

## **Vermont Judicial Commission on Family Treatment Dockets**

### **Interim Report**

## **I. Problem Statement**

Opioid addiction and abuse in the state of Vermont drive drug trafficking and other criminal offenses, endangering Vermonters and eroding our way of life; harm children by afflicting their parents and undermining families; and cause tragic overdose deaths, particularly among young Vermonters.

The opioid epidemic in Vermont has contributed to exploding caseloads in the abuse and neglect (CHINS) docket in the Family Division. CHINS case filings increased 63% between FY 2013 and 2016.

The use of family treatment docket techniques to promote rehabilitation by parents in the child welfare system has proven to be a successful intervention and leads to increased reunifications and positive permanency outcomes when best practices are followed. Family treatment dockets continue to spread nationally -- In 1999 there were 10 family treatment dockets in the nation, and by 2018 there are 495.<sup>1</sup> Vermont experimented with family treatment dockets in Chittenden County from 2002 - 2008 but that practice was suspended. Currently there are no family treatment dockets in Vermont, although a Chittenden County team has submitted a proposal to the Vermont Court Administrator's Office which is being reviewed according to the treatment docket proposal protocol. A Rutland County team is currently developing a family treatment docket proposal.

## **II. Commission Charge**

The Vermont Judicial Commission on Family Treatment Dockets was established on January 8, 2018 and charged with the following:

1. The Commission shall identify evidence-based best practices and shared commitments of Judicial Branch partners regarding operation of family division treatment dockets. This should include consideration of risk and need screening and clinical eligibility for treatment docket services; the respective roles and obligations of the court, the Department of Children and Families, States' Attorneys', Attorney General, Defense Attorneys and Guardians ad Litem in the treatment docket process; ADR processes; the relationship between different treatment docket practices and the ultimate goal of promoting the best interests of children; and the goal of timely permanency for children in child protection cases.
2. The Commission shall explore the structures, operations and costs of family treatment dockets in courts across the country, their data regarding best practices, and recommend proposals for pilot family treatment dockets in Vermont to the Supreme Court and methods for affording statewide access to family treatment dockets, if warranted and consistent with the policies of the Court.

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<sup>1</sup> Children and Family Futures, June 14, 2018 presentation to the Commission by Nancy Young, Executive Director.

### III. Work and Findings of the Commission to Date

A. **Commission Meetings.** The Commission held its first meeting on February 15<sup>th</sup>, 2018, and subsequently met on April 2<sup>nd</sup> and June 14<sup>th</sup>.<sup>2</sup>

B. **Development of Commission Principles.** The Commission developed the following principles to guide its work.

1. **Safety.** Every child protection case must focus on the safety of the child(ren). When a petition is filed, there must be immediate screening of both parents and children for substance abuse, mental health, and trauma with a goal of early intervention and identification of appropriate services. The window between intervention and service delivery must be shortened in all areas of the State. Services to families should be tailored to their needs and specific safety threats, and be evidence-based. Children should be removed from their homes only when there is an imminent risk to the well-being of the child. Services should be offered to families, when safety allows, prior to initiating court involvement.
2. **Timeliness.** Attention to and emphasis on the quality of the initial affidavit with focus on consistency of State's Attorneys' review of risk to the child(ren) is most important. Timely access to justice and to services serves both parents and children. Timelines are important in all stages of the court proceeding and must take into account the effect of delay on children.
3. **Due Process.** All participants in the court process are burdened by the increased number of CHINS proceedings. Attorneys representing parents and children have difficulty protecting the rights of their clients when challenged with excessive caseloads and inadequate resources. Further disruptions in these cases occur from changing judicial assignments and transfer of cases between SA and AG offices. Local customs create unhelpful pressures and inconsistent administration of case-flow. We must emphasize quality, training and consistency in judicial assignments and attorney representation especially when treatment docket principles are being considered. We must increase the amount of time allocated for hearings and schedule hearings from the bench. Vermont children and families are best served by a collaborative, non-adversarial process, and we must consider mediation and other ADR processes outside court time. We must improve training and opportunity for collaboration. All parties to the CHINS cases should commit to collaborate in the best-interests of the child.
4. **Permanency.** We must increase the opportunity for parent-child contact as a support toward reunification and to help identify when reunification is not likely to occur. The focus in a CHINS Proceeding should be reunification of the family, with the focus on whether it is in the child(ren)'s best interests.

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<sup>2</sup> The meeting agendas and materials can be accessed at <https://www.vermontjudiciary.org/about-vermont-judiciary/boards-and-committees/commission-on-family-treatment-dockets>.

5. Well-being. Availability, consistency, manageable caseloads, outcome-oriented practices, and maintaining a focus by all branches of government on the safety and welfare of children are our priorities for improving the well-being of children and families in Vermont's child protection judicial system.

### **C. Review of Relevant Information and Research**

The Commission has received and reviewed information on family treatment docket philosophy, structure, best practices, and implementation guidance from organizations including Children and Family Futures, the Office of Juvenile Justice and Delinquency Prevention, and the Children's Bureau at the U.S. Department of Health and Human Services' Administration for Children and Families.

The Commission has learned that there are four primary family treatment docket models, including the infusion, integrated, hybrid, and parallel models. The integrated model integrates the family treatment court elements into the dependency case. The parallel model separates dependency matters from the recovery management into separate court processes. The dual track/hybrid model combines the dependency matters and recovery management in the initial phase, and non-compliant cases are referred to a different judicial officer/process. The infusion model seeks to identify the key elements of family treatment courts that courts find most effective in working with children and families in the child welfare system with addiction issues and incorporating those concepts into the traditional child protection court process.<sup>3</sup>

### **D. Primary Commission Findings to Date**

Through its meetings, presentations, and review of relevant literature, the Commission has found: (1) the CHINS docket has grown exponentially, in caseload and case and complexity, due to, in part, the opioid epidemic; (2) the current process does not effectively focus on early assessment, intervention and treatment; and (3) family treatment dockets can be a successful tool to resolve these issues when implemented and operated in accordance with best practices.

### **E. Next Steps**

The remainder of the Commission's work will include further discussion of the potential models and implementation strategies, and ultimately whether to recommend proposals for family treatment docket pilots. This work will be conducted with a focus on (1) maximizing impact with limited resources, while at the same time considering access to treatment dockets and services by as many parents as possible across counties throughout the state, including through improved technology and transportation responses; (2) ensuring that the judicial officers presiding over the treatment docket(s) are properly trained in best practices which is problematic with the current rotation

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<sup>3</sup> Chittenden County has filed an application to the Supreme Court proposing an integrated model and that Rutland County is currently working on a "track" model which would place parents in the current Adult Drug Treatment Docket on a separate track.

requirements, and also ensuring that attorneys, GALs and other participants are similarly trained on best practices; and (3) proposing statutory and/or rule changes as necessary to support the Commission's recommendations. As the Commission moves into its next phase of work, additional stakeholders will be consulted as needed, to help inform the Commission's recommendations and implementation strategies.

The Supreme Court will be approached with the request to extend the December 1<sup>st</sup> 2018 deadline to allow the Commission to complete its charge and designation.

## Appendix A: Commission Charge and Designation

### VERMONT JUDICIAL COMMISSION ON FAMILY TREATMENT DOCKETS

#### Charge and Designation

##### A. Background

1. Opioid addiction and abuse in the State of Vermont drive drug trafficking and other criminal offenses, endangering Vermonters and eroding our way of life; harm children by afflicting their parents and undermining families; and cause needless overdose deaths, particularly among young Vermonters.
2. Substance abuse treatment dockets are specialized problem-solving court dockets that focus on the subset of individuals with substance use disorders who, due to identifiable criminal risk factors and clinical need factors, are identified as “high-risk and high-need.” These individuals are less likely to successfully complete treatment and rehabilitate in a traditional court docket, even if intensive treatment opportunities and other services are provided to them. Through frequent court hearings, the court provides close supervision over a period of time to participants in a treatment docket, holding them accountable for meeting their rehabilitation obligations using rewards and sanctions. Data have shown that despite their high costs, if all of the relevant stakeholders follow best practices, treatment dockets can reduce recidivism, thereby reducing costs to the justice system, corrections system, families, communities, and the State. However, when the treatment dockets are not run pursuant to best practices by all stakeholders, they can be cost-ineffective and in some cases affirmatively counterproductive or even harmful to participants
3. The opioid epidemic in Vermont has contributed to exploding caseloads in the abuse and neglect (CHINS) docket in the Family Division. CHINS filings increased 63% between FY 13 and FY 16. The increase in CHINS filings represents more struggling and broken families, and gives rise to higher short term and long run costs to the State.
4. The use of treatment docket techniques to promote rehabilitation by parents in the abuse and neglect docket who suffer from substance use disorder is a relatively new phenomenon. However, national data suggest that if best practices are followed, these techniques can effectively promote reunification and timely permanency.
5. Vermont currently has no treatment dockets in the Family Division abuse and neglect cases, although stakeholders across branches in at least two counties are developing proposals for pilots.

## **B. Charge**

The Vermont Judicial Commission on Family Treatment Dockets is hereby established to explore the use of treatment docket techniques in the abuse and neglect docket and to make recommendations to the Supreme Court. By July 1, 2018 the Commission shall issue its interim report to the Court and by December 1, 2018 a final report addressing the following areas:

1. The Commission shall identify evidence-based best practices and shared commitments of Judicial Branch partners regarding operation of family division treatment dockets. This should include consideration of risk and need screening and clinical eligibility for treatment docket services; the respective roles and obligations of the court, the Department of Children and Families, States Attorneys', Attorney General, Defense Attorneys and Guardians Ad Litem in the treatment docket process; ADR processes; the relationship between different treatment docket practices and the ultimate goal of promoting the best interests of children; and the goal of timely permanency for children in child protection cases.
2. The Commission shall explore the structures, operations and costs of family treatment dockets in courts around the country, their data regarding best practices, and recommend proposals for pilot family treatment dockets in Vermont to the Supreme Court and methods for affording statewide access to family treatment dockets, if warranted and consistent with the policies of the Court.

## **C. Designation:**

The Supreme Court hereby appoints the following people to the Vermont Judicial Commission on Family Treatment Dockets:

Hon. Paul L. Reiber, Chief Justice of the Vermont Supreme Court, Chair  
Hon. Karen R. Carroll, Associate Justice, Co-Chair  
Hon. Brian Grearson, Chief Superior Judge  
Patricia Gabel, State Court Administrator  
Theresa Scott, Chief of Trial Court Operations  
T.J. Donovan, Attorney General  
Mathew Valerio, Defender General  
John Campbell, Executive Director Vermont Association of States Attorneys  
Tracy Shriver, Windham County State's Attorney  
Ken Schatz, Commissioner Department of Children and Families  
Karen Shea, Deputy Commissioner Department of Children and Families  
Alice R. George, RN, Assistant Judge Addison County  
Dr. Frederick C. Holmes, MD, Fairfax, Vermont  
Senator Jane Kitchel, Chair of the Senate Committee on Appropriations  
Representative Maxine Grad, Chair of the House Committee on the Judiciary

Mary Alice McKenzie, Colchester, VT  
Lisa Ventriss, South Burlington, VT

**D. Expenses**

In the performance of their duties, members who are state employees will be reimbursed by their state employer at the normal state employee expenses. Members of the Commission who are not state employees will be reimbursed for reasonable and necessary expenses. The Court Administrator's Office will pay from the judicial appropriation all reasonable expenses of the Commission when claims are submitted on proper vouchers approved by the Court Administrator or designee.

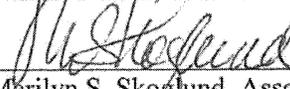
**E. Duration of Charge and Designation.**

This Charge and Designation shall be effective immediately and shall cease when the Supreme Court accepts or rejects its work product.

Signed in Chambers at Montpelier, Vermont this 8 day of January, 2018.



Paul L. Reiber, Chief Justice



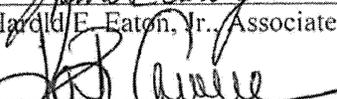
Marilyn S. Skoglund, Associate Justice



Beth Robinson, Associate Justice



Harold E. Eaton, Jr., Associate Justice



Karen R. Carroll, Associate Justice