

No. 167. An act relating to judicial organization and operations.

(H.869)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Judicial Masters * * *

Sec. 1. 4 V.S.A. § 38 is added to read:

§ 38. JUDICIAL MASTERS

(a) The Administrative Judge may appoint a licensed Vermont lawyer who has been engaged in the practice of law in Vermont for at least the last five years to serve as a Judicial Master. The Judicial Master shall be an employee of the Judiciary and be subject to the Code of Judicial Conduct. A Judicial Master shall not engage in the active practice of law for remuneration while serving in this position. In making this appointment, the Administrative Judge shall apply the criteria and standards for judicial appointments contained in section 601 of this title. The Judicial Master may hear and decide the following matters as designated by the Administrative Judge:

(1) In the Criminal Division of the Superior Court, proceedings in treatment court dockets, as approved by the presiding judge, to assure compliance with court orders, including attendance and participation with a treatment plan, imposition of sanctions and incentives, including incarceration in the course of the program and dismissal from the program due to noncompliance; the Master shall not have authority to accept pleas or to

impose sentences, to hear motions to suppress, or to dismiss for lack of a prima facie case.

(2) In the Family Division of the Superior Court, in juvenile proceedings, as approved by the presiding judge, to assure compliance with existing court orders, including attendance and participation in substance abuse, mental health, and other court-ordered counseling; compliance with and modification of parent-child contact; to act as the administrative body to conduct permanency hearings pursuant to 33 V.S.A. § 5321(g) unless a contested permanency hearing becomes necessary; and to provide case management of juvenile proceedings; the Master shall not have the authority to hear temporary care hearings, requests for juvenile protective orders, or hearings on the merits, or to conduct disposition hearings.

(3) In the Family Division of the Superior Court, proceedings, with the approval of the presiding judge, to assure compliance with existing court orders relating to parent-child contact; to act as a Master pursuant to Rule 53 of the Vermont Rules of Civil Procedure where no order has been made pursuant to 32 V.S.A. § 1758(b); and to provide case management of proceedings with 15 V.S.A. chapters 5, 11, 15, and 18; the Master shall not have authority to determine divorce or parentage actions, parental rights and responsibilities, or spousal maintenance or modifications of such orders.

(b) The Judicial Master may be appointed to serve as an acting judge pursuant to subsection 22(b) of this title in any matter in which he or she has not previously acted as a Judicial Master.

(c) The decision of a Judicial Master under this section shall have the same effect as a decision of a Superior judge, except when acting as a Master pursuant to subdivision (a)(3) of this section.

Sec. 2. REPEAL

4 V.S.A. § 38 (Judicial Masters) shall be repealed on July 1, 2019.

* * * Venue in TPR Cases * * *

Sec. 3. LEGISLATIVE INTENT

The General Assembly does not intend Sec. 4 of this act, which amends 4 V.S.A. § 37 to permit regional venue in proceedings involving the termination of parental rights (TPR), to result in the closure of any Vermont courts. Sec. 4 is intended to permit greater flexibility in the TPR process, in response to the findings and recommendations made by the Committee on Child Protection in 2014, and it may, in fact, result in an increase rather than a decrease in court proceedings for some jurisdictions.

Sec. 4. 4 V.S.A. § 37 is amended to read:

§ 37. VENUE

(a) The venue for all actions filed in the ~~superior court~~ Superior Court, whether heard in the ~~civil, criminal, family, environmental, or probate division~~

Civil, Criminal, Family, Environmental, or Probate Division, shall be as provided in law.

(b) Notwithstanding any other provision of law, the ~~supreme court~~ Supreme Court may promulgate venue rules, subject to review by the legislative committee on judicial rules under 12 V.S.A. chapter 1 of Title 12, which are consistent with the following policies:

(1) Proceedings involving a case shall be heard in the unit in which the case was brought, subject to the following exceptions:

(A) when the parties have agreed otherwise;

(B) status conferences, minor hearings, or other nonevidentiary proceedings; or

(C) when a change in venue is necessary to ensure access to justice for the parties or required for the fair and efficient administration of justice.

(2) The electronic filing of cases on a statewide basis should be facilitated, and the ~~court~~ Court is authorized to promulgate rules establishing an electronic case-filing system.

(3) The use of technology to ease travel burdens on citizens and the courts should be promoted. For example, venue requirements should be deemed satisfied for some court proceedings when a person, including a judge, makes an appearance via video technology, even if the judge is not physically present in the same location as the person making the appearance.

(4)(A) Subject to subdivision (B) of this subdivision (4), in proceedings involving the termination of parental rights, the Supreme Court is authorized to designate a region of no more than four counties in which the venue for specified types of cases in the region shall be the region as a whole, irrespective of the county in which the venue would lie for the case under the governing statute. A designation under this subdivision shall be made by rule and shall be reviewed by the Legislative Committee on Judicial Rules pursuant to 12 V.S.A. § 1.

(B) A region designated pursuant to subdivision (A) of this subdivision (4) shall not include Grand Isle or Essex County for purposes of permitting termination of parental rights proceedings originating in Grand Isle or Essex County to be heard in other counties or regions unless all parties consent. This subdivision shall not preclude termination of parental rights proceedings originating in other counties from being heard in Grand Isle or Essex County.

* * * Licensing Board Appeals * * *

Sec. 5. 3 V.S.A. § 130a is amended to read:

§ 130a. APPEALS FROM BOARD DECISIONS

(a) A party aggrieved by a final decision of a board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Director who shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of

alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer.

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(c) A party aggrieved by a decision of the appellate officer may appeal to the ~~Superior Court in Washington County~~ Supreme Court, which shall review the matter on the basis of the records created before the board and the appellate officer.

* * * Transportation Board Appeals * * *

Sec. 6. 19 V.S.A. § 5 is amended to read:

§ 5. TRANSPORTATION BOARD; POWERS AND DUTIES

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(c) The Board may delegate the responsibility to hear quasi-judicial matters, and other matters as it may deem appropriate, to a hearing examiner or a single Board member, to hear a case and make findings in accordance with 3 V.S.A. chapter 25, except that highway condemnation proceedings shall be conducted pursuant to the provisions of chapter 5 of this title. A hearing examiner or single Board member so appointed shall report his or her findings of fact in writing to the Board. Any order resulting therefrom shall be rendered only by a majority of the Board. Final orders of the Board issued pursuant to section 20 of this title may be reviewed on the record by a Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure. All other final orders of the Board may be reviewed on the record by the Supreme Court.

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Sec. 7. [Deleted]

* * * Judiciary Service Center * * *

Sec. 8. DISCONTINUATION OF JUDICIARY SERVICE CENTER

On or before June 30, 2016, the Vermont Supreme Court shall discontinue use of the Judiciary Service Center to respond to communications from Vermont attorneys.

Sec. 8a. SPOUSAL SUPPORT AND MAINTENANCE TASK FORCE

On or before January 15, 2017, the Family Division Oversight Committee of the Supreme Court shall report to the Senate and House Committees on Judiciary on its study of spousal support and maintenance guidelines in Vermont. The report shall include any legislative recommendations for changes to Vermont's law concerning spousal support and maintenance.

* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES

(a) Secs. 1, 2, 3, 4, 7, 8, 8a, and this section shall take effect on passage.

(b) Secs. 5 and 6 shall take effect on July 1, 2016 and shall apply to appeals filed on or after that date.

Date Governor signed bill: June 6, 2016