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[www.vermontjudiciary.org](http://www.vermontjudiciary.org)

TO: Rep. Mary S. Hooper, Chair, House Appropriations Committee  
FROM: Scott Griffith, Interim State Court Administrator  
RE: Judiciary Budget Materials for the House Appropriation Committee  
DATE: February 11, 2022

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Dear Chair Hooper,

The attached documents will accompany the Judiciary's budget testimony to the House Appropriations Committee on Monday, February 14 at 12:30 p.m. Please note that the PowerPoint presentation will be provided on Monday morning. The statistical report and the State of the Vermont Judiciary report will be posted to the Judiciary's website within the next few weeks. In the meanwhile, Appendices I and II can be viewed by following the links below.

- 1) Vermont Judiciary Presentation to House Committee on Appropriations PowerPoint
- 2) Vermont Judicial Branch FY 2023 Budget Summary – Key Budget and Programmatic Issues
- 3) Vermont Judicial Branch Annual Statistical Report for FY21
  - Appendix I – Judiciary Statistics FY21 – Statewide  
[FY21 Appendix I - Statewide Data](#)
  - Appendix II – Judiciary Statistics FY21– by County  
[FY21 Appendix II - County Data](#)
- 4) The State of the Vermont Judiciary Report, 2022
- 5) FY 2023 Judiciary Budget Detail documents

cc. Rep. Peter J. Fagan, Vice Chair  
Rep. Kimberly Jessup, Ranking Member  
Rep. Martha Feltus  
Rep. James Harrison  
Rep. Robert Helm  
Rep. Robin Scheu  
Rep. Trevor Squirrell  
Rep. Tristan Toleno  
Rep. Maida Townsend, Clerk  
Rep. David Yacovone  
Maria Belliveau, *Associate Fiscal Officer*  
Theresa Utton-Jerman, *Senior Staff Associate*



## Vermont Judicial Branch FY23 Budget Summary

### Key Budget and Programmatic Issues

#### Topics covered in this summary include:

- Courts, Judiciary Programs, and Performance Measures
  - *Annual Statistical Report FY21*
  - *The State of the Vermont Judiciary Report, 2022*
  - *Mid-Year Statistical Report FY22*
- Structural Challenges in Court System Funding
- Pressures on Court Resources
- Budget Pressure Detail
  - *Annualization of FY22 Pay Act*
  - *Statewide changes to Internal Service Funds*
  - *Reinstatement of FY21 Base Budget Reduction*
  - *Address Declines in Court Technology Fund Due to Legislative Changes*
  - *Sustaining Language Access Program Improvements*
  - *Increase for Sheriffs and Other Security Contractors*
  - *Anticipated Title IV-D Decrease*
  - *Incomplete Funding for Pandemic Recovery and Response Plan*

### Courts, Judiciary Programs, and Performance Measures

#### Annual Statistical Report

The Judiciary reports on the activities of the courts in its Annual Statistical Report. The report is accompanied by appendices containing detailed statistical information about the trial courts on both a statewide (Appendix 1) and county-by-county (Appendix II) basis.

The FY21 report is slightly different than the reports from prior years. This is due to a lack of comparability between some of the data in the Judiciary's legacy case management system (VTADS) and its Next Generation Case Management System (Odyssey). This has resulted in the Judiciary being unable to report on all of its core performance metrics for FY21. The Judiciary is addressing the data comparability issue through the development and testing of standardized data reports, staff training, and quality assurance protocols.



## The State of the Vermont Judiciary Report, 2022

The Vermont Judiciary uses the Results Based Accountability (RBA) model to measure and report on the performance of court programs and activities. These programs and activities include the Court Interpreter program; classes for self-represented litigants; classes for parties in relief from abuse cases; classes for parties in divorce and parentage cases; the Family Mediation and Parent Coordination programs; the Guardian ad Litem program; treatment dockets; judicial officer and staff education programs; and others.

The document “The State of the Vermont Judiciary, 2022” 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 they are available.

### Structural Challenges in Court System Funding

The Judiciary’s funding structure provides relatively little room to absorb growth in operating costs due to its reliance on General Funds, and there is relatively little leeway to reallocate resources within the branch due to a high proportion of personnel and physical footprint costs as a share of the total budget.

Over 89% of the Judiciary’s budget is funded with General Funds, while only 5.6% is derived from various fees and surcharges, as indicated in the chart below.

<b>Fund</b>	<b>FY23 Governor’s Recommendation</b>	<b>Fund Sources as Percent of Total</b>
<b>General Fund</b>	\$52,247,805	89.2%
<b>Fee-based revenue sources:</b>		
Attorney Admission Licensing Fund	\$862,288	1.5%
Special Funds*	\$2,398,146	4.1%
<b>Other fund sources:</b>		
Inter-Unit Transfer Fund	\$2,095,399	3.6%
Federal Revenue Funds	\$953,928	1.6%
<b>Total</b>	<b>\$58,557,566</b>	<b>100%</b>

*\*Includes Waste Management, Environmental Permit, and Court Technology funds.*



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 85% of the branch’s expenses. After accounting for mandatory internal service charges and accounting transactions, only 10% of the Judiciary’s budget is associated with operating expenses, as indicated in the chart below.

Major Category of Expense (all funds)	FY23 Governor’s Recommendation	Major Category as Percent of Total
Salary and fringe benefits (less vacancy savings)	\$40,789,709	69.6%
Fee for Space	\$5,577,167	9.5%
Court security contracts	\$3,659,103	6.2%
Other internal service charges (ADS; VISION; Insurance)	\$2,401,913	4.1%
Cash payment to DCF (Title IV-D accounting transaction)	\$400,000	0.5%
All other expenses	\$5,729,674	9.7%
<b>Total (all funds)</b>	<b>\$58,557,566</b>	<b>100%</b>

### **Pressures on Court Resources**

This has been a transformative year for the Judiciary. With the multi-year Next Generation Case Management (NG-CMS) project coming to a close, combined with the need to transition to remote hearings due to the pandemic, the Judiciary has faced many challenges – some expected, most not expected.

For FY23, the Judiciary is requesting an increase of \$5,904,979 in ongoing funding, and \$4,594,125 in one-time funds as follows:

Annualization of FY22 Pay Act:	\$2,535,750
Statewide changes to Internal Service Funds:	\$624,229
Reinstatement of FY21 base budget reduction	\$500,000
Declines in Court Technology Fund due to Legislative Changes:	\$300,000
Sustaining Language Access Program Improvements	\$120,000
Increase for to Sheriffs and Other Security Contractors:	\$1,475,000
Anticipated Title IV-D decrease	\$350,000
Insufficient Funding for the Judicial Pandemic Response and Recovery Plan	\$4,594,125*

*\*One-time funding*



Total Pressures: \$5,904,979 in ongoing base funding and \$4,594,125 in additional one-time funding. The total base general fund increase in FY23 is 8.1% as compared to FY22.

The pressures reflected in the Judiciary’s FY23 budget request are driven by the increase of personnel costs, which include salaries, third party services, and benefits. All these pressures increase the cost of funding the Judiciary’s current level of services. Funding these pressures is critical to maintaining the Judiciary’s ability to meet its constitutional obligations and to continue to invest in strategies that will modernize the branch, improve access to justice, and maximize efficiencies.

### **Budget Pressure Detail**

**Annualization of FY22 Pay Act: \$2,535,750**

The Judiciary negotiated a new Collective Bargaining Agreement with the Vermont State Employees’ Association (VSEA) that included a 2.25% across the board salary increase and step increases (step increases cost 1.9%). This increase includes significant increases in retirement and health care at levels determined by the Department of Finance and Management.

The Governor’s Recommended Budget includes the General Funds necessary to cover this increase.

