

**Supreme Court of Vermont  
Office of State Court Administrator**

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TO: Sen. Jane Kitchel, Chair, Senate Committee on Appropriations

FROM: Teri Corsones

RE: Overview of FY24 Judiciary Budget

DATE: February 3, 2023

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The Governor's Recommended Budget included certain but not all aspects of the Judiciary's proposed budget. Below is a breakdown of what was approved and what the Judiciary continues to seek.

**Annualization of FY22 Pay Act: \$3,362,652**

The Judiciary negotiated a new Collective Bargaining Agreement with the Vermont State Employees' Association (VSEA) that included a 2% across the board salary increase and step increases (step increases cost 1.9%). This cost also includes moving all Docket Clerks positions into a new Judicial Assistant position, a two-pay grade increase for all existing employees. This amount was included in the Governor's Recommended Budget.

**Statewide Changes to Internal Service Funds: \$559,540**

The internal service funds include many administrative expenses such as payroll, single audit, VISION, insurance, ADS, and fee-for-space. The vast majority of this increase is due to the increase of the fee-for-space cost allocated to the Judiciary. The cost of fee-for-space has increased \$557,084 despite the Judiciary not increasing its footprint within state buildings. This amount was included in the Governor's Recommended Budget.

### **Restatement of FY20 Base Budget Reduction: \$500,000**

In 2021? The Department of Finance and Management (DFM) asked each department and branch to cut 3% of their base funding in an effort to balance the state's budget given a reduced revenue forecast. The Judiciary negotiated with DFM and returned some one-time carryforward funds from FY20 and agreed to a base budget reduction of \$500,000 that would come from vacancy savings. This increased our budgeted vacancy savings from \$912,549 to \$1,412,549.

It would be difficult, if not impossible, for the Judiciary to achieve full employment with the existing vacancy savings target of \$1.4M, and yet we must now put in place the workforce required to support the improvements technology has provided to business operations in the Judiciary. Without the reinstatement of the \$500,000 base budget reduction the Judiciary's ability to evolve its workforce to match the technology advancements will be difficult. This amount was not included in the Governor's Recommended Budget.

### **One new Judge and one new Law Clerk: \$344,136**

Currently, there are 36 Superior Court Judge positions established by the Legislature. Thirty-three are filled by active judges and three positions are vacant. An additional vacancy will arise on April 1<sup>st</sup> due to a retirement. Adding an additional Superior Court Judge position is necessary to enable the courts to meet the backlog and other challenges it will continue to encounter moving forward.

It is expected that a new judge position would be for an appointment to the West Region and that the new judge would be assigned to preside primarily in Bennington and Rutland counties. The courts in those counties do not have a sufficient number of judges who were appointed in them to cover all Divisions. As such, during each rotation two judges must be brought from outside the counties to assist. Notably, adding an additional judge position in this geographical area would not alter the number of positions assigned to the courts in those counties for each rotation period.

If coverage for the West Region is able to be provided by a new judge, this would alleviate the need to have a judge from outside that area serve in the courts. This would, in turn, allow a judge to be designated to serve in a "float" position that does not currently exist. A judge assigned as the float would be assigned to assist in several counties, and Divisions, as necessary. This would enable assignments that ensure that the Judiciary responds to the needs of particular courts in a manner which effectively utilizes the resource and serves to assist the courts in meeting necessary timeframes in addressing filings and conducting hearings/trials.

Decisions as to where a judge sits during their term would be made by the Chief Superior Judge in consultation with the Court Administrator to ensure that there are available staffing, security, and courtroom resources available. Having an additional judge would also provide needed coverage when judges are on vacation, ill, or otherwise unavailable to address judicial matters.

In addition to the need for an additional judge position, there is also a need for an additional trial court law clerk. This need exists even if there were no new judge position approved.

Trial court law clerks are lawyers devoted exclusively to case-specific legal research, reasoning, and writing for all judges of the civil, criminal, family, environmental, and probate divisions of the superior court. Law clerks materially improve judges’ productivity and the quality of their decisions and decision-making processes in a cost-effective manner by focusing on behind-the-scenes casework.

Currently, 16 law clerks are distributed geographically throughout the State, in total about one for every three superior judges. Within their areas of geographic responsibility, law clerks also assist family court magistrates, judicial bureau hearing officers, and assistant judges (in their judicial capacity only) as needed.

Prior to the pandemic, overall demand for law clerk assistance consistently and substantially outstripped supply, and law clerks’ geographic distribution caused unavoidable local imbalances, particularly in rural, underserved areas such as Franklin and Orleans Counties. This is all the more true now.

An additional law clerk will promote efficiency, timeliness, and access to the courts and justice by better facilitating the substantive support that trial judges need and use every day. This amount was not included in the Governor’s Recommended Budget.

