

**COMMISSION SURVEY ANALYSIS FOR PROBATE & TRUST LAW SECTION  
N=8**

**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      Regionally? No. Centrally? Not sure what this means. Electronically? Yes. Electronic filing would be good.

2      Not from the client or practitioner's point of view. Any move to regional or central administration would mean a greater burden on my clients to travel to such location. E-filing could produce some efficiency in theory, but I suspect that as many petitioners participate pro se, an e-filing system will create more work for the Court rather than less (as the Register will need to manage e-filings from some petitioners and still handle paper filings from others). It seems to me that the State could indeed save money by centralizing the activity of the Probate Courts, but only at the cost of raising the costs of access to judicial services.

3      I think all trust matters should be handled by the probate court.

4      I have been admitted in Vermont for only 3 years and have a practice which primarily is legal counseling and transactions and not litigation. My engagements with the courts have been confined to the Hartford District Probate Court where I have had matters pertaining to guardianships, estates and trusts. I also practice law in Ohio where I have been admitted for 35 years. The Probate Courts in Ohio have their case dockets available online and have imaged most documents, except those withheld for privacy reasons. There is no provision for electronic filing yet, but there are pilot programs underway. It would be helpful to have electronic files available for review and to avoid scanning all filings, to enable electronic filing of documents. If permitted, the management of the electronic file could be centralized with the Probate judges submitting their entries, orders, etc electronically as well. I have the impression that there are some areas where internet (or at least high speed internet) may not be available. And there may be some lawyers who are not adept at technology. It seems that the Court could compel technological proficiency as a practice standard.

5      A centralized court help-line, (similar to 211 or other governmental help lines) could answer questions from litigants and court users from all over the state. Such a system would require court personnel who are familiar with the dockets of criminal, family, civil, environmental, and probate, in order to be effective. Such a line may relieve court staff from the daily grind of answering the same questions over and over. An effective court web site which answers the public's questions and is user friendly would help to move the public toward solutions and inform them about how to use the courts.

6 Less buys Probate Courts (ex. Essex) could be consolidated with Caledonia and/or Orleans. Possibly Orange could be split into two Districts as it once was. Earlier Districts consolidated either north or south and western District was consolidated into Washington.

**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 Electronic filing would be nice. Video conferencing might be nice but probably unworkable.
- 2 More telephone conferences. Allow rent escrows by phone.
- 3 In my opinion, no. Technological solutions usually involve hidden costs -- training on new systems can take months or years for staff, and tend to falter sometime soon after we become utterly dependent on them. My apologies for forwarding a luddite perspective, but it is offered on the basis of experience.
- 4 E-filing of motions, complaints, etc.
- 5 Improved web site for pro-se litigants. Improved form availability from the court web site. Down-loadable forms which can be saved with the information inserted.
- 6 Greater use of e-mail.

**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 Use of judicial resources probably doesn't change much with the economy.
- 2 Increase funding, hire more people, and decrease their workloads.
- 3 Wills should be allowed in probate court automatically if no one objects to the will.
- 4 Restore circuit riding judges.
- 5 A stable work force is essential to the deliberative process and work of the judiciary. "Flexibility" as funding levels increase and decrease, is another way of

imposing a sales-balance-sheet mentality to a system which must deal with cases as they come. If the state revenue goes up or down, does that mean that the process of justice should rise or wane with it? Our system makes sense as it is, so long as the needs of litigants are being served. If someone can show that the justice which is now delivered is overpriced or that judicial employees are undertasked and overpaid, then that should be rectified. "More flexibility" and "unified courts" seems to be a gloss-over term for an agenda for change in jurisdiction, consolidation of rural courts, abandonment of specialty courts, and upheaval of a system of courts which has served our state well for decades.

**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 Probate court should stay separate because increased workload from new Uniform Trust Code enactment in Vermont, moving jurisdiction from superior court to probate court for all trusts.

2 Probate court should remain a separate court.

3 Do not remove guardianships from the jurisdiction of the probate courts. The probate courts are particularly well suited to manage both the familial aspects of guardianships, but also the financial aspects. The probate judges and their staff are experienced at monitoring the use of, sometimes, hundreds of thousands of dollars by financial guardians. The accountings submitted by guardians are too important to be left to the family court. Do not combine the probate system with the Superior Court system. The Superior Court is cumbersome and filled with delay. The probate court system is immediately responsive to the needs of Trustees, Executors, and Guardians. It's streamlined processes allow the wheels of justice to turn quickly and smoothly. The Probate Court is experienced at reviewing financial accountings and is well versed in the laws of Trusts, Wills, Estates, and Guardianships. The transfer of any of these judicial roles to the Superior Court would not increase the effectiveness of judicial operations.

4 Mental health cases (commitment and involuntary medication cases) could be taken from the family court and heard in a mental health court similar to environmental court where specialists in this area hear the cases and administer the docket. Cases concerning developmentally disabled persons (guardianship services cases and sterilization cases) which are now in Family Court should be moved to probate court where other cases concerning disabled adults are heard. The right to jury trial in civil matters should be limited to an amount in controversy and it should have a filing fee which would cover the expense of the jury.

5 Critical that matters currently within the jurisdiction of Probate Court not be placed in Family Court. Probate Court generally performs well and Family Court has

trouble enough on its own plate. No answer to assign Probate Jurisdiction to Family Court either.

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

**Responses:**

- 1 One probate court per county, combine those that have two courts into one.
- 2 Increase funding, hire more people, and decrease their workloads.
- 3 Optional electronic hearings.
- 5 The public should be able to pay filing fees with credit cards. There should be a broader use of telephone testimony by rule-amendment in all courts. Rather than trying to reorganize a system with historical, constitutional, and traditional characteristics, the focus of the Commission should shift away from trying to find "efficiencies ". The focus should be placed where it is deserved: the system is working well. The funds to pay for this essential governmental function must be allocated to pay for it. To reduce the system employees, or to amputate a member of the body, simply because funding is scarce, misses the point of a fundamental governmental function. If the system is now delivering judicial services effectively and efficiently (and there is no evidence to the contrary except the claim that the Supreme Court does not control it all), then will "reallocation of jurisdiction" or "consolidations of staff" create a better system? I do not think so.