

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 869
3 entitled “An act relating to judicial organization and operations” respectfully
4 reports that it has considered the same and recommends that the Senate
5 propose to the House that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 * * * Judicial Masters * * *

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

9 § 38. JUDICIAL MASTERS

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

20 (1) In the Civil Division of the Superior Court, pre- and post-trial
21 matters, as approved by the presiding judge, including rent escrow orders;

1 discovery orders, sanctions not including requests for dismissal, and financial
2 disclosure hearings; the Master shall not hear requests for injunctive relief,
3 motions for summary judgment, a motion to dismiss for failure to state a claim,
4 or an involuntary dismissal.

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

13 (3) In the Family Division of the Superior Court, in juvenile
14 proceedings, as approved by the presiding judge, to assure compliance with
15 existing court orders, including attendance and participation in substance
16 abuse, mental health, and other court-ordered counseling; compliance with and
17 modification of parent-child contact; to act as the administrative body to
18 conduct permanency hearings pursuant to 33 V.S.A. § 5321(g) unless a
19 contested permanency hearing becomes necessary; and to provide case
20 management of juvenile proceedings; the Master shall not have the authority to

1 hear temporary care hearings, requests for juvenile protective orders, hearings
2 on the merits, or to conduct disposition hearings.

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

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

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

17 ***** Venue in TPR Cases *****

18 **Sec. 2. LEGISLATIVE INTENT**

19 The General Assembly does not intend Sec. 3 of this act, which amends 4
20 V.S.A. § 37 to permit regional venue in proceedings involving the termination
21 of parental rights, to result in the closure of any Vermont courts. Sec. 3 is

1 intended to permit greater flexibility in the TPR process in response to the
2 findings and recommendations made by the Committee on Child Protection in
3 2014, and it may, in fact, result in an increase rather than a decrease in court
4 proceedings for some jurisdictions.

5 Sec. 3. 4 V.S.A. § 37 is amended to read:

6 § 37. VENUE

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

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

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

17 (A) when the parties have agreed otherwise;

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

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

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

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

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

16 ~~*** Petition and Affidavit in Delinquency Proceedings ***~~

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

18 ~~§ 5223. FILING OF PETITION~~

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

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

6 * * * Appeals of Judicial Bureau Decisions * * *

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

8 ~~§ 1107. APPEALS~~

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

14 * * *

15 * * * Licensing Board Appeals * * *

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

17 § 130a. APPEALS FROM BOARD DECISIONS

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

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

3 * * *

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

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9 * * * Transportation Board Appeals * * *

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

11 § 5. TRANSPORTATION BOARD; POWERS AND DUTIES

12 * * *

13 (c) The Board may delegate the responsibility to hear quasi-judicial
14 matters, and other matters as it may deem appropriate, to a hearing examiner or
15 a single Board member, to hear a case and make findings in accordance with
16 3 V.S.A. chapter 25, except that highway condemnation proceedings shall be
17 conducted pursuant to the provisions of chapter 5 of this title. A hearing
18 examiner or single Board member so appointed shall report his or her findings
19 of fact in writing to the Board. Any order resulting therefrom shall be rendered
20 only by a majority of the Board. Final orders of the Board issued pursuant to
21 section 20 of this title may be reviewed on the record by a Superior Court

1 pursuant to Rule 74 of the Vermont Rules of Civil Procedure. All other final
2 orders of the Board may be reviewed on the record by the Supreme Court.

3 * * *

4 * * * Accessibility and Efficiency of Court System * * *

5 Sec. 6. ACCESS TO JUSTICE; COLLABORATIVE PROCESS

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

15 *** Judiciary Service Center ***

16 **Sec. 7. Discontinuation of Judiciary Service Center**

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

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* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) Secs. 1, 2, 3, 6, 7, and this section shall take effect on passage.

(b) Secs. 4 and 5 shall take effect on July 1, 2016 and shall apply to appeals filed on or after that date.

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE