court records, whether to add or amend the rules that regulate the introduction of evidence, and the procedures to be applied in civil, criminal, family and probate proceedings.

Quasi-judicial boards and committees have also been established to help the Supreme Court to fulfill its constitutional mandate to exercise regulatory or disciplinary authority over the state's judicial officers and attorneys:

Professional Responsibility Program

The Vermont Supreme Court has the constitutional authority to structure and administer the State's lawyer discipline program. *Vt. Const., Ch. II, § 30*. Pursuant to that authority, the Court promulgated Administrative Order 9: "*Permanent Rules Governing Establishment and Operation of the Professional Responsibility Program*." In so doing, the Court's purpose was to establish a Professional Responsibility Program that would "provide a comprehensive system of regulation of the legal profession." *A.O. 9, Purpose*. The Court listed three objectives for the PRP. Those objectives are:

"(1) to resolve complaints against attorneys through fair and prompt dispute resolution procedures; (2) to investigate and discipline attorney misconduct; and (3) to assist attorneys and the

public by providing education, advice, referrals, and other information designed to maintain and enhance the standards of professional responsibility." *A.O.9, Purpose.*

In addition, the Court adopted the Vermont Rules of Professional Conduct. The rules, which are often referred to as "the ethics rules," govern attorney conduct.

The Professional Responsibility Board oversees the Program. The Board consists of seven members: 3 lawyers, 3 non-lawyers, and a judge. Each member is appointed by the Supreme Court.

The Program employs two full-time attorneys and one part-time attorney. Disciplinary Counsel investigates and prosecutes violations of the Rules of Professional Conduct. Bar Counsel administers the dispute resolution program and responds to inquiries regarding ethics and the practice of law.

Judicial Conduct Board

Judges must follow high ethical standards established by the Supreme Court in the Code of Judicial Conduct. The Judicial Conduct Board investigates complaints of judicial misconduct or disability and recommends any necessary action to the Vermont Supreme Court. Possible disciplinary actions include public reprimand of the judge, suspension for a part or the remainder of the judge's term of office, or retirement of the judge. The Court does not impeach judges. Only the General Assembly has the power to impeach.

The Supreme Court appoints the nine members of the board, and designates the chair and vice-chair. Three members are lawyers, three members are lay citizens and three members are judges.

Board of Bar Examiners and Character and Fitness Committee

The Board of Bar Examiners examines the professional competence of applicants for admission to the practice of law in Vermont.

The Board administers a two-day examination to recent law school graduates, lawyers who have practiced law in another state for less than five years and individuals who have served a four-year clerkship with a Vermont lawyer. The examination is given twice a year, in February and July.

Applicants for admission who have practiced law for at least five years in another state are not required to take the bar examination in order to be admitted to practice in Vermont. However, moral character and fitness are investigated for all candidates by the Character and Fitness Committee.

The Supreme Court appoints the chair, vice-chair and the seven other members of the Board of Bar Examiners. Seven of the members are Vermont lawyers and two are non-lawyers.

The Supreme Court also appoints seven associate examiners. The associate examiners have been Vermont attorneys for at least three years prior to their appointment. The chair of the Board of Bar Examiners assigns one associate examiner to assist each member of the Board in preparation and grading of the essay part of the semi-annual bar examination.

The Supreme Court appoints five members to the Character and Fitness Committee: one is a judge (either active or retired), two are lawyers and two are non-lawyers. The Supreme Court designates the chair and vice-chair of the Committee.

Mandatory Continuing Legal Education Board

The Board monitors the continuing legal competence of members of the Bar and evaluates policy and procedures to maintain and improve that competence. The Board will make a written report each year to the Supreme Court on any recommendations it may have regarding policy or procedures for examining and maintaining professional legal competence.

The Supreme Court appoints the seven members: one is a judge (either active or retired), four are lawyers and two are non-lawyers. The Supreme Court designates the chair and vice-chair of the committee.

The Supreme Court also oversees the following on-going activities conducted by the Court Administrator's Office staff that enable all members of the Judiciary to achieve their goals:

Adoption, Modification and Documentation of Procedures, Policies and Protocols; Creation, Maintenance and Distribution of Forms

Office of the Court Administrator staff continuously review, identify and finalize policies, procedures and forms needed to achieve the goals and objectives of the Judiciary. Policies and forms are developed at the appropriate organizational level with maximum input from stakeholders and are

continuously reviewed for opportunities to make them more effective and efficient. Forms are maintained by Office of Court Administrative staff and distributed in a timely manner.

Creation, Maintenance and Distribution of Records

The Office of the Court Administrator, with the assistance of a Records Management Committee, provides direction and assistance to court staff by creating procedures and public access policies that address the creation, storage, retrieval, dissemination and destruction of all judicial records. These policies are in compliance with state and federal record-keeping requirements and developed in collaboration with the Judiciary's oversight committees, the Vermont State Archives and Records Administration (VSARA), and other appropriate stakeholders.

Compilation of Management and Statistical Information

Office of the Court Administrator staff compile monthly, quarterly and annual statistical caseflow reports for all courts and does special studies such as:

- caseload projections;
- public defender reimbursements;
- legislative initiative impact assessments (pre and post);
- workload studies; and
- caseflow studies.

Staff also work with judges and managers to develop outcome measures for programs and projects and then to develop information systems to accomplish and measure those outcomes.

Maintenance and Control of Equipment

The Court Administrator contracts with numerous vendors for the purchase and maintenance of electronic equipment such as court recording equipment, telephone systems, copiers and fax machines. Staff continually look to improve those systems to provide greater functionality with higher reliability at lower cost. Office staff maintain an inventory of equipment required for insurance purposes.

Judiciary technical staff operates, supports and maintains a server, virtual desktop, and networking infrastructure that has been implemented in the State of Vermont Private Cloud. This virtual infrastructure provides the

Judiciary with a scalable, solid and reliable technical foundation for current and future operations.

Audits of Financial Transactions and Recordkeeping

Office of the Court Administrator staff process financial transactions for all programs within the Judiciary. Staff monitor and reconcile the funds appropriated to finance the operations of the court system on a continuous basis. Routine audit findings ensure the integrity of financial information. Through a collaborative effort with judicial managers, financial records are centrally maintained with comprehensive support documents to aid in identifying deficiencies that warrant adjustments and to provide historical information for making decisions.

Payments of Bills and Expenses

Office of the Court Administrator staff review, edit and process expenditures generated by activities throughout the Judiciary. Staff work with trial court staff and program managers to ensure bills for goods and services are paid accurately and timely, and charged to the appropriate court/program budget. Financial reports are routinely provided to management as both a communication and planning tool for tracking and allocating financial resources.

Creation and Maintenance of Personnel Records

The Office of the Court Administrator maintains personnel records for all Judiciary employees throughout the state. All recruitment of personnel and personnel actions are performed centrally, consistent with equal employment opportunity laws. Payroll and benefits are administered within the Office of the Court Administrator and the records are held and later stored as public records. Classification and compensation plans are maintained to insure uniform and consistent practices throughout the Judiciary. All mandatory sexual harassment and ADA trainings are administered through the Office of the Court Administrator. A comprehensive personnel policy was created and is maintained with recommendations to the Court Administrator.

Facilities Management

The Court Administrator works closely with the Department of Buildings and General Services (BGS) to meet the needs of the Judicial Branch. Court operations are located in 27 facilities, which are a mix of both State and County owned buildings. This makes standardization and efficiency a challenge. Our courts are experiencing growing case loads and demands in aging facilities where the security program is difficult to administer. The Court Administrator engages with BGS and County Assistant Judges to address facility design, construction, renovation, and maintenance. The use of standard physical security systems is essential. General issues for the Judicial Branch include space assignment, audio systems, automated recording systems for hearings, furniture and equipment. This specialty area is the responsibility of the Security and Safety Program Manager under the direct supervision of the Chief of Administration and Finance.

