

**Supreme Court of Vermont
Office of State Court Administrator**

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TO: Representative Martin LaLonde, Chair, House Committee on Judiciary

FROM: Teri Corsones

RE: Overview of FY24 Judiciary Budget

DATE: February 22, 2023

The Governor's Recommended Budget included certain but not all aspects of the Judiciary's proposed budget. We respectfully request the House Committee on Judiciary to consider the Judiciary's proposed budget as a whole. Below is a breakdown of what was included in the Governor's Recommended Budget and what the Judiciary continues to seek.

Annualization of FY23 Pay Act: \$3,289,518

The Judiciary negotiated a new Collective Bargaining Agreement with the Vermont State Employees' Association (VSEA) that included a 2% across the board salary increase and step increases of 1.9%. This included moving all Docket Clerk positions into a new Judicial Assistant position that amounted to a two-pay grade increase. The annualization of the FY23 Pay Act was included in the Governor's Recommended Budget.

Statewide Changes to Internal Service Funds: \$559,540

The internal service funds include many administrative expenses such as payroll, single audit, VISION, insurance, ADS, and fee-for-space. The vast majority of an increase of \$559,540 to the internal service funds expenses is due to an increase of \$543,504 to the fee-for-space cost allocated to the Judiciary, despite the Judiciary not increasing its footprint within state buildings. The internal service fund increase was included in the Governor's Recommended Budget.

One new Judge and one new Law Clerk: \$344,136

Judge Position

Currently, there are 36 Superior Court Judge positions established by the Legislature. Thirty-three are filled by active judges and three positions are vacant. (Governor Scott is currently interviewing nominees for the three vacant positions.) An additional vacancy will arise on April 1st due to a retirement. Adding an additional Superior Court Judge position to the 36 currently established positions is necessary to enable the courts to meet the backlog and other challenges it will continue to encounter moving forward.

It is expected that a new judge position would be for an appointment to the West Region and that the new judge would be assigned to preside primarily in Bennington and Rutland counties. The courts in those counties do not have a sufficient number of judges who were appointed in them to cover all Divisions. As such, during each rotation two judges must be brought from outside the counties to assist. Notably, adding an additional judge position in this geographical area would not alter the number of positions assigned to the courts in those counties for each rotation period.

If coverage for the West Region is able to be provided by a new judge, this would alleviate the need to have a judge from outside that area serve in the courts. This would, in turn, allow a judge to be designated to serve in a “float” position that does not currently exist. A judge assigned as the float would be assigned to assist in several counties, and Divisions, as necessary. This would enable assignments that ensure that the Judiciary responds to the needs of particular courts in a manner which effectively utilizes the resources and serves to assist the courts in meeting necessary timeframes in addressing filings and conducting hearings/trials.

Decisions as to where a judge sits during their term would be made by the Chief Superior Judge in consultation with the State Court Administrator to ensure that there are available staffing, security, and courtroom resources available. Having an additional judge would also provide needed coverage when judges are on vacation, ill, or otherwise unavailable to address judicial matters. An additional judge position was not included in the Governor’s Recommended Budget.

Law Clerk Position

In addition to the need for an additional judge position, there is also a need for an additional trial court law clerk. This need exists even if there were no new judge position approved.

Trial court law clerks are lawyers devoted exclusively to case-specific legal research, reasoning, and writing for all judges of the civil, criminal, family, environmental, and probate divisions of the superior court. Law clerks materially improve judges’ productivity and the quality of their decisions and decision-making processes in a cost-effective manner by focusing on behind-the-scenes casework.

Currently, 16 law clerks are distributed geographically throughout the State, in total about one for every three superior judges. Within their areas of geographic responsibility, law clerks also assist

family court magistrates, judicial bureau hearing officers, and assistant judges (in their judicial capacity only) as needed.

Prior to the pandemic, overall demand for law clerk assistance consistently and substantially outstripped supply, and law clerks’ geographic distribution caused unavoidable local imbalances, particularly in rural, underserved areas such as Franklin and Orleans Counties. This is all the more true now.

An additional law clerk will promote efficiency, timeliness, and access to the courts and justice by better facilitating the substantive support that trial judges need and use every day. Funding for an additional law clerk position was not included in the Governor’s Recommended Budget.

Eleven New Court Staff Positions: \$812,000

Trial courts have been under-staffed since before the pandemic. There have been backlogs in court cases since before the pandemic. The pandemic significantly exacerbated the backlog situation, however, alleviated in part by temporary limited-service positions funded with pandemic monies. The courts will not be able to address the backlogs, let alone meet their core functions, without additional staffing. Funding for new staff positions was not included in the Governor’s Recommended Budget.

The Judiciary proposes using the eleven positions as follows:

Number of Positions	Job Description	Total Cost
7	Judicial Assistant	\$504,000
1	Financial Analyst	\$ 77,000
1	Language Access Specialist	\$ 77,000
2	Access Resource Center Specialists	\$154,000
11	Total	\$812,000

Judicial Assistants

Although the new Odyssey case management and e-filing systems have many advantages, the universal experience with Odyssey has been that many processes take longer, even after users have achieved comfort with the systems. Similarly, although the new remote hearing technology that was implemented given Covid restrictions that limited in-person hearings has proven to offer many conveniences to court users, the technology requires additional staff resources. In addition, expungements legislation has required significant staff resources to process the thousands of cases now eligible for expungement. Managers have continued to struggle to have enough staff to cover their courtrooms, meet the customer service needs that present at the courthouse, and timely process the constant influx of filings. The added pressures brought about by electronic case

management processes, remote hearings, expungement processes, data clean-up necessitated by the transition to an electronic records system and addressing the backlog have left the courts stressed and struggling. Seven Judicial Assistant positions will be utilized around the state where court operations needs are the greatest.

Financial Analyst

Since the transition to Odyssey, many financial functions have been centralized in the Finance Office in order to reduce the financial tasks at local courthouses. Over the past two years since the transition, the Finance Office has fallen behind in completing tasks timely due to staff resource constraints. The Judiciary and the Treasurer's Office have communicated regularly about a backlog of bank reconciliations. An additional financial analyst will enable the Judiciary to eliminate the reconciliation backlog and to stay abreast of the centralized tasks.

Language Access Specialist

The proposed position will enable the Judiciary to comply with the Language Access Program Operations Manual and the Language Access Plan associated with the Department of Justice requirements for language access programs. The position will also enable staff to build on the program improvements made in conjunction with the Department of Justice requirements.

Access Resource Center Specialists

The specialists will be housed in the Judiciary's Access and Resource Center (ARC). The ARC is designed to provide services to self-represented litigants navigating the court system. Services will include providing information about court processes, helping with court forms, providing access to computers, and connecting litigants to referral resources. The specialists will provide services in person and remotely throughout the state and will assist local courts on a targeted basis in response to court operational needs.

Increase for Sheriffs and Other Security Contractors: \$698,503

County sheriff deputies currently provide security services in courthouses throughout Vermont in all but one county. These services are provided pursuant to contracts between the Judiciary and local sheriffs; there is at present no constitutional or statutory requirement that the sheriffs provide these services.

The Judiciary is a pass-through for the sheriff payments regarding court security. As such, the Judiciary's primary goal is to be able to maintain the level of security to operate all Vermont's courthouses. This past year, at least three counties have decreased the number of deputies and one county is not providing any deputies. The Governor recommended a \$400,000 increase which provides an hourly rate of \$47.50. The sheriffs have asked for an hourly rate of \$51, which would require \$698,503 of new funding. Funding at this level should ensure no more voluntary terminations or reduction of services by the sheriffs.

The Legislature appropriated \$1,500,000 last year to bring the sheriff rates for courthouses up to \$45/hr. This brought the rate closer to the actual cost of the service. The Judiciary appreciates this recognition of the role of the sheriffs in protecting the public and state employees in courthouses.

Potential costs of sheriff increase:

	Current	Gov. Rec.		Sheriff Request
Hourly Rate	\$ 45.00	\$ 47.50	\$ 50.00	\$ 51.00
% Increase		5.56%	11.11%	13.33%
Funding Increase Required		\$ 407,449	\$ 615,345	\$ 698,503

Tech Fund Shortfall

The Judiciary has also made a request to increase three fees to more fully fund the Court Technology Fund. Those fees are the Failure to Answer fee (from \$20 to \$40); the Failure to Pay fee (from \$30 to \$60); and the administrative fee (from \$12.50 to \$25). This change would increase revenue from \$850,000 to approximately \$1,600,000.

The Tech Fund structure will need to be redesigned in the very near future. Revenues from civil violations have declined over the past ten years and can not support the increasing cost of technology given this new era of remote hearings, web access, electronic filings, and cybersecurity threats.

Conclusion

The Judiciary greatly appreciates that the Annualization of the FY22 Pay Act and Internal Service Fund increases are included in the Governor’s Recommended Budget, allowing us to meet our salary and “fee for space” obligations. A variety of factors beyond expected operating expenses has resulted in a critical need for additional resources, however. The factors include resource pressures associated with remote hearings, electronic case management processes, expungement processes and pandemic backlogs. Judges and court staff have worked incredibly hard during the pandemic to meet the many challenges our courts have faced. They’re determined to continue working hard but the reality is more resources are needed to allow any hope of meeting core functions and addressing backlogs. The Judiciary is very grateful for your consideration and welcomes your questions.

- cc. Rep. Thomas Burditt, Vice Chair
- Rep. Kevin "Coach" Christie, Ranking Member
- Rep. Joseph Andriano
- Rep. Angela Arsenault
- Rep. Ela Chapin
- Rep. Karen Dolan

Rep. Kenneth Goslant, Clerk
Rep. William Notte
Rep. Thomas Oliver
Rep. Barbara Rachelson
Peninah Hodin, Committee Assistant