

This session, there has been a focus on addressing Vermonters' concerns about public safety and access to justice.

Increasing Resources for the Criminal Justice System: Most of the witnesses testifying before the House Judiciary and Appropriations committees on criminal justice -- representatives from the Vermont courts, State's Attorneys, the Defender General, as well as victim advocates and others -- have emphasized that the two most effective ways to deter crime are 1) a high probability of being caught and 2) certain and quick consequences for criminal activity.

The probability of being caught depends on the presence and availability of law enforcement. This factor is not under the Judiciary Committee's jurisdiction, so they focused on the certainty and immediacy of consequences. These outcomes depend on a well-functioning, well-resourced criminal justice system. Some elements of law enforcement are mentioned in this report but need to be addressed elsewhere.

One of the biggest challenges our court system currently faces is a backlog of cases, which pre-dated the COVID pandemic. During the pandemic, fewer cases were filed, but those that were filed were not being processed. After the courts fully reopened, a surge in filings left the courts falling further behind. In 2023, the courts experienced a number of judicial vacancies, which have recently been filled. This will help, but with current resources of the courts, prosecutors, and defenders it will still take years to clear the backlog and to be in a position to expeditiously dispose of cases.

The courts track whether they are making progress on reducing the backlog through a number of data measures, including clearance rates -- the number of new filings compared to the number of cases the courts dispose each month. If the clearance rate is over 100%, that means the backlog is being reduced. Last year, the courts achieved a clearance rate on criminal cases of 106%. At that rate, it would take years to clear the backlog.

Due in part to the backlog and to a lack of resources, criminal cases are not always being processed in a timely manner. The courts track time to disposition of cases and have set forth disposition goals: for example, 98% of standard misdemeanor cases should be resolved in 180 days and 98% of standard felonies should be resolved in 365 days. As of December 31, 2023, 44% of standard misdemeanor cases were resolved in 180 days and approximately 59% of standard felony cases

were resolved in 365 days. This means that the consequences that many individuals who are alleged to have committed misdemeanors are far removed from the offense, diminishing any deterrence value of those consequences.

The legislature's primary lever to address this issue is the State's budget. The Judiciary Committee has been working with the Appropriations Committee to ensure that all elements of the justice system have sufficient resources. Unfortunately, although the Governor in his budget address explained that public safety is one of the administration's priorities, his proposed budget does not align with this priority. For example, to meet the administration's budget, the State's Attorneys will need to cut up to six deputy State's Attorney positions. To properly address the deluge of criminal cases, we should instead be adding up to fifteen additional State's Attorney positions as well as additional victim advocates and administrative staff. The Defender General's Office needs over one and one half million dollars more than the administration's budget just to maintain the Office's status quo. Although the administration's budget does include funding for two additional judges, it does not provide funding for the necessary court staff.

The Governor's proposed budget fails to provide the resources the criminal justice system needs to ensure the public is safe. Accordingly, the Judiciary Committee and the Appropriations Committee are working to ensure that the budget will include the resources necessary to enable cases to be heard in a timely fashion. Only by doing so will individuals be held accountable for their actions as soon as possible after offending – a key to ensuring public safety.

The House's budget is designed to help the criminal justice system achieve measurable goals. To address the backlog, the courts should reach a clearance rate of 125%, as opposed to 104% in 2023. The courts should also meet the time to disposition standards.

Some Resource Considerations – DRAFT PROPOSAL

Gov. Rec. / Non-GF	Access to Justice	Additional needs
\$2,332,584 Gov Rec	\$17,261,197 – FY25	\$823,413 – FY25
\$1,500,000 FY26 – CJC		
\$ 500,000 FY24BAA – DOC		
\$ 270,000 Fed. CHINS		

Judiciary

1. 2 new Superior Court Judges – Northern Float & Treatment Courts – In Governors’ Recommend - \$540,000
2. CHINS Superior Court Judge – Federal Funding - \$270,000 - CHINS Reform Workgroup
3. 15 new staff positions – includes 5 IT – 1 is contract conversion - \$1,239,507
4. S.17 security recommendations – Net 19 position - \$2,044,331
Sheriff’s Deputies - +7
Private - -10 (eliminate)
Judicial Officers I – no change
Judicial Officers II – +21
Supervisor - +1
5. Language Access - \$120,000 – additional ask
6. Court Technology Fund - \$2,000,000 – additional ask

State Attorneys

1. Restore Vacancy savings - \$650,000 – saves approx. 6 Deputy States Attorneys
2. Add 15 (7-25 @ \$154,000) Deputy States Attorneys - \$2,310,000
7 Deputy States Attorneys - reduce Criminal caseload to 275
25 Deputy States Attorneys – reduce all caseload to 275
3. Add 10 Victims Advocates - \$1,220,000
4. Add 10 Admin. Staff - \$1,020,000

Defender General

1. Continuation of one-time General Fund Appropriation for 10 caseload relief contractors and 5 limited service positions to handle the continued backlog of cases resulting from the pandemic - \$1,283,400
2. Northeast Kingdom Law Orleans County Contract - \$93,036
3. Additional Assigned Counsel Contracts - \$1,250,000
4. Bennington Juvenile Attorney (Step 4) - \$131,462
5. Current Serious Felony Units 8 increased from \$130,000 to \$150,000 \$160,000
6. Data Manager Funding for Approved Position - \$138,000
7. Restoration of funding for In-Person Training - \$50,000

8. AdvoLogix Case Management System Ongoing support and maintenance - \$117,000
9. Backfill Public Defense Special Fund - \$270,000
10. Funding for Family Support Program. Current structure funding is contained in DCF budget and requires interdepartmental transfer to ODG budget - creating administrative work for 3 Departments, ODG, DCF and Finance. - \$150,000 – Move from DCF to ODG

Department of Corrections

1. 6 new positions for Remote Hearings - \$600,000
500 remote hearings per month across system. 20-25% are not held due to lack of personnel in facilities. New positions primary function would be to assist remote hearings with additional duties as time may allow.
2. 1-time funding in FY24 BAA - \$500,000 - Community Based Peer Recovery Coaching Program

Attorney General / Court Diversion

1. H.645 - Create and codify a state-wide pre-charge diversion program. Pre-charge diversion occurs when individuals who commit low-level crimes are referred to community providers of restorative justice, such as community justice centers, instead of to court. The bill would allow law enforcement or prosecutors to divert more offenders from the criminal justice system before they are charged with a crime. If an individual does not complete the restorative justice program, they would be referred to the traditional court system. Some Vermont counties, including Chittenden County, already offer such a program. H.645 would add stability to those existing programs by placing administrative oversight in and funding through the Attorney General's Office. And by expanding pre-charge diversion statewide, our entire State will benefit from more timely justice interventions and reduced pressure on the courts.
FY25 – 1 new position to standup the new program - \$112,000
FY26 – Additional resources for grantees, i.e., CJs - \$1,500,000
2. If an additional 2000 misdemeanor/felonies (backlog) then Court Diversion will need the following resources in FY25 - \$386,363
5 FTEs statewide to cover the referrals/costs to grantees

3. Other caseload & staffing pressures. 3.5 FTEs for 4 counties - \$296,700
4. Change 50% funding support from C CVS (VOCA funding) for Victims Advocate in AG's office – results in additional \$43,000.

Center for Crime Victims Services

1. Add a grants administrator – 10 Federal Grants Programs – 4 State of Vermont grant programs - 65 Victim Service Organizations – 212 sub-grant awards - \$85,413
2. Change 50% funding support for Victims Advocate in AG's office – results in \$43,000.

Restorative Justice – Community Justice Centers / BARJ

1. H.645 – see note in AGO/Court Diversion
2. 1 time funding for FY23 and FY24 means a \$600,000 deficit going into FY25 – restore \$600,000 in base of DOC for CJs

Vermont Access to Justice Coalition

1. \$525,000 to the Vermont Bar Foundation for access to justice programs; \$500,000 of this amount will be used for direct grants to qualifying organizations, and \$25,000 will fund VBF administration of its programs. The Vermont A2J Coalition consists of the Vermont Supreme Court (VSC), Vermont Legal Aid (VLA), Legal Services Vermont (LSV), Vermont Law and Graduate School (VLGS)/South Royalton Legal Clinic (SRLC), the Vermont Bar Association (VBA) and the Vermont Bar Foundation (VBF). Its members provide a variety of legal services to low-income Vermonters.

The 6-partner Coalition has long been aware of significant gaps in legal services to Vermonters. Most of these gaps relate to lack of funding. All A2J partners are affected when one partner's coverage is reduced by budget cuts and staffing decreases—it means more work for other A2J organizations and growing gaps in services to clients. This is occurring at the same time demand for legal services has doubled. The Coalition members have resolved to unite for the funding increases necessary to meet this demand and close the service gaps.

This request made by the Coalition is in addition to annual appropriations for Vermont Legal Aid and Legal Services Vermont, and in addition to the annual funding of the Vermont Judiciary.

Vermont Network

1. Backfill CCVS DV/SV Special Fund for Community Based Victim Advocates - \$90,000

Vermont Legal Aid

1. 400 foreclosures in 2023 – 1/3 of court’s civil court docket?
2. Legal assistance regarding housing, specifically evictions – funding deficit anticipated for FY25 (\$730,000) and increased costs (\$550,000) in order to maintain current staffing legal service operations - \$1,280,000

Department of Public Safety

1. Mental Health Crisis Specialists - \$1,740,000
12 positions in FY24 - \$804,000 to cover balance of FY24 – 1-time
8 new positions in FY25 - \$988,584 (funding in Gov. Rec. for both)
Potential debate about this is best use of funds – maybe better to provide more support for Mobile Response Program

Department of Mental Health

1. Mental Health Urgent Care -?

Department of Health

1. Substance use / recovery -?

Some policy initiative currently being worked on

The Judiciary Committee has been working on other public safety bills to advocate for proper criminal justice resources, including the following:

Filling Court Vacancies: When vacancies occur in the courts, it is critical that new judges are expeditiously appointed. When a judicial vacancy occurs in Vermont

state court, a governor reviews and appoints judges from a list of candidates provided by a nonpartisan Judicial Nominating Board. The House Judiciary Committee passed H.780, which will help expand and diversify the applicant pool for judicial vacancies so a governor will have more quality potential jurists from which to choose. The bill will also expedite the process by limiting the number of times that a governor can ask for additional candidates from the Nominating Board.

Expanding Offenses Related to Automobiles: The House Judiciary Committee passed H.563, dealing with motor vehicle theft, unlawful operation, and trespass. This bill closes a few gaps in our statutes, including the fact that current law does not prohibit a person from entering another person's car without consent unless they are told to stay out or the car is posted with a no trespassing sign. This expansion of the law is designed to encompass incidences of rummaging through someone's car. Accidental entry into a vehicle ("I thought that was my green Subaru") will not be criminalized.

Codifying Pre-Charge Diversion: The House Judiciary Committee has been working on H.645, which would create and codify a state-wide pre-charge diversion program. Pre-charge diversion occurs when individuals who commit low-level crimes are referred to community providers of restorative justice, such as community justice centers, instead of to court. The bill would allow law enforcement or prosecutors to divert more offenders from the criminal justice system before they are charged with a crime. If an individual does not complete the restorative justice program, they would be referred to the traditional court system.

Some Vermont counties, including Chittenden County, already offer such a program. H.645 would add stability to those existing programs by placing administrative oversight in and funding through the Attorney General's Office. And by expanding pre-charge diversion statewide, our entire State will benefit from more timely justice interventions and reduced pressure on the courts. The Committee will likely vote out this bill by mid-February.

Addressing Repeat Offenders of Retail Theft: There's no question that retail theft is a major issue in several towns throughout Vermont, including South Burlington, and retailers are clear in their request for legislative action. The House Judiciary Committee has been working on H.534 to address this concern.

The bill includes a provision that would allow aggregation of the value of more than one retail theft. Currently, retail theft offenses can be charged as either misdemeanors or felonies depending upon the value of goods stolen. Anything up to \$900 is a misdemeanor; over \$900 is a felony. H.534 would enable prosecutors to charge individuals with a felony if the total value of goods stolen within a 14-day period exceeds \$900.

The bill also would reinstitute community restitution (also known as work crew) as a sentencing option. Last year, the Department of Corrections ended this program, but we have heard from multiple witnesses (prosecutors, defenders, and the court) that work crew is an important tool for providing certain and swift consequences for persons charged with retail theft. The community restitution program allowed courts to sentence low-risk offenders to pre-determined employment or community service for a maximum of 15 workdays within 60 days. So long as the offender fulfilled the work obligations, they would avoid serving prison time.

The House Judiciary Committee deals with public safety issues through the criminal justice system. It is equally important to address such issues before they land in the criminal justice system. Thus, the work that other committees in the State House are undertaking is critical to help address root causes of crime, including substance use disorder, homelessness, and limited access to mental health services.