

**Testimony on behalf of the Vermont Association of Assistant Judges to the Senate
Committee on Government Operation, April 6, 2023**

To the Honorable Members of the Vermont Senate Government Operations Committee:

Thank you for inviting us today to testify regarding the proposed amendment to the Vermont constitution known as Prop 1.

I represent the twenty-eight independently elected county assistant judges as the President of the Vermont Association of County Judges. I am serving my fourth term as assistant judge from Orange County. My colleague, Carolyn Partridge, is a recently elected assistant judge and serves as the chair of our Association Legislative Affairs Committee. She is a former long-serving member of the Vermont House from Windham County.

Having met with the assistant judges I can state that we are not unanimous in our response to Proposition 1 as currently written. A small number of judges support the proposition as it currently stands; more support parts of it; a number have rendered no opinion.

The assistant judges generally support the provision that a serving assistant judge must meet some kind of qualification to remain in office; there is stronger support for a remedy other than impeachment to remove an assistant judge from office.

For example, we could support the same residency requirement as might also apply to Sheriffs in that we are required to maintain residency in the county from which we are elected for the duration of the term. Likewise, we feel that it is beneficial to ensure that elected assistant judges fulfill all of their duties whether judicial or administrative and if unable to do so a tenable process exists for removing them.

Regarding removal from office, the Vermont Code of Judicial Conduct applies to the assistant judges in all our affairs: judicial, county and personal. (Please refer to the 2019 Promulgated Vermont Code of Judicial Conduct which can be reached through vermontjudiciary.org) The Judicial Conduct Board is vested with investigating complaints against all judges—elected and appointed. The process is robust and fair. In short, there already exists a process and an institution that can investigate and act against assistant judges who fail to meet all ethical criteria. If an assistant judge is not in good standing with the Judiciary, that could create one avenue for removal from office.

However, the assistant judges are firmly united in opposition to establishing qualifications to run for this office. We understand fully that this proposed amendment as written would leave such a determination to some future legislature and we cannot know what might happen at that time.

Requiring any qualification to run for this office also misunderstands our bifurcated responsibilities. We are elected as county officials charged with maintaining historic

courthouses and supporting the basic functioning of county Sheriff's departments. We then also have a judicial rule as established in statute.

It is possible that our judicial role is misunderstood and that some legislators might think that significant legal training is required to sit as an assistant judge. Such training is not a pre-requisite. We sit as finders of fact. This is exactly what jurors do. We assess credibility; determine who to believe; decide on how much weight to give the admitted evidence—in essence we decide “what happened here.” The presiding judge then applies the law to those facts and renders a decision. Assistant Judges do not make legal determinations.

Requiring candidates for the office of county assistant judge to be attorneys (for example) is akin to requiring the elected Auditor of Accounts to be a C.P.A. or the State Treasurer to be an economist or the members of the General Assembly to be attorneys because they are making laws. It is contrary to the Vermont tradition of electing citizens to carry out the duties of government from the smallest towns, to the Statehouse, to the executive branch offices.

The Vermont Judiciary is already statutorily mandated to provide such training as they deem required to meet our judicial responsibilities. As the assistant judge appointed by the Supreme Court to the Judicial Education Committee, I can assure the committee that this training is on-going, rigorous and sufficient for our duties.

In conclusion, the position of the Vermont Association of County Judges is that we do not uniformly support nor oppose the current language of Proposition 1. Should this amendment ultimately succeed we would then take positions on the specific applications of qualifications as might be contemplated by a future legislature.

Respectfully submitted,

Joyce E. McKeeman,
President, Vermont Association of County Judges
Assistant Judge, Orange County

Carolyn Partridge
Chair, VACJ Legislative Affairs Committee
Assistant Judge, Windham County

Addendum

As per Senator Hardy's request, I am including this list of trainings for the Assistant Judges since 2018.

County Duties Organized by the VACJ for our members:

9/20/2019

Financial audits and how to read and understand an auditor's report, the effect of *Stowe v. Lamoille* on the budgeting process, and the ethical pitfalls of budgeting and financing. Statutes governing the budgeting process; capital and operating reserve funds and support for the Sheriff's departments. Budgeting fixed versus variable costs; creating a long-term capital improvements budget; how to calculate your county tax rate.

12/9/2022.

The Judicial Code of Ethics and County Administration

In cooperation with the Judiciary this was 3 hour session on ethical problems with non-judicial responsibilities presented by Retired Superior Court Judge Walter Morris

1/17/2023

Statutory County Administration for newly elected assistant judges.

3-hour remote training on the statutes presented by former State's Attorney for Lamoille County and out-going Assistant Judge Joel Page.

Planned for September 2023

Employment Law Basics with an attorney who specializes in that area.

List of Trainings Organized and Presented by the Judiciary

2018

- Judicial Bureau Training (030218) (Continuing Education for JB judges)
- Judicial College (6/5-6/6) (two full days of training sessions with the trial judges)
- Family Law Day (9/21/18)

2019

- Judicial Bureau Training (030819) (Continuing Education for JB judges)
- Judicial College (6/11-6/12) (two full days with trial judges)
- Family/Criminal Law Day (120619)

2020

- Statutory Interpretation 101 (060920)
- Judicial College (6/10-6/11) (two days with the trial judges)
- Equity and Judicial Discretion in the Time of Coronavirus (061020)
- Dr. Temple Grandin (061120)

2021

- Judicial Bureau Training (021221) (Continuing Education for JB judges)
- Assistant Judge 101 (040221) (Training for newly appointed Assistant Judges)
- Ethics for Assistant Judges as County Administrators (060721)
- Judicial Conduct Board (060821)
- Racial Equity (060921)
- Language Access Program (060921)
- Uncontested Domestic Training (Fall 2021)

2022

- Language Access Program Updates & Other Judiciary Initiatives (040522)
- Remote Hearings (040522)
- Core Skills for Domestic Violence Cases (040622)
- Courts After COVID (040622)
- Parentage Nuts and Bolts (040722)
- Judicial Wellness, Mental Health, and the Bench (040722)
- Odyssey (042222)
- WebEx (042222)
- Judicial Writing Tips and Traps (060822)
- Bench Skills: Challenging Litigants & Lawyers (060822)
- Ethics Training 120922

2023

- Assistant Judge 101 (020323) (for all newly elected Assistant Judges)
- Domestic Violence Training (033123)
- Judicial College (6/13-14)