

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 263 entitled
3 “An act relating to the authority of assistant judges in child support contempt
4 proceedings” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 4 V.S.A. § 36 is amended to read:

8 § 36. COMPOSITION OF THE COURT

9 (a) Unless otherwise specified by law, when in session, a ~~superior court~~
10 Superior Court shall consist of:

11 (1) For cases in the ~~civil~~ Civil or ~~family division~~ Family Division, one
12 presiding ~~superior~~ Superior judge and two assistant judges, if available.

13 (2)(A) For cases in the ~~family division~~ Family Division, except as
14 provided in subdivision (B) of this subdivision (2), one presiding ~~superior~~
15 ~~judge~~ judicial officer and two assistant judges, if available.

16 (B) The ~~family court~~ Family Division shall consist of one presiding
17 ~~superior judge~~ judicial officer sitting alone in the following proceedings:

18 (i) ~~All~~ all juvenile proceedings filed pursuant to 33 V.S.A.
19 chapters 51, 52, and 53 ~~of Title 33~~, including proceedings involving “youthful
20 offenders” pursuant to 33 V.S.A. § 5281, whether the matter originated in the

1 ~~riminal or family division of the superior court~~ Criminal or Family Division
2 of the Superior Court;

3 (ii) ~~All~~ all guardianship services proceeding for persons
4 proceedings filed pursuant to 18 V.S.A. chapter 215 ~~of Title 18;~~

5 (iii) ~~All~~ all mental health proceedings filed pursuant to 18 V.S.A.
6 chapters 179, 181, and 185 ~~of Title 18;~~

7 (iv) ~~All~~ all involuntary sterilization proceedings filed pursuant to
8 18 V.S.A. chapter 204 ~~of Title 18;~~

9 (v) ~~All~~ all care for persons with developmental disabilities
10 proceedings filed pursuant to 18 V.S.A. chapter 206 ~~of Title 18;~~ and

11 (vi) ~~All~~ all proceedings specifically within the jurisdiction of the
12 office of magistrate except child support contempt proceedings held pursuant
13 to a magistrate's jurisdiction under subdivision 461(a)(1) of this title;

14 (C) Use of the term "judicial officer" in subdivisions (A) and (B) of
15 this subsection shall not be construed to expand a judicial officer's subject
16 matter jurisdiction or conflict with the authority of the Chief Justice or
17 Administrative Judge to make special assignments pursuant to section 22 of
18 this title.

19 * * *

1 Sec. 2. 3 V.S.A. § 221 is added to read:

2 § 221. HEARING OFFICERS; RULES

3 (a) The Secretary of Administration shall adopt a rule to establish
4 guidelines and oversight for hearing officers in the Executive Branch. As used
5 in this section, “hearing officer” means a person employed by the State of
6 Vermont whose exclusive duty is to resolve contested cases when a decision of
7 an Executive Branch agency is challenged.

8 (b) The rule adopted pursuant to this subsection shall include provisions
9 addressing the following topics:

10 (1) The rule shall include ethical standards for hearing officers. The
11 ethical standards:

12 (A) may be based on the Model Code of Judicial Conduct for State
13 Administrative Law Judges developed by the National Association of
14 Administrative Law Judiciary;

15 (B) shall be made readily accessible to the public and to parties in
16 administrative proceedings; and

17 (C) shall include provisions related to bias, impartiality and the
18 appearance of impartiality, conflicts of interest, recusal and disqualification,
19 confidentiality, and ex parte communications.

20 (2) The rule shall require the agency or department that employs the
21 hearing officer to designate procedures for the receipt, consideration, and

1 determination of complaints about the conduct of hearing officers. The
2 procedures shall be provided to all parties in the matter.

3 (3) The rule shall ensure that all parties in proceedings presided over by
4 a hearing officer are provided with a copy of the rules of procedure that apply
5 to the proceedings. The rules shall prominently and specifically describe any
6 appeal rights a party has and the procedure for filing an appeal.

7 Sec. 3. HEARING OFFICERS; REPORT

8 (a) On or before December 15, 2014, the Commissioner of Human
9 Resources shall report to the House and Senate Committees on Judiciary and
10 on Government Operations on the current and potential use and oversight of
11 hearing officers in Vermont State government. The report shall:

12 (1) identify all State employees and contractors who function in whole
13 or in part as hearing officers;

14 (2) analyze the feasibility and costs of expanding the rule adopted
15 pursuant to 3 V.S.A. § 221 to all State employees and contractors who function
16 in whole or in part as hearing officers; and

17 (3) analyze the feasibility and costs of providing education and
18 training to:

19 (A) hearing officers covered by the rule adopted pursuant to 3 V.S.A.
20 § 221; and

1 (B) all State employees and contractors who function in whole or in
2 part as hearing officers.

3 (b) As used in this section:

4 (1) “Education and training” shall include content related to:

5 (A) the importance to the proceedings of fairness, impartiality, and
6 the appearance of impartiality;

7 (B) the rules of evidence;

8 (C) legal writing, reasoning, and decision making;

9 (D) the ethical standards established pursuant to 3 V.S.A.

10 § 221(b)(1);

11 (E) confidentiality; and

12 (F) the participation of pro se parties.

13 (2) “Hearing officer” means a person employed or contracted on a
14 full-time or part-time basis by the State of Vermont whose duties include
15 resolving contested cases when a decision of an Executive Branch agency is
16 challenged.

17 Sec. 4. EFFECTIVE DATE

18 This act shall take effect on passage.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE