

Supreme Court of Vermont
Office of State Court Administrator

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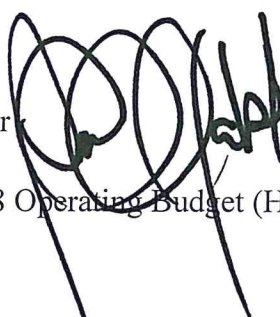
www.vermontjudiciary.org

TO: Senator Jane Kitchel, Chair
Senate Appropriations

FROM: Patricia Gabel, Esq., State Court Administrator

RE: Judiciary Response to House Actions on FY18 Operating Budget (H.518)

DATE: April 4, 2017

A large, handwritten signature in black ink, appearing to be "Patricia Gabel", is written over the "FROM:" and "RE:" lines of the header.

On behalf of the Vermont Supreme Court, I provide our response to the H.518, the House-passed version of the FY 2018 Appropriations Bill.

The Judiciary recognizes the challenging fiscal environment that confronted both the Governor and the House, as each reviewed the Judiciary's budget needs. And the Judiciary appreciates that many of the "State-wide" pressures confronted by the Judiciary were funded in both the Governor's and House plan. (As we have noted many times, the Judiciary's operation is a labor-intensive one, and is intentionally funded almost entirely with General Funds. And we have also noted that many of the Judiciary's pressures -- such as annualization of prior salary increases, employer health insurance costs, and internal service charges -- are driven by forces over which the Judiciary has little or no control. It is therefore critical that these State-wide pressures be adequately supported with commensurate General Fund increases in order to meet our most basic level of operation.)

This letter addresses several items where the House plan deviates from the Judiciary's request and Governor's recommendation. While we recognize the challenge faced by the House to produce a balanced budget, the Judiciary reiterates our requests below to address these critical "current services" needs in the Branch. (The Judiciary's discussion of funding for its Next Generation Case Management System will be communicated separately in a letter to the Senate Institutions Committee.)

Judicial Master and administrative support to address Opiate related Family Division caseload crisis:

The Judiciary requested – and the Governor's recommendation included – three new positions: one Juvenile docket Master and two court support personnel. The request provides that each

position would be 50% FTE at a cost of \$137,952. Section 1 of Act 167 of 2016 authorized a Judicial Master position with certain limited judicial authority to assist with Family Division caseload pressures (but did not create any appropriated positions). The proposed part-time Master position, along with two part-time support staff, would “float” among counties depending where Family Division caseload pressures were greatest.

The Judiciary has the constitutional and statutory responsibility to ensure that these Family Division cases are handled as effectively and expeditiously as possible. So while the Judicial Master is a new innovation intended to address this issue, the Judiciary does not consider this request to be an expansion or new program. Rather it is an effort to address the current critical need in as efficient and cost-effective means as possible.

Sheriff and other security provider rate increase:

The Judiciary requested an 8% rate increase for court security contracts in the FY18 budget. The Governor’s recommendation included a 4% increase. At both House and Senate budget hearings, the Judiciary reiterated its request for 8%. The House plan reduces the Judiciary’s budget to eliminate the 4% that the Governor had included; in other words, it provides no funding for any rate increase.

The Sheriffs provide contractual court security to the Judiciary in most counties. As we testified in the House (and multiple times throughout the legislature over many years), the Sheriffs provide these services at a very low margin relative to their costs, and they are subject to the same cost pressures as any public safety enterprise (wage growth; health benefit costs; equipment and training expenses).

It is the Judiciary’s strong preference to continue to contract with the Sheriffs for court security services, for a variety of reasons (including sworn law enforcement authority; familiarity and proximity with the courthouses; overlap with statutory transport function; etc.). As demonstrated last year in Windham County however, the Sheriffs may opt to discontinue their court security function if they cannot be reasonably compensated. In that event, as demonstrated last year, the Judiciary will take alternative steps, but such steps are not likely to save the State money, nor do they offer the operational advantages noted above that come from using the Sheriffs.

The Judiciary strongly reiterates its request for funding to support an 8% rate increase for court security contracts.

Guardian ad Litem Program crisis – contract with non-profit organizations to manage recruiting, training, and support of GAL volunteers:

The Vermont Guardian ad Litem Program (VTGAL) is a statutorily required program whereby the Judiciary recruits, trains, and supervises volunteer guardians ad litem (GALs) who advocate on behalf of children involved in Family Division proceedings. The Judiciary allocates General Funds to maintain this program. Those funds pay for a statewide program manager as well as

several part-time regional GAL coordinators who oversee all aspects of the program in the counties where they are assigned. The Judiciary also uses those funds to reimburse volunteer GALs for eligible expenses. The current levels of funding and staffing are insufficient to recruit, train, and supervise the number of volunteers needed to meet current and projected demand.

The Judiciary's FY 2018 request – which was included in the Governor's recommendation – would provide an increase in funding of \$264,234 to be allocated to the VTGAL. This additional support would provide the funding the Judiciary needs to establish contractual relationships with one or more non-profit organizations, which would manage the program in one or more counties and be responsible for recruiting, training, and supporting the volunteers in those counties. This issue is discussed at greater length in the "Guardian ad Litem Issue Paper" included in the Judiciary's budget presentation materials.

The Judiciary reiterates its request for the support of this critical, statutorily-required program.

Collectively-bargained Reclassification Study:

The House budget provides funding to implement the classification decisions contained in the independent consultant's study of three Judiciary positions, as provided in the most-recently concluded collective bargaining agreement with the VSEA, but on a prospective basis only. The overall fiscal impact of these reclassifications are estimated to be \$584,235 in total annually as applied prospectively beginning in FY 2018, and an additional \$323,828 if applied retroactively to the December 15, 2016 agreement date as provided in the agreement. The former is included in the House plan; the latter is not.

The Judiciary is proud of all its employees and believes that it is critical that their pay grades accurately and fairly reflect their work demands, as reflected in the Willis classification system. The Judiciary and the VSEA worked constructively together to engage a nationally-known human resources firm to conduct an independent and thorough study of these three positions. We note that the Governor included funding for several Executive Branch class action reclassifications, and this \$1.9M is included in the House plan.

We request that the Judiciary's collectively bargained needs be appropriately funded, including the retroactive component.

Conclusion:

The Judiciary recognizes the difficult fiscal times, so we have refrained from reiterating some of our original requests that were not included in the Governor's recommendation – e.g., additional security officers to address that critical deficiency; General Fund support to recognize the decline in special funds associated with the overall decline civil violations; etc. – but we would note that these too are base pressures that affect the Judiciary's ability to maintain its current services. We fully expect to revisit these issues with the other branches in the future.

In the meantime, we ask that the Senate fully consider the requests contained in this letter and fund them to the extent possible. We are available at your convenience to answer any questions or provide additional information.

cc: Senate Committee on Appropriations
Senator Alice Nitka
Senator Dick Sears, Jr.
Senator Robert Staff
Senator Dick McCormack
Sen. Tim Ashe
Sen. Richard Westman
Becky Buck, Committee Assistant, Senate Appropriations
Senate Committee on Institutions
Senator Peg Flory, Chair Senate Institutions
Heather Calderwood, Committee Assistant
Senate Committee on Judiciary
Senator Dick Sears, Jr., Chair Senate Judiciary
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House Committee on Appropriations
Rep. Catherine Toll, House Appropriations
Rep. Mary Hooper
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