

1 H.523

2 Introduced by Committee on Judiciary

3 Date:

4 Subject: Judiciary; jury duty questionnaire; registration of custody
5 determinations; court fees; judicial record keeping

6 Statement of purpose of bill as introduced: This bill proposes to:

7 (1) permit the court flexibility in making jury questionnaires available for
8 inspection to accommodate for questionnaires completed online;

9 (2) require the Family Division of the Superior Court, instead of the Court
10 Administrator, to notify parties of a child custody determination issued by
11 another jurisdiction;

12 (3) impose codified fees for the filing for expungement of criminal records
13 and filing out-of-state custody orders;

14 (4) permit the Court Administrator flexibility in choosing whether to
15 transcribe damaged court records;

16 (5) allow duplicate documents to be used when court records are lost;

17 (6) repeal Vermont laws related to judicial record keeping that are
18 addressed by the Vermont Rules of Civil Procedure, Vermont Rules of
19 Criminal Procedure, Rules for Access to Public Records, Administrative
20 Orders, and Administrative Directives; and

1 for the benefit of the ~~state~~ State a fee of \$100.00 in lieu of all other fees not
2 otherwise set forth in this section; ~~however, if.~~ If the parentage or desertion
3 and support complaint is filed with a stipulation for a final order acceptable to
4 the ~~court~~ Court, the fee shall be \$25.00 except that if the stipulation is not
5 acceptable to the Court or if a matter previously agreed to becomes contested,
6 the difference between the full fee and the reduced fee shall be paid to the
7 Court prior to the issuance of a final order.

8 (4) Prior to the entry of any motion or petition to enforce an order for
9 parental rights and responsibilities, parent-child contact, or maintenance in the
10 ~~superior court~~ Superior Court, there shall be paid to the ~~clerk of the court~~ Clerk
11 of the Court for the benefit of the ~~state~~ State a fee of \$75.00 in lieu of all other
12 fees not otherwise set forth in this section. Prior to the entry of any motion or
13 petition to vacate or modify an order for parental rights and responsibilities,
14 parent-child contact, or maintenance in the ~~superior court~~ Superior Court, there
15 shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of the
16 ~~state~~ State a fee of \$100.00 in lieu of all other fees not otherwise set forth in
17 this section. However, if the motion or petition is filed with a stipulation for an
18 order ~~acceptable to the court~~, the fee shall be \$25.00. All motions or petitions
19 filed by one party at one time shall be assessed one fee except that if the
20 stipulation is not acceptable to the Court or if a matter previously agreed to

1 becomes contested, the difference between the full fee and the reduced fee
2 shall be paid to the Court prior to the issuance of a final order.

3 (5) Prior to the entry of any motion or petition to vacate or modify an
4 order for child support in the ~~superior court~~ Superior Court, there shall be paid
5 to the ~~clerk of the court~~ Clerk of the Court for the benefit of the ~~state~~ State a
6 fee of \$35.00 in lieu of all other fees not otherwise set forth in this section;
7 ~~however, if~~ If the motion or petition is filed with a stipulation for an order
8 ~~acceptable to the court~~, there shall be no fee except that if the stipulation is not
9 acceptable to the Court or if a matter previously agreed to becomes contested,
10 the difference between the full fee and the reduced fee shall be paid to the
11 Court prior to the issuance of a final order. A motion or petition to enforce an
12 order for child support shall require no fee. All motions or petitions filed by
13 one party at one time shall be assessed one fee; if a simultaneous motion is
14 filed by a party under subdivision (4) of this subsection, the fee under
15 subdivision (4) shall be the only fee assessed.

16 (6) Prior to the registration in Vermont of a child custody determination
17 issued by a court of another state, there shall be paid to the Clerk of the Court
18 for the benefit of the State a fee of \$75.00 unless the request for registration is
19 filed with a simultaneous motion for enforcement, in which event the fee for
20 registration shall be \$30.00 in addition to the fee for the motion as provided in
21 subdivision (4) of this subsection.

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(e) Prior to the filing of any postjudgment motion in the ~~superior court~~
Superior Court, including motions to reopen civil suspensions and motions for
sealing or expungement in the criminal division pursuant to 13 V.S.A. § 7602,
there shall be paid to the ~~clerk of the court~~ Clerk of the Court for the benefit of
the ~~state~~ State a fee of \$75.00 except for small claims actions.