**Eleven New Court Staff Positions: \$812,000**

Trial courts have been under-staffed since before the pandemic. There have been backlogs in court cases since before the pandemic. The pandemic significantly exacerbated the backlog situation, alleviated in part by limited service positions that have been funded with pandemic monies. The courts will not be able to address the backlogs, let alone meet their core functions, without additional staffing. This amount was not included in the Governor’s Recommended Budget.

The Judiciary proposes using the eleven positions as follows:

<b>Number of Positions</b>	<b>Job Description</b>	<b>Total Cost</b>
7	Judicial Assistant	\$504,000
1	Financial Analyst	\$ 77,000
1	Language Access Specialist	\$ 77,000
2	Access Resource Center Specialists	\$154,000
<b>11</b>	<b>Total</b>	<b>\$812,000</b>

*Judicial Assistants*

Although the new Odyssey case management and e-filing systems have many advantages, the universal experience with Odyssey has been that many processes take longer, even after users

achieve comfort with the system. Managers have continued to struggle to have enough staff to cover their courtrooms and meet the customer service needs that present at the courthouse and keep up with the constant influx of filings. The added pressures of data cleanup, COVID backlogs, and remote hearings have left the courts stressed and struggling. Seven Judicial Assistant positions will be located around the state where the need is greatest.

#### *Financial Analyst*

Since the transition to Odyssey, many financial functions were centralized in the Finance Office, reducing the financial tasks needing to be done at local courthouses. Over the past two years since the transition, the Finance Office has fallen behind and is not completing tasks timely due to a staff resource constraint. The Judiciary and Treasurer's Office have communicated regularly on the backlog of bank reconciliations needing to be completed. Staffing resources has been a limiting factor in clearing the backlog.

#### *Language Access Specialist*

This proposal is an extension of last year's proposal in that it is being submitted in the wake of the Judiciary's successful close-out in June 2021 of a two-year technical assistance agreement with the U.S. Department of Justice. As part of the agreement the Judiciary made significant changes to its Language Access Operations Manual and its Language Access Plan updated in May 2021.

The proposed position will ensure the Judiciary is complying with its Language Access Program Operations Manual and Language Access Plan and that staff are able to build on program improvements made over the last several years.

#### *Access Resource Center Specialists*

The new position will be housed in the Judiciary's Access and Resource Center (ARC). The ARC will provide services to those navigating the court system without the help of an attorney. Services will include providing information about court processes, helping with court forms, providing access to computers, and connecting people to referral resources. The ARC will provide services in person and remotely.

### **Increase for Sheriffs and Other Security Contractors: \$698,503**

County sheriff deputies provide security services in the courthouses in most Vermont counties. These services are provided pursuant to contracts between the Judiciary and local sheriffs; there is at present no constitutional or statutory requirement that the sheriffs provide these services.

The Judiciary is a pass-through for the sheriff payments regarding court security. As such, the Judiciary's primary goal is to be able to maintain the level of security to operate all Vermont's courthouses. This past year, at least three counties have decreased the number of deputies and one county is not providing any deputies. The Governor recommended a \$400,000 increase which

provides an hourly rate of \$47.50. The sheriffs have asked for an hourly rate of \$51, which would require \$698,503 of new funding. Funding at this level should ensure no more voluntary terminations or reduction of services by the sheriffs.

The Legislature appropriated \$1,500,000 last year to bring the sheriff rates for courthouses up to \$45/hr. This brought the rate closer to the actual cost of the service. The Judiciary appreciates this recognition of the role of the sheriffs in protecting the public and state employees in courthouses.

Potential costs of sheriff increases:

	<b>Current</b>	<b>Gov. Rec.</b>	<b>Sheriff Request</b>
Hourly Rate	\$ 45.00	\$ 47.50	\$ 51.00
% Increase		5.56%	13.33%
Funding Increase Required		\$ 407,449	\$ 698,503

### **Tech Fund Shortfall**

The Judiciary has also made a request to increase three fees to fully fund the Court Technology Fund. Those fees are the Failure to Answer fee (increasing from \$20 to \$40); the Failure to Pay fee (from \$30 to \$60); and the administrative fee (from \$12.50 to \$25). This change would increase revenue from \$850,000 to approximately \$1,600,000.

- Cc. Sen. Andrew Perchlik, Vice Chair
- Sen. Richard Westman, Clerk
- Sen. Robert Starr
- Sen. Dick Sears
- Sen. Philip Baruth
- Sen. Virginia "Ginny" Lyons
- Stephanie Barrett, Associate Fiscal Officer
- Andrea Smith, Senior Staff Associate