

**COMMISSION SURVEY ANALYSIS FOR FAMILY LAW SECTION
N=10**

1. Are there court services or administrative activities currently performed at the county level that could be performed either regionally, centrally, or electronically to improve the efficiency or cost-effectiveness of court operations?

Responses:

- 1 See Question #2, answer #1 regarding technology.
- 2 I think that scheduling hearings etc. could be done regionally. I mail out letters to 4 Family Courts, 4 Superior Courts and 3 Probate Courts with my vacation schedule, and it seems that 11 people are spending 10 minutes to read my letter (every time I send one - probably 2-3 times a year) and enter my information into the system, when it is really only necessary that it be done once.
- 3 I think that local access is the best model. I cannot think of services that should be shifted away from the counties.
- 4 Probate proceedings could be brought under the Family Court, using Magistrate-like judicial officers.
- 5 There are a number of administrative activities that could be improved from county to county and state-wide. Electronically systems are archaic and prevent the courts from operating efficiently or effectively.
- 6 It would be helpful to have an electronically accessible store of trial court decisions to help practitioners advise their clients and to promote greater likelihood of settlement with both sides understanding what the trial judge has done in other cases.
- 7 Seek outside grounds upkeep by persons supervised on probation and parole requiring them to complete community service.
- 8 None. Centralization will be harmful and costly to the public. Indeed there is a lack of adequate space -- Court rooms, conference rooms -- now for the Franklin County Family Court. "Centralization" is such a pathetic concept when it comes to the Family Court. The central office administrator who thinks centralization of the Family Courts is a way to save money should be fired for wasting the public's money thinking of such foolishness. The discharge of this person would save us all money. It would save us a great deal of time. We wouldn't have to show how stupid the idea is.
- 9 A state-wide electronic filing and notification system would be more efficient. In some counties, it can already be a burden to travel to the nearest court. In southern

Vermont at least, I believe it is important to have court services available in each county.

2. Is there technology that could be introduced into the court system that would make judicial operations more cost-effective or improve access to the court system, while at the same time maintaining the quality of justice services?

Responses:

- 1 Establishing a system for electronic filings would cut costs for the court and for attorneys.
- 2 Provide for filing pleadings by internet with appropriate provision for signatures and acknowledgments. Make all public documents in case files available by computer. Provide WIFI in all courthouses.
- 3 Yes! I think that if documents were stored on-line so that attorneys had easy access to them it would cut down greatly on court time. I know that when I get a case that is already at the final hearing stage, I am scrambling to get a copy of the entire file from the Court since I can't rely on my client having everything. It would save us all time and energy if that information (only public information obviously, nothing confidential) could be accessed on-line.
- 4 Yes. I think that we should go to an electronic filing system like in federal court. It makes filing and access to court dockets so much more efficient.
- 5 Having forms available on-line and allowing electronic filing should be both cost effective and improve access to the court system.
- 6 Court systems are not presently connected which is not time or cost effective. Persons should not leave the court room without the next court date and notice in their hands. This would cut down on cost and time to court employees.
- 7 Encouraging more phones in conferences would reduce the cost of litigation to parties.
- 8 Allowing some expert witnesses to testify by phone and reducing the filing fees.
- 9 I support optional electronic filing and mandatory electronic notices to attorneys, along the lines of the federal court system. However, pro se litigants should always have the option to file paper documents and receive notices by mail. All court forms should be available to attorneys in electronic format. I have noticed recently that not all family court forms are available online. Since the court prefers attorneys to submit proposed orders, it would be helpful to have all court forms available (at least to attorneys) online. I am specifically thinking of final relief from abuse orders, but there may be other examples.

3. What can be done to allow more flexibility in the use of judicial resources (people, facilities, dollars), particularly as workloads and funding levels increase and decrease?

Responses:

1 Stress procedural uniformity throughout the state. Provide training for attorneys to eliminate unnecessary duplication or improper pleadings. Appoint a resource person at each Court who can respond to attorney's procedural questions.

2 Combine the Family and Superior Courts! In rural areas, they already use the same court buildings, and staff, but have two separate docketing systems etc. My other suggestion is to do all status conferences via telephone like they do with the Environmental Court and have one day a week, or every other week dedicated to the telephone conferences.

3 Having all the Courts (superior, district, family, probate) for each county in one facility could save on both facility and staff expenses while allowing judicial officer resources the flexibility to help in different dockets.

4 Trials are backed up and cutting court time and personnel does not help this. Nothing settles without a court date, so those should be set and with back up cases in case the one set settles, this needs to happen with family and juvenile court as well a district court. Depositions are either the full testimony of a witness or not. Doing depositions and having testimony or cross examination is not time saving for anyone and defeats the purpose of taking a deposition particularly in juvenile cases.

5 I would suggest mandating mediation in family law cases. I believe this would promote settlements.

6 It seems as though there are a large number of law officers at the entry door of the family court in Rutland. Perhaps they are all necessary but not understood.

7 There is a need for more judge time both in the Family Court and the Magistrate Court. The greatest area for reform would be in the Juvenile Court with regard to CHINS cases: 1) Public Defenders and Prosecutors should be barred from these proceedings. There is a definite need to separate criminal advocates from the CHINS cases. The Public Defenders use their CHINS caseload to create conflicts in criminal cases. The State uses the information gathered in CHINS cases in criminal prosecutions without ever disclosing exculpatory information because of the cloak of confidentiality. 2) Social Workers should be licensed and should have to abide by a code of professional responsibility which would include a provision that they not lie to the Court or to a child or to a parent. 3) Public defenders should never be assigned to represent the children of incest criminal defendants 4) Assigned counsel who represents parents should have an independent social worker assigned to work for them. 5) Assigned counsel who

represents parents should be paid a living wage. 6) There is no need to pay for an attorney for the children in CHINS cases; there is no need for a guardian ad litem.

8 The Supreme Court, or the state court administrator's office, should have administrative authority over all courts, facilities, and court personnel state-wide, instead of the fractured system currently in place. This could require a change in the way some courts and court employees are funded. Towns and counties could contribute a set amount towards the budget of the courts covering their area.

4. Are there ways in which the types of cases heard in our various courts (superior, district, family, environmental probate, judicial bureau) could be reallocated in a way that would increase the effectiveness of judicial operations or improve court efficiency?

Responses:

1 Allow direct referral of complex probate matters to the superior court. This would eliminate having to try matters twice if there are substantial complex legal issues and the parties are not inclined to settle.

2 I think that combining the Family and Superior courts may work well. I think that the Probate and Family Courts should not be combined due to the vast difference between the Rules of each court.

3 I suspect that our courts could be consolidated into on county court structure with a civil and criminal division. The civil courts are then split off into sub specialties. That would allow shared courtroom space and staff. In other jurisdictions I practice in, that seems to work pretty well.

4 The jurisdiction of Magistrates could be expanded in Family Court so that Magistrates would hear more temporary matters, such as Parental rights and responsibilities, Parental contact schedules, spousal maintenance, possession of the marital residence and responsibility for paying household expenses during the temporary period before the final hearing.

5 It not effective to let TPR cases pile up. When the petition is filed, the case should be set for trial 3 months out. With at least one case a month for a trial ready for at least 4 days for a 2-day trials. Letting cases pile up and languish. If this means some retired judge time, that is preferable and less expensive the new judges. I would also suggest that the court in TPR cases hold a settlement conference and explain to the parent what the ramifications of adverse TPR findings, and what winning might or might not mean. Juvenile cases are supposed to have priority in the family court, filing them and getting discovery done in 30-60 days does nothing if the case is not scheduled for 4, 6, or 9 months. These are cases that are not going away. There are bubbles of cases that move from county to county and judges should flex to meet this need. That does not mean

putting a judge in family court that has no familiarity and/or no interest in these extremely difficult and painful cases.

6 Qualified Family Court lawyers could be appointed as trustees to gather the evidence, propose child support orders and temporary orders and make recommendations on final orders in divorce. Should the parties fail to agree with the trustee's recommendations, only then could each party go to hearing before the Court. The trustees could be paid by the litigants in fees charged by the court.

7 Of course. For instance in Franklin County, there should be another family court in the northern part of the County. It would save an incredible amount of money for those who have to leave work to attend court proceedings. Another Courthouse in Enosburg or Richford would suit the system well. Having two court houses in the County is an excellent idea.

8 I would support abolishing the separate probate courts. Estate issues could be handled by the Superior Court, while guardianship cases, especially guardianship of minors, seem appropriate for the family court's jurisdiction. I have occasionally advised family court litigants who have had concurrent probate court (guardianship) issues. Some litigants, or their family members, will file a guardianship petition when they are unhappy with the family court's parental rights orders. The confusion and inconsistent orders that can result in these situations would be avoided if both matters were heard by the family court. Currently, although guardianship and domestic cases can be consolidated, there is no clear procedure or standard that courts follow.

5. Please suggest other ideas that would enhance the efficient and effective delivery of judicial services to Vermonters.

Responses:

1 The presence of assistant judges in court trials is now unpredictable. They participate in one case, but not another. It is impossible to predict whether a court trial will include assistant judges or not. They are not serving a purpose if there is no consistency in their participation in trials. I believe they have become an expensive anachronism.

2 Adequate resources devoted to pro se parties.

3 Mandatory mediation or other ADR might help move Family Court cases toward resolutions, as is done in Superior Court. While difficult to do in difficult economic times, more judicial officers would enhance efficient and effective delivery of judicial services to Vermonters.

4 One probate court per county Judges moved or assigned where backlog is/or is the worst. Retired judges or special judges if needed to move calendar. Notices of next court date before leaving court house in every case. Final status or settlement conferences in

all cases with court taking a proactive role. Backing cases up to assure efficient use of court time if first case settles.