

H.869

Introduced by Committee on Judiciary

Date:

Subject: Judiciary; court organization and operations

Statement of purpose of bill as introduced: This bill proposes a number of measures related to the organization and operation of courts and the Judiciary.

An act relating to judicial organization and operations

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 matters as

1 designated by the Administrative Judge in the Civil, Criminal, and Family

2 Divisions as described herein:

3 (1) In the Civil Division of the Superior Court, pre- and post-trial  
4 matters, as approved by the presiding judge, including rent escrow orders,  
5 discovery orders, sanctions not including requests for dismissal, and financial  
6 disclosure hearings; the Master shall not hear requests for injunctive relief,  
7 motions for summary judgment, a motion to dismiss for failure to state a claim,  
8 or an involuntary dismissal.

9 (2) In the Criminal Division of the Superior Court, proceedings in  
10 treatment court dockets, as approved by the presiding judge, to assure  
11 compliance with court orders, including attendance and participation with a  
12 treatment plan, imposition of sanctions and incentives, including incarceration  
13 in the course of the program and dismissal from the program due to  
14 noncompliance; the Master shall not have authority to accept pleas or to  
15 impose sentences, to hear motions to suppress, or to dismiss for lack of a prima  
16 facie case.

17 (3) In the Family Division of the Superior Court, in juvenile  
18 proceedings, as approved by the presiding judge, to assure compliance with  
19 existing court orders, including attendance and participation in substance  
20 abuse, mental health, and other court-ordered counseling; compliance with and  
21 modification of parent-child contact; to act as the administrative body to

1 conduct permanency hearings pursuant to 33 V.S.A. § 5321(g) unless a  
2 contested permanency hearing becomes necessary; and to provide case  
3 management of juvenile proceedings; the Master shall not have the authority to  
4 hear temporary care hearings, requests for juvenile protective orders, hearings  
5 on the merits, or to conduct disposition hearings.

6 (4) In the Family Division of the Superior Court, proceedings, with the  
7 approval of the presiding judge, to assure compliance with existing court  
8 orders relating to parent-child contact; to act as a Master pursuant to V.R.C.P.  
9 53 where no order has been made pursuant to 32 V.S.A. § 1758(b); and to  
10 provide case management of proceedings with 15 V.S.A. chapters 5, 11, 15,  
11 and 18; the Master shall not have authority to determine divorce or parentage  
12 actions, parental rights and responsibilities, or spousal maintenance or  
13 modifications of such orders.

14 (b) The Judicial Master may be appointed to serve as an acting judge  
15 pursuant to subsection 22(b) of this title.

16 (c) The decision of a Judicial Master under this section shall have the same  
17 effect as a decision of a Superior judge, except when acting as a Master  
18 pursuant to subdivision (a)(4) of this section.

\* \* \* Petition and Affidavit in Delinquency Proceedings \* \* \*

Sec. 2. 33 V.S.A. § 5223 is amended to read:

§ 5223. FILING OF PETITION

(a) When notice to the child is provided by citation, the State's Attorney shall file the petition and supporting affidavit at least 10 days prior to the date for the preliminary hearing specified in the citation.

(b) ~~The Court shall send or deliver a~~ A copy of the petition and affidavit shall be made available at the State's Attorney's office to all persons required to receive notice, including the noncustodial parent, as soon as possible after the petition is filed and at least five days prior to the date set for the preliminary hearing.

\* \* \* Appeals of Judicial Bureau Decisions \* \* \*

Sec. 3. 4 V.S.A. § 1107 is amended to read:

§ 1107. APPEALS

(a) A decision of the hearing officer may be appealed to the Criminal Division of the Superior Court. The proceeding before the Criminal Division of the Superior Court shall be on the record, ~~or at the option of the defendant,~~ ~~de novo. The defendant shall have the right to trial by jury.~~ An appeal shall stay payment of a penalty and the imposition of points.

\* \* \*

\* \* \* Licensing Board Appeals \* \* \*

Sec. 4. 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.

\* \* \*

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

§ 5. TRANSPORTATION BOARD; POWERS AND DUTIES

\* \* \*

(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

1 3 V.S.A. chapter 25, except that highway condemnation proceedings shall be  
2 conducted pursuant to the provisions of chapter 5 of this title. A hearing  
3 examiner or single Board member so appointed shall report his or her findings  
4 of fact in writing to the Board. Any order resulting therefrom shall be rendered  
5 only by a majority of the Board. Final orders of the Board issued pursuant to  
6 section 20 of this title may be reviewed on the record by a Superior Court  
7 pursuant to Rule 74 of the Vermont Rules of Civil Procedure. All other final  
8 orders of the Board may be reviewed on the record by the Supreme Court.

9 \* \* \*

10 \* \* \* Accessibility and Efficiency of Court System \* \* \*

11 Sec. 6. ACCESS TO JUSTICE; COLLABORATIVE PROCESS

12 The Supreme Court shall coordinate a collaborative process with its justice  
13 partners, including the Vermont Bar Association, the Department of State's  
14 Attorneys and Sheriffs, the Defender General, the Attorney General, the  
15 Department for Children and Families, and the Vermont Association for  
16 Justice, in an effort to identify court system reforms that promote efficient use  
17 of judicial resources and allocation of costs while preserving access to justice  
18 and maintaining the quality of court services. The Court shall report the  
19 proposals developed in the collaborative process to the House and Senate  
20 Committees on Judiciary on or before December 15, 2016.

\* \* \* Effective Dates \* \* \*

Sec. 7. EFFECTIVE DATES

(a) Secs. 1 and 6 and this section shall take effect on passage.

(b) Sec. 2 shall take effect on July 1, 2016.

(c) Secs. 3–5 shall take effect on July 1, 2016 and shall apply to appeals  
filed on or after that date.