Continuity of Operations

The Governor and his administration have emphasized the need for robust Continuity of Operations Plans (COOP) within Vermont state government. COOP is essential to providing uninterrupted justice services during a time of significant emergency. Hurricane Irene provided reinforcement that Vermont is not immune to emergency or crisis situations and we must all be prepared. The Court Administrator maintains a viable COOP contingency to address emergencies through use of an "all hazards" approach. The Judicial Branch is led in this effort through its Security and Safety Program, which maintains a collaborative relationship with the Vermont Department of Public Safety (DPS), Division of Emergency Management and Homeland Security (DEMHS).

Appendix A: History of the Vermont Court System

The Judiciary was first organized in 1778. Special courts were created with jurisdiction over civil and criminal matters – with the exception of the banishment of Tories for which a superior court was established. These courts were quickly discontinued and that same year the Legislature established a Superior Court consisting of five judges, with Moses Robinson as the chief judge. It convened four times a year at different locations around the state for no longer than one week at each sitting. Justices of the Peace tried disputes of small monetary amount, issued warrants, and heard less serious criminal matters.

The concept of the separation of powers among the three branches of government was not strictly maintained. The Superior Court had jurisdiction over causes in which the matter in dispute did not exceed "four thousand pounds lawful money"; matters involving more than that were heard by the Governor, the Governor's Council and the Legislature. Furthermore, appeals from the Superior Court were heard by the Governor's Council and the Legislature. Members of the Governor's Council sat in for absent judges and, in the 1780's, two people served simultaneously as judge of the Supreme Court and as lieutenant governor.

Although the creation of a Supreme Court and county courts was authorized in Vermont's first Constitution, it was not until 1781 that the Legislature directed that there should be five judges of the county court. The distinction between the county courts and the Superior Court, however, was so confused and the jurisdiction so overlapping that in 1782 the Superior Court was restyled the Supreme Court. At the same time, the powers of the courts were defined and the times and places of their sessions were regulated. In 1781, the first probate courts were organized in the Bennington and Manchester probate districts.

The Supreme Court sat annually in each county and had jurisdiction, as did the county court, over "all matters of litigation of a general character, including the prosecution of crimes and divorce." Some areas of jurisdiction were reserved for the Supreme Court such as title disputes, which was a politically sensitive issue. The Supreme Court also had appellate jurisdiction over matters heard in the county court. A litigant in county court could have four trials; two in county court and, on appeal, two in the Supreme Court, a review being permitted in both courts.

In 1786, the Vermont Constitution was amended to mandate greater attention to the separation of powers. Members of the Governor's Council and others in the executive or legislative branches could no longer serve, at the same time, as members of the Supreme Court.

Vermont became a state in 1791.

In 1797, for the first time, judges were required to write out their decisions and the clerk was required to file them.

In 1825, a major reform of the state judicial system took place. In an effort to create greater uniformity and equal justice throughout the state, individual Supreme Court justices, on circuit, began to preside over the county courts. The number of Supreme Court justices was increased and the number of county court judges decreased. The county court judges became "assistant judges" to the presiding Supreme Court justices who served as chief county court judges. At the same time, a reporter of decisions recorded and published decisions so that they were available to all of the judges and precedent took on new importance. Until that time, justice was roughly equivalent to common sense, and earlier pronouncements of courts about similar or identical issues were not particularly relevant.

Now, with the reforms of 1825, one can begin to recognize the Supreme Court as an appellate court. Appeals from the county courts, presided over by individual Supreme Court justices, came to the full Supreme Court.

In 1850, the Legislature created a circuit court. The state was divided into four judicial circuits with a judge appointed to preside over the courts in the counties within that circuit. A Supreme Court of three justices was authorized; those justices had no duties to perform in the county courts. The Supreme Court continued to serve as a court of appeals.

Then in 1857, the Legislature restored the earlier system. A Supreme Court of six members was established with a Supreme Court justice required to preside in each of the county courts. The number of Supreme Court justices was increased to seven in 1870. This system remained in effect until 1906.

Beginning with the larger cities, the Legislature created municipal courts to hear less serious criminal matters and civil matters. These courts were intended to be superior to the justice of the peace courts but not to compete with the county courts. The first proposal for this type of court was found in the first charter of the city of Vergennes in 1788, although the charter was not accepted by the people of that proposed city. Eventually, one or more municipal courts were founded in each county.

In 1906, the Vermont Legislature went back to the system created in 1850 by establishing a six -person Superior Court bench. The act also provided for a Supreme Court consisting of a chief justice and three associate justices (two years later increased to four). Five terms of the Superior Court were to be

held in Montpelier with special annual sessions in St. Johnsbury, Rutland and Brattleboro.

The structure of the court system remained substantially the same until the mid-1960's. Six superior judges continued to preside over the courts in the 14 counties, along with the assistant judges in each county. Over time, most Judicial duties of the justices of the peace were transferred to municipal judges, who by 1967, heard many of the kinds of cases heard in District Court today. Most municipal judges and the probate judges served on a part-time basis. But by the mid-1960's, the litigation explosion had begun and it was clear that inadequacies of the court system had to be addressed. In 1967 the District Court was created to take the place of the municipal courts. This important legislation provided for 10 full-time judges and created an administrative framework, supervised by the Supreme Court, with sufficient authority and flexibility to operate the District Court effectively and efficiently in the face of the rapidly growing caseload. A formal judicial selection process was instituted with certain objective standards required of applicants to the bench. For the first time, the law required that a judge be legally trained.

The movement to improve, integrate and modernize the Judiciary did not stop with the creation of the District Court. In 1974, Vermonters ratified amendments to the Vermont Constitution which gave to the Vermont Supreme Court administrative authority over all the State courts.

In 1980, in an effort to coordinate the activities of the District and Superior Courts, the Supreme Court and the Legislature created the position of Chief Superior Judge for Trial Courts. Today, the Chief Superior Judge assigns judges to the courts and works with the Court Administrator to administer the courts.

By the end of the 1980's, the Legislature recognized that the court structure did not enable the Judiciary to meet the changing needs of Vermonters for judicial services. It created three new trial courts.

In 1989, the Legislature created what is now called the Environmental Court. It gave to the court the authority to review orders issued by the Agency of Natural Resources. It subsequently added appeals from town zoning boards and planning commissions. In 2005, the Legislature expanded the Court's jurisdiction, enabling it to hear appeals from Act 250 district commissions.

In 1990, the Legislature recognized that the District Court, while struggling to find time to hear and decide the growing number of serious felony and misdemeanor filed, was unable to give due attention to the thousands of traffic violations. The Legislature decriminalized these violations and created a new Bureau to resolve them. Since then, the Legislature has increased the Judicial

Bureau's jurisdiction to include fish and wildlife, municipal ordinance and other civil violations.

In 1990, the Vermont Legislature saw a need to create a new court in order to ensure that needs of children and families for judicial services receive the attention and priority they deserve. It created the Vermont Family Court and transferred the jurisdiction of all family matters from the superior, district and probate courts into the newly created court.

During the 2008 legislative session, the Vermont legislature, by statute, requested the Vermont Supreme Court to appoint and convene a Commission on Judicial Operation and recommend statutory changes that would be required to enable the judicial branch of state government to operate more efficiently and efficiently in a climate of drastically reduced state revenues.

After extensive debate and deliberation, the Vermont legislature passed historic legislation in May 2010 that restructured the judicial branch. On July 1, 2010, the new Vermont Superior Court, with five divisions, came into existence. This reform brought the court structure within Vermont's constitutional requirements for a unified, judicial system, reduced the public tax burden by reducing the appropriation for the court system, and set the stage for the court system to achieve efficiencies while increasing access to justice for all Vermonters.