

1 H.880

2 Introduced by Committee on Judiciary

3 Date:

4 Subject: Judiciary; courts; criminal justice; appropriations

5 Statement of purpose of bill as introduced: This bill proposes to identify
6 certain unmet needs across the justice system, modify the amounts of certain
7 court surcharges, and appropriate funds to entities providing legal services to
8 Vermonters with low incomes.

9 An act relating to increasing access to the judicial system

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. FINDINGS

12 The General Assembly finds that:

13 (1) One of the most effective factors in deterring individuals from
14 engaging in criminal activity is ensuring that there will be certain and timely
15 consequences for engaging in that activity. Imposing certain and timely
16 consequences depends on a well-functioning, well-resourced criminal justice
17 system.

18 (2) Vermont's court system is facing a backlog of cases, a situation that
19 predates but was exacerbated by the COVID-19 pandemic. As of February

1 2024, there were 16,714 pending criminal cases. Based on recent case
2 clearance rates, it would take many years to clear the current backlog.

3 (3) The Judiciary's goal for resolving cases is not more than 365 days
4 for a felony and not more than 180 days for a misdemeanor. But as of
5 December 31, 2023, only 59 percent of standard felony cases and 44 percent of
6 standard misdemeanor cases in this State were being resolved within those
7 time frames. As of a recent count, there were 1,160 pending misdemeanor
8 cases that were more than 720 days old.

9 (4) Court diversion (pre-charge and post-charge) allows law
10 enforcement and prosecutors to refer individuals to community providers of
11 restorative justice rather than to the court system, alleviating pressure on the
12 courts while resulting in improved outcomes and reduced recidivism for the
13 offenders.

14 (5) The State's Attorneys, deputy State's Attorneys, and the State's
15 Attorneys' victim advocates handle extremely large caseloads, with the
16 attorneys carrying approximately 362 cases at any time and victim advocates
17 assigned to an average of 640 cases apiece.

18 (6) Public defenders and conflict contract attorneys in or under contract
19 with the Office of the Defender General are also handling very large caseloads
20 coming out of the pandemic. On average, each staff attorney carries 280 cases,
21 which is significantly higher than the caseload recommendations from the

1 National Advisory Council or the National Association for Public Defense, and
2 the Office recently added 10 caseload relief contractors to manage the increase
3 in cases in the conflict docket.

4 (7) A large proportion of calls to law enforcement relating to violence
5 involve instances of domestic violence. Community-based victim advocates
6 provide crisis and ongoing support to victims of domestic and sexual violence
7 and work directly with survivors who are navigating the criminal and civil
8 court process. Community-based victim advocates play an essential role in
9 assisting victims and survivors who are navigating the court backlog and in
10 ensuring that victims' rights are upheld throughout the process. Despite the
11 important work of community-based domestic and sexual violence advocates,
12 there have been no ongoing State investments in community-based domestic
13 violence services in over 10 years.

14 (8) Moving cases swiftly through the civil docket and family courts has
15 a positive effect on public safety by helping enable stability for families and
16 communities. Providing legal assistance in civil cases to individuals who
17 cannