

Vermont Judicial Branch

FY 2016 Budget Summary - Key Budget and Programmatic Issues

The Judiciary's FY 2016 budget presentation materials include four documents:

- This summary of key FY 2016 budget and programmatic issues within the Branch;
- Vermont Judiciary Annual Statistical Report for FY 2014
- Vermont Judicial Branch Overview, 2015 Legislative Session: Courts, Judiciary Programs, and Performance Measures
- Budget detail document – includes budget “ups and downs” and all Vantage reports

Topics covered in this summary document include:

- Courts, Judiciary Programs, and Performance Measures
- Upward Pressures on Court Resources
- Structural Challenges in Court System Funding
- FY 2016 Budget: Governor's Recommendation
- Additional Potential General Fund Budget Reductions for FY 2016 and Beyond
- Operational Efficiencies and Budget Improvements Reflected in FY 2016 Request
- Strategic Issues with Potential or Likely Budget Implications

Courts, Judiciary Programs, and Performance Measures

Basic indicators of court performance are a necessary ingredient of accountability in the administration of justice and effective governance of the third branch. Moreover, performance measures provide a structured means for courts to communicate this message.

The Vermont Judiciary assesses performance through measures developed by the National Center for State Courts. *CourTools* is an instrument designed to foster consensus on what courts should strive to achieve and their success in meeting objectives in a world of limited resources.

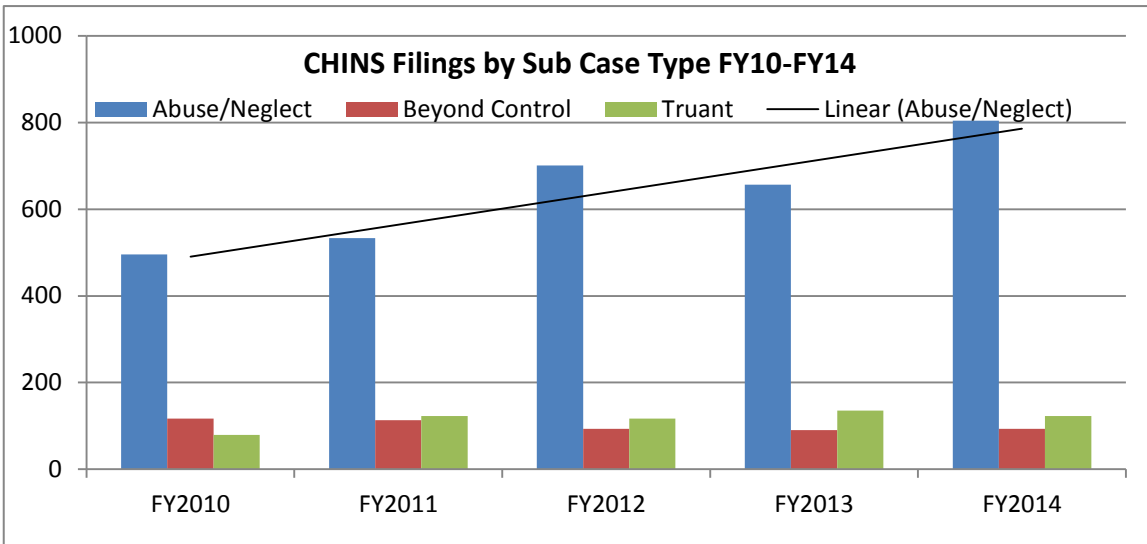
The Vermont Judiciary also uses the Results Based Accountability model to measure performance of court programs. These programs include treatment court dockets, the Vermont Superior Court family mediation program, the parent coordination program, the Guardian ad Litem program, the Court Interpreter program, and judicial and staff education programs.

The Vermont Judiciary Branch Overview for the 2015 Legislative Session, which accompanies the Judiciary's budget materials, sets forth in greater detail the Mission, Vision, and Principles for Administration of the Vermont Judiciary adopted by the Supreme Court, as well as performance

measures established by the Judiciary, where applicable, and measurements of performance outcomes, to the extent available.

Upward Pressures on Court Resources

Increase in Abuse/Neglect (CHINS) Filings

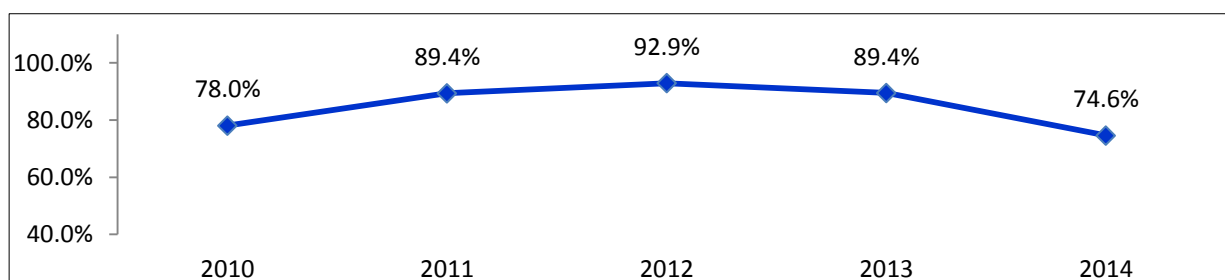


CHINS

Of the 1,019 CHINS cases filed in FY14, 804 were abuse/neglect cases, the remainder were beyond parental control or truant. The increase in CHINS filings over the past few years has been fueled primarily by a dramatic growth in abuse/neglect cases. The number of abuse neglect filings increased by 62% between FY10 and FY15. This represents the largest increase in any case type in any division of the superior court.

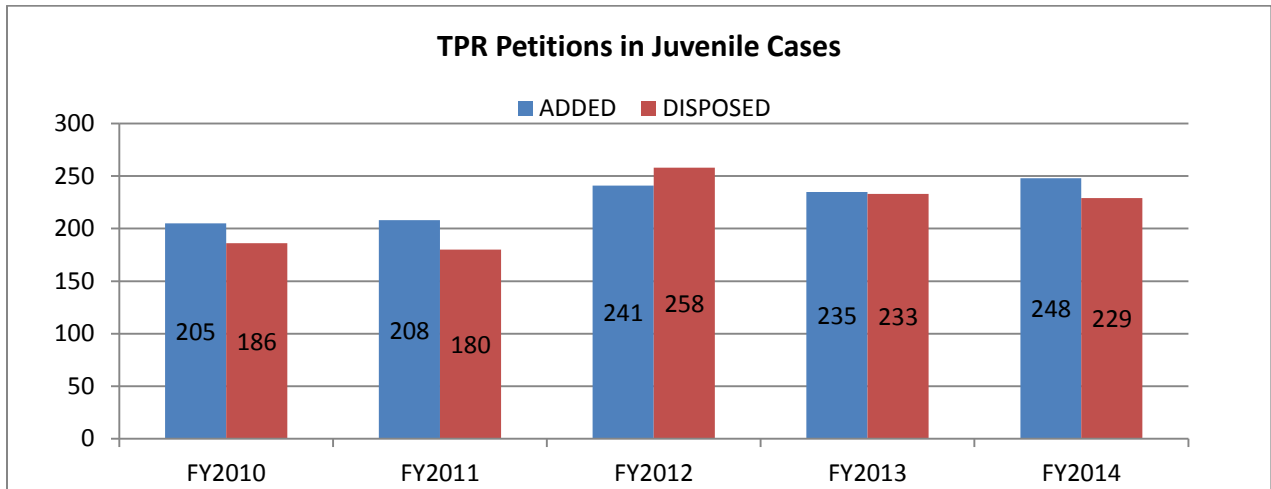
Given the dramatic upsurge of abuse/neglect cases in FY14, the clearance rate for CHINS cases was one of the lowest of any group of cases in any division of the superior court. CHINS cases are labor intensive for judges and court staff. They require numerous hearings and the stakes for the litigants are high. Not only are many of the children involved in these cases removed from the custody of their parents, there is always the threat of termination of parental rights if parents are unable to regain custody within a reasonable amount of time. Five years of clearance rates below 100% is a source of significant concern. It means the development of a backlog of cases that will be difficult to overcome without a dramatic decline in the number of filings or an increase in resources.

Clearance Rate CHINS

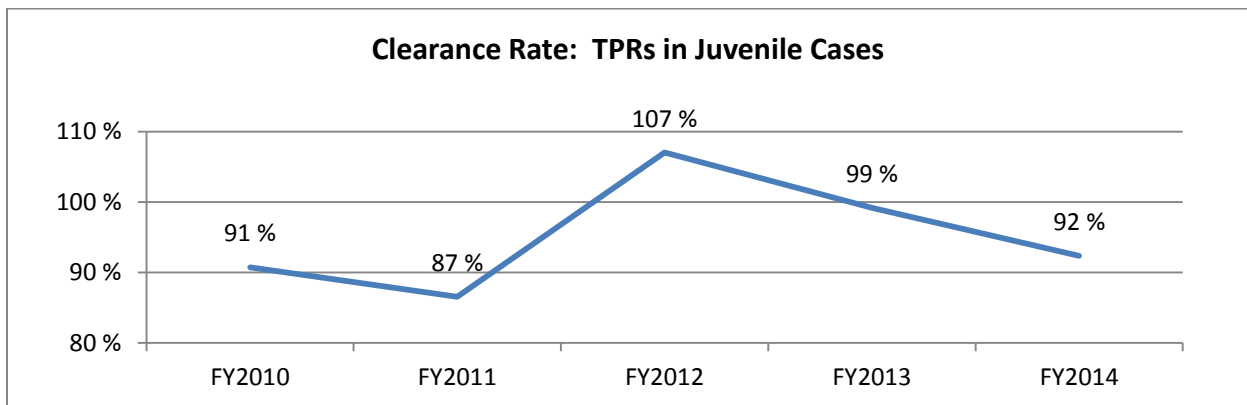


Increase in Termination of Parental Rights (TPR) Filings

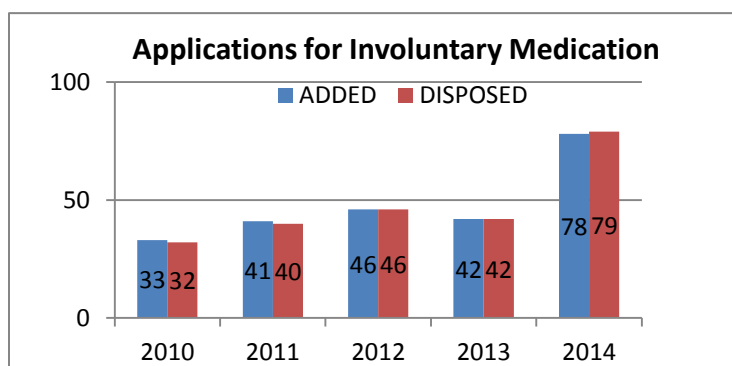
TPR petitions have increased by 21% since 2010 with the major increase occurring during the past three years. This is a trend that is likely to continue given recent increases in the number of CHINS filings.



The clearance rate for termination of parental rights petitions also fell below 100% in FY14 - yet another indication of the degree of stress that increased filings has placed on the juvenile caseload.



Increase in Applications for Involuntary Medication



The fastest growing case type in the mental health docket is involuntary medication. While the numbers of cases still remain small in comparison to applications for involuntary treatment or continued treatment, they almost doubled in FY14 as compared to FY13. From a workload perspective medication cases require a significant amount of judge time since they are almost always contested. They also place a significant burden on the family division units where a designated hospital is located.

Structural Challenges in Court System Funding

Over 87% of the Judiciary’s budget is funded with General Funds; while less than 6% is derived from various fee and surcharge sources, as illustrated below.

Fund:	FY 2016 Governor's Recommendation	Fund Sources as Percent of Total
General Fund	38,207,850	87.4%
Fee-based revenue sources:		
Attorney Admission Licensing Fund	759,090	1.7%
Court Technology Fund	1,631,724	3.7%
Other fund sources:		
Waste Management Fund	128,305	0.3%
Environmental Permit	148,342	0.3%
Tobacco Litigation Settlement	39,871	0.1%
Inter-Unit Transfer Fund	2,325,272	5.3%
Federal Revenue Funds	473,300	1.1%
TOTAL	43,713,755	100.0%

In addition to being heavily reliant on General Funds, the Judiciary’s budget is concentrated in several cost areas. The three largest items -- salary and fringe benefits; Fee for Space; and court security contracts – account for over 87% of the branch’s expenses. After accounting for mandatory internal service charges; accounting transactions; and program-related grants and contracts, less than 9% of the Judiciary’s budget is associated with operating expenses.

Major category of expense (all funds):	FY 2016 Governor's Recommendation	As Percent of Total
Salary and Fringe (less vacancy savings)	31,261,004	71.5%
Fee for Space	4,721,161	10.8%
Court security contracts	2,227,311	5.1%
Other internal service charges (DII; VISION)	742,244	1.7%
Cash payment to DCF (Title IVD accounting transaction)	422,720	1.0%
Program-related grants and contracts	478,879	1.1%
All other expenses	3,860,437	8.8%
Total (all funds)	43,713,755	100.0%

FY 2016 Budget: Governor's Recommendation

- The Governor's recommendation for the Judiciary's FY 2016 General Fund appropriation represents a 5.0% increase, or \$1,816,163, over FY 2015.
 - All of the General Fund increase is associated with State-wide mandatory charges and other pressures; it contains no Judiciary-specific increases.
 - Annualization of the **FY 2015 Pay Act** (including across-the-board increases; step increases; and statutory Judicial Officer increases) and the 18% increase in the employer portion of the health insurance premiums accounts for \$1,654,585.
 - The net impact of mandated increases in internal service charges (Fee for Space; VISION; DII) and insurance charges accounts for the remainder of the General Fund increase, or \$161,578.
 - **This \$1.8M General Fund increase in the Governor's recommendation is absent:**
 - **Any allocated reduction based on the Governor's proposed budget language (\$500K);**
 - **Any unidentified share of FY 2016 Pay Act; or,**
 - **Any portion of the Governor's \$5M "labor savings" reduction.**

Items Not Included in the Governor's Recommendation

- The Governor's recommendation does NOT include almost \$900,000 of items requested by the Judiciary related to existing fiscal and operational pressures. It should be noted that these requests are NOT new initiatives; rather they reflect increased costs of current services. These unfunded items are as follows:
 - **Level-fund sheriffs; eliminate sheriff deficit: \$239,358.** This existing deficit is currently being managed by holding open Judiciary staff positions (equivalent to approximately four Judiciary FTE positions.)
 - **Increase sheriffs 3%: \$75,000.** County sheriffs provide contract-based court security at most Judiciary courthouses. Sheriffs have not received hourly rate increases in all years (but did receive an increase last year).
 - **Eliminate Tech Fund support of RIS staff: \$424,627.** In FY 2015, the Judiciary requested \$800,000 of General Funds in order to reduce reliance on the Court Technology Fund for support of ongoing IT personnel costs. Approximately half of that request was funded; the Executive Branch indicated to request the remainder in FY 2016. The Governor's FY 2016 request does not include this amount. As a result, the Court Technology Fund is not available to support the technology acquisition for which it was originally intended.

- **Security operating needs: \$150,000.** Sec. E.204.1 of last year’s Appropriations Act mandated a security study. That study reviewed four facilities and found significant security needs with operating and capital cost implications; cost estimates are under development, but are likely to meet or exceed the Judiciary’s request.
- In the absence of funding for the above items, the Judiciary will have no choice but to continue to use vacancy savings as a primary tool for fiscal management. See discussion below regarding other savings initiatives within the Branch.
 - During restructuring, the number of Judiciary trial court employees was reduced by 22 positions (or 10%).
 - In addition, due to budget pressures, the Judiciary has been running a higher than typical vacancy savings rate (approximately 7-8%) versus the typical Vermont state government target range (of 3.5%-6.0%). This higher level of vacancy savings has created operational strains throughout the branch.
- All non-GF funding sources were reviewed for accuracy and adjusted to reflect projected revenues and expenditures.

Additional Potential General Fund Budget Reductions for FY 2016 and Beyond

- **Systemic Changes in Justice System:** As noted above, the \$1.8M General Fund increase in the Governor’s recommendation is absent any allocated reduction based on the Governor’s proposed BAA, which would have cut an additional \$500,000 from the Judiciary FY 2016 budget based on a plan to be submitted by the Judiciary. Instead of following this model, the House Committee on Appropriations, the Senate Committee on Appropriations, and the Senate Committee on Judiciary have requested the Judiciary to offer alternatives that can assist the Judiciary and Appropriations Committees to address the serious fiscal challenges facing the State of Vermont. In particular, the House Committee on Appropriations has requested the Judiciary to consult with justice community partners to identify systemic changes to service delivery to assure timely access to justice and facilitate savings within the Judicial Branch of State government: “This may include a plan for savings in the short term, fiscal year 2016, as well as longer term strategic changes that will result in efficiencies throughout the system.”

The Supreme Court convened a meeting on Monday, February 9, 2015, of representatives of the Judiciary, the State’s Attorneys, the Attorney General’s Office, the Department of Corrections, the Department of Children and Families, the Office of Child Support, and the Vermont Bar Association for the purpose of consulting with the justice community in order to respond to the Committee’s request on a time urgent basis. (The Office of Defender General was invited but was unable to participate.) The meeting addressed State General Funds budget reductions and the efficiency of the justice system. Steve Kimbell facilitated this discussion. Representatives from the House Committee on Judiciary; the House Committee on Appropriations; the Governor’s Office; the Department of Finance and Management; and the Sheriff’s Association attended as observers.

The topics that were suggested by policymakers in other branches of government, or that were otherwise considered, included the following:

1. Closing courthouses / “right-sizing” our use of courthouses
2. Use of remote technologies such as video conferencing
3. Regionalization, including regional venue
4. Technology / E-filing
5. Reducing court security costs
6. Prisoner transport
7. Reducing the number of Probate Judges
8. Specialty court dockets
9. BGS
10. Investment in Lamoille County courthouse
11. Joint Training
12. Reduce court workload for service of process and calendaring of child support cases
13. Reduce court workload by triaging case manager conferences and applying the modification process as set forth in 15 V.S.A. § 660(d)
14. Increase federal funding by encouraging more participation in the IV-D program
15. Restructuring State-wide administrative adjudication.

The long term structural challenges of the Vermont justice system are obviously not going to be solved in a three-hour meeting. The Judiciary does hope, however, that the useful discussion that occurred at this meeting will provide the information the Committees are seeking in the short term and will serve as the beginning of a longer discussion with justice community partners about sustainable structural changes leading to stability in funding for the Judicial Branch of State government.

- **Pay Act:** The FY 2016 Pay Act appropriation includes an appropriation to the Judiciary of \$1,044,179. This amount funds: (1) the statutory salaries for Judicial Officers; and (2) the negotiated ABI and steps for classified bargaining unit employees, and the classified and managerial employees who follow those increases.
 - The Governor proposes to reduce Pay Act funding, but did not state a specific reduction to the Judiciary’s appropriation.
 - Given the high share of labor costs as a percentage of the Judiciary’s budget (as noted above), any under-funding the Judiciary’s Pay Act appropriation will cripple the Judiciary’s ability to manage its finances, putting it back into the difficult situation from which it just emerged.
- **“Labor Savings”:** The Governor proposed \$5M for savings associated with the labor contract, to be allocated by the Secretary of Administration.
 - The Judiciary as a separate branch of government cannot be subject to an allocation under the jurisdiction of the Secretary of Administration.
 - If the Administration’s proposal envisions reopening the Executive Branch contract, there has been no indication of such a reopening.
 - The Judiciary has its own collective bargaining agreement which would require a separate negotiation if any.

Operational Efficiencies and Budget Improvements Reflected in FY 2016 Request

In light of the difficult budget situation, the Judiciary has put increased emphasis on identifying savings opportunities within the branch – and utilizing those savings to “self-fund” existing budget pressures.

- The Judiciary has already embarked on a variety of efficiency endeavors and will continue to do so in FY 2016. These include expanded use of technology (e.g., through electronic use of notices), which will be discussed separately at greater length. Also critical has been the development of “unit budgets” that are managed by the Superior Clerk for each county (or other unit division managers). (The unit budget process empowers the unit manager – who is in the best position to weigh the operational needs of the unit versus budget priority – to make purchasing decisions.) These various efforts have resulted in current and anticipated savings in a variety of operating expenses, including:
 - Reduced use of 3rd party contractors;
 - Elimination of the use of the Equipment Revolving Fund for regular operating expense items;
 - Postage (reduced \$17K or 7%);
 - In-state mileage (reduced \$22K, or 8%) via increased use of fleet and application of mileage limit for Judicial Officers;
 - Office supplies (reduced \$25K, or 12%);
 - Office rent (reduced \$114K, or 60%) via relocation of the Environmental Court.
- The savings associated with these items have been reinvested in areas of the Judiciary that have chronically been under-funded. To be clear, this does NOT represent increased spending on these items, but rather “truing up” their budget lines to more accurately represent their actual costs, where previously funding from other budget lines was diverted to cover these shortfalls. These include:
 - Alternative Dispute Resolution to more efficiently resolve certain cases; (\$20K increase);
 - Guardian Ad Litem volunteers – operating cost support (\$20K increase);
 - Court security costs – directing funds to the existing \$250K deficit between actual costs of sheriffs’ contracts and the Judiciary’s budget line item (\$93K increase).
 - NOTE: This is NOT an increase for sheriffs’ contracts; rather, it moves budget authority to the areas where it is actually being spent.
 - FY 2016 Governor’s recommendation includes **no change** in the sheriffs’ hourly rates.

Strategic Issues with Potential or Likely Budget Implications

- **Legislation:** Implementation and funding for legislation enacted during 2015 legislative session that has a financial impact on the courts, such as changes in employment or labor laws, expedited time frames for particular kinds of cases, and changes to law that would require increased staff time or judge time.

- **Case Management System:** Identification and securing of funding package to support Judiciary electronic case management system (CMS), including the establishment of automatic electronic data exchanges with other parties that interact with the Judiciary.
 - Part of any funding strategy for the CMS should include an increase in General Fund support for ongoing IT operations, so that the Court Technology Fund can function to its original intended purpose: to support technology acquisition with the Judiciary.
- **Caseload trends:** Future budget pressures due to rising abuse and neglect cases (up 62% in last five years); termination of parental rights matters (up 21% in last five years); involuntary medication applications (filings have doubled in FY 2014 over filings in FY 2013).
- **Weighted Caseload Study:** Completion and continued analysis of weighted caseload study begun in FY 2015 regarding allocation of staff time and judge time, including components of different kinds of cases in different dockets and divisions.