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(h) Pursuant to Vermont Rules of Civil Procedure 3.1 or Vermont Rules of
Appellate Procedure 24(a), part or all of the filing fee may be waived if the
~~court~~ Court finds that the applicant is unable to pay it. The ~~clerk of the court~~
Clerk of the Court or the clerk's designee shall establish the in forma pauperis
fee in accordance with procedures and guidelines established by administrative
order of the ~~supreme court~~ Supreme Court. If, during the course of the
proceeding and prior to a final judgment, the Court determines that the
applicant has the ability to pay all or a part of the waived fee, the Court shall
require that payment be made prior to issuing a final judgment. If the applicant
fails to pay the fee within a reasonable time, the Court may dismiss the
proceeding.

Sec. 4. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE CASES

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1 credit and have the same force as the original record. The expense of making
2 such transcript shall be paid by the ~~state~~ State.

3 Sec. 6. 4 V.S.A. § 659 is amended to read:

4 § 659. PRESERVATION OF COURT RECORDS

5 (a) The ~~supreme court~~ Supreme Court by administrative order may provide
6 for permanent preservation of all court records by any photographic or
7 electronic or comparable process ~~which will provide compact records in~~
8 ~~reduced size~~, in accordance with standards ~~established by the secretary of state~~
9 ~~which~~ that shall be no less protective of the records than the standards
10 established by the state archives and records administration programs that take
11 into account the quality and security of the records, and ready access to the
12 record of any cause so recorded.

13 (b) After preservation in accordance with subsection (a) of this section, the
14 ~~supreme court~~ Supreme Court by administrative order may provide for the
15 disposition of original court records by destruction or in cases where the
16 original court record may have historical or intrinsic value by transfer to the
17 archives of the ~~secretary of state, the Vermont historical society, or the~~
18 ~~University of Vermont~~ Secretary of State.

1 Sec. 7. 4 V.S.A. § 732 is amended to read:

2 § 732. ~~LOST WRIT OR COMPLAINT FILING OF NEW PAPERS~~

3 DOCUMENT OR RECORD

4 When ~~the writ or complaint~~ a court document, record, or file in an action
5 pending in court is lost, mislaid, or destroyed, the court, ~~on written motion for~~
6 ~~that purpose,~~ may order a ~~writ or a complaint for the same cause of action~~
7 duplicate document, record, or file to be filed under such regulations
8 conditions as the court prescribes, ~~and the same proceedings shall be had~~
9 ~~thereon as though it were the original writ or complaint. If the plaintiff refuses~~
10 ~~to file such writ or complaint, the court shall direct a nonsuit in the action, and~~
11 ~~tax costs for the defendant. A duplicate document or record shall have the~~
12 same validity and may be used in evidence in the same manner as the original
13 document, record, or file.

14 Sec. 8. 4 V.S.A. § 740 is amended to read:

15 § 740. COURT RECORDS; DOCKETS; CERTIFIED COPIES

16 The ~~supreme court~~ Supreme Court by administrative order or directive shall
17 provide for the preparation, maintenance, recording, indexing, docketing,
18 preservation, and storage of all court records and the provision, subject to
19 confidentiality requirements of law or court rules, of certified copies of those
20 records to persons requesting them.

1 Sec. 9. REPEAL

2 4 V.S.A. §§ 652 (records of judgments and other proceedings; dockets;
3 certified copies), 655 (court accounts), 656 (index of records), 658 (supreme
4 court records), 695 (accounts of court officer and reporter), 734 (copy of lost
5 petition), 735 (record of proceedings), 736 (lost records or judgment files;
6 recording of copy), 737 (appeal or exception), and 738 (costs for recording);
7 2009 Acts and Resolves No. 4, Sec. 121 (transitional provisions for merger of
8 Bennington and Manchester probate courts); and 2009 Acts and Resolves
9 No. 4, Sec. 125 (transitional provisions of the consolidated probate court
10 system) are repealed.

11 Sec. 10. EFFECTIVE DATES

12 This act shall take effect on July 1, 2013, except this section and Sec. 2
13 (registration of child custody determination) of this act, which shall take effect
14 on passage.