**Statewide Changes to Internal Service Funds: \$624,229**

Internal Service Funds are executive branch services that are allocated to all agencies based on formulas. The most significant increase is in the fee-for-space that the Judiciary pays to BGS for the state-owned courthouses. The “rent” increases 11% this year.

The Governor’s Recommended Budget includes the General Funds necessary to cover this increase.

**Restatement of FY21Base Budget Reduction: \$500,000**

In the spring of 2020, the Department of Finance and Management asked each department and branch to cut 3% of their base funding in an effort to balance the state’s budget given a reduced revenue forecast. After negotiations with Finance and Management staff, the Judiciary returned some one-time carry forward funds from FY20 and additionally agreed to a base budget reduction of \$500,000, which came from vacancy savings. This increased the Judiciary’s vacancy savings budget from \$912,549 to \$1,412,549.



The reinstatement of these funds to the Judiciary’s base budget will enable the branch to continue to align its efforts to recruit and retain a workforce that can support its evolving technology and access to justice needs.

**Address Declines in Court Technology Fund Due to Legislative Changes:     \$300,000**

The revenue source for the Court’s Technology Fund (“Tech Fund”) is the \$12.50 administrative fee on each paid state civil violation, and from failure-to-pay and failure-to-reply fees associated with those civil violations. Over the past six years, the Judiciary has experienced a continual decrease in the Tech Fund’s revenue.

The root of the issue lies with the passage of Act 147 in 2016. This law enabled Vermonters to have their suspended licenses reinstated without needing to pay the underlying civil violations that lead to the suspension. In recent years, the Legislature has discussed taking actions like ticket holidays, ending license suspensions, surcharge waivers, and expungement of some civil violations that would further reduce the ticket collections and, in turn, the Tech Fund revenue. These revenue decreases impact more than just the Tech Fund, as the revenue is split and distributed to many funds according to statute, including local police, the Transportation Fund, the Victims Compensation Fund, the Domestic and Sexual Violence Special Fund, and the General Fund. This revenue problem is explained in a recent [JFO Issue Brief](#).

The Judiciary has used revenues in the Tech Fund to cover the cost of technology investments related to responding to the pandemic and to ensure stability and security of its technology infrastructure. Tech Fund revenues have also been used to support components of the NG-CMS project and will be relied on to support that system and other critical software and hardware needs in the future. Revenues maintained in the Tech Fund will also support ongoing licensing and maintenance costs of the Judiciary’s new case management system and the Cisco software that enables remote WebEx hearings.

For many years, the Judiciary has requested that approximately \$300,000 in salaries be moved out of the Tech Fund as that fund is not the appropriate place for personnel costs. The placement of these positions in the Tech Fund was intended to be temporary due to underfunding of the General Fund Pay Act in a particular year, after which the positions were expected to be moved back into the General Fund. The Tech Fund is designed to fund court technology, not ongoing salaries for long-standing permanent positions in the Judiciary. The issue was created in 2012 as a temporary budget balancing approach that should have been rectified at a later date. The Judiciary has continually asked to move these salaries over to the General Fund. We now simply ask for general funds to replace the lost revenue in the Tech Fund.



Continuing declines in Tech Fund revenues, along with the ongoing use of the fund to pay for permanent positions, put pressure on the Judiciary's General Fund budget. Because the Tech Fund is reliant on the administrative fee on civil violations which are not expected to return to pre-2016 levels, the fund is no longer a reliable source of revenue for the Judiciary's significant technology needs. In the near-term a more reliable and robust revenue source should be identified. In the immediate term a replacement for lost revenue for critical projects is needed.

**Sustaining Language Access Program Improvements:**

**\$120,000**

In June the Judiciary successfully closed out a two-year technical assistance agreement with the U.S. Department of Justice, Civil Rights Division. As part of the agreement the Judiciary made significant changes to its Language Access Operations Manual and its Language Access Plan. The Judiciary expects program expenses to increase as a result of these program improvements in the areas of essential interpreting services, translation of vital court documents, professional development, and interpreter credentialing. Without additional funding, the Judiciary's ability to meet key language access and access to justice goals will be in jeopardy.

**Increase for Sheriffs and Other Security Contractors:**

**\$1,475,000**

The county sheriff provides security services in the courthouses in most Vermont counties. These services are provided pursuant to a contract between the Judiciary and local sheriffs; there is no constitutional or statutory requirement that the sheriffs provide these services.

Sheriffs have expressed concern for many years that the hourly rates offered by the Judiciary have not kept up with growth in the costs of those services. The funds available to support these contracts are insufficient in the opinion of all the parties and has led to difficulties in fully staffing all courthouses in a way that is consistent with Judiciary standards. This problem is likely to continue until the rates are raised to a level that ensures that security services can be obtained. Sheriffs operate in competitive contract markets and the rates that the Judiciary can pay are not on par with what other contract partners can pay.

For example, this past year, the Judiciary has experienced the termination of one sheriff's office contract due to an inability of the sheriff to recruit due to a lack of funding. In two other counties sheriffs have reduced the number of deputies available to provide security services in the local courthouse due to a lack of funding.



The Judiciary has surveyed sheriff departments and estimates that an hourly rate of at least \$45 will be necessary to maintain the existing sheriff services for FY23. This rate is still lower than what is paid by the Executive Branch, lower than the cost for State-Paid Deputies in the State’s Attorney’s Office and estimated to be far lower than what is paid by other contract partners.

The Legislature has appropriated partial funding for increasing Sheriffs’ rates in recent years, and the Governor’s Recommended Budget includes the General Funds necessary to cover a portion of the funds the Judiciary is requesting. The Judiciary appreciates this recognition of the role of the sheriffs in protecting the public and state employees in courthouses, however, the Judiciary also feels that partially addressing this issue cannot continue.

Without an increase in hourly rates to the Sheriff’s and private security firms the Judiciary is facing a crisis in July if multiple sheriffs decide to no longer provide court security. Insufficient funding has resulted in compromised security situations in some courthouses and in several cases, it has also resulted in a reduction in the hours courthouses are accessible by the public.

**Anticipated Title IV-D Decrease: \$350,000**

The Judiciary is collaborating with the Office of Child Support to review and improve the federally funded Title IV-D Program. The accuracy of Vermont’s process of reimbursement for child support hearings has been called into question through both internal reviews and federal audits. The state’s federal draw-down has been reduced by about \$350,000 annually the past two fiscal years. While the Judiciary continues to attempt to work on a permanent solution, it is forecasted that this reduction will be permanent. Without a general fund appropriation to cover the reduced reimbursement from the federal government, this gap in funding will continue and the Judiciary will be forced to reappropriate funds from other areas.

**Incomplete Funding for Judicial Pandemic Recovery and Response Plan: \$4,594,125**

In FY22 the Judiciary obtained \$9M in one-time funding to implement the Judicial Pandemic Recovery Plan (the “plan”) over two years. This was less than requested in the plan which was designed to address recovery and response needs over a 3.5-year period, at a cost of \$13,594,125.

Plan funds are used to cover personnel, technology, and special projects designed to position the Judiciary to ensure access to justice for people through the pandemic and beyond.



The original plan included a “step-down” period over the last 12 months to allow the Judiciary to manage the reduction of limited-service positions. If the remaining plan funds are not secured, this step-down period will have to begin on July 1, 2022. This will significantly impact the Judiciary’s ability to meet its recovery and response plan goals.

The Judiciary “ramped up” this plan in the first six months of FY22 and is now in an intensive training mode with these new employees. Ramping down in July 2022 will not allow the Judiciary to operate at full capacity long enough to make progress on the strategies outlined in our plan.

Alternatively, the Judiciary would need to request ongoing FY24 base funding to support up to 30 FTEs at a cost of \$2,040,000 annually. This is an estimate, based on anticipated workload demands in June 2023 when the current funding ends.