

1 Introduced by Committee on Judiciary

2 Date:

3 Subject: Judiciary; court organization and operations

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

6 An act relating to judicial organization and operations

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

8

9 *** Special Masters ***

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

11 § 38. SPECIAL MASTERS

12 (a) The Administrative Judge may appoint a licensed Vermont lawyer who
13 has been engaged in the practice of law in Vermont for at least the last five
14 years to serve as a Judicial Master. The Judicial Master shall be an employee
15 of the Judiciary and be subject to the Code of Judicial Conduct. A Judicial
16 Master shall not engage in the active practice of law for remuneration while
17 serving in that position. In making this appointment, the Administrative Judge
18 shall apply the criteria and standards for judicial appointments contained in
19 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, 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 Title 15, chapters 5, 11, 15, 18;
11 the Master shall not have authority to determine divorce or parentage actions,
12 parental rights and responsibilities, or spousal maintenance or modifications of
13 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.

19 * * * Petition and affidavit in delinquency proceedings * * *

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

21 § 5223. FILING OF PETITION

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

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

9

10 * * * Appeals of Judicial Bureau Decisions * * *

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

12 § 1107. APPEALS

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

18 * * * Licensing Board Appeals * * *

19 Sec. 4. 3 V.S.A. § 130a is amended to read:

20 § 130a. APPEALS FROM BOARD DECISIONS

1 (a) A party aggrieved by a final decision of a board may, within 30 days of
2 the decision, appeal that decision by filing a notice of appeal with the director
3 who shall assign the case to an appellate officer. The review shall be
4 conducted on the basis of the record created before the board. In cases of
5 alleged irregularities in procedure before the board, not shown in the record,
6 proof on that issue may be taken by the appellate officer.

7 * * *

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

12 * * * Transportation Board Appeals * * *

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

14 § 5. TRANSPORTATION BOARD; POWERS AND DUTIES

15 * * *

16 (c) The board may delegate the responsibility to hear quasi-judicial matters,
17 and other matters as it may deem appropriate, to a hearing examiner or a single
18 board member, to hear a case and make findings in accordance with 3 V.S.A.
19 ~~chapter 25 of Title 3~~, except that highway condemnation proceedings shall be
20 conducted pursuant to the provisions of chapter 5 of this title. A hearing
21 examiner or single board member so appointed shall report his or her findings

1 of fact in writing to the board. Any order resulting therefrom shall be rendered
2 only by a majority of the board. Final orders of the board issued pursuant to
3 section 20 of this title may be reviewed on the record by the superior court
4 pursuant to Rule 74 of the Vermont Rules of Civil Procedure. All other final
5 orders of the board may be reviewed on the record by the Supreme Court.

6 * * *

7 * * * Regional Venue * * *

8 Sec. 6. 4 V.S.A. § 37 is amended to read:

9 § 37. VENUE

10 (a) The venue for all actions filed in the ~~superior court~~ Superior Court,
11 whether heard in the ~~civil, criminal, family, environmental, or probate division~~
12 Civil, Criminal, Family, Environmental, or Probate Division, shall be as
13 provided in law.

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

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

20 (A) when the parties have agreed otherwise;

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

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

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

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

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

20 Sec. 7. EFFECTIVE DATES

21 (a) Sec. 6 and this section shall take effect on passage.

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

2 (c) Secs. 3-5 shall take effect on July 1, 2016 and apply to appeals filed on

3 or after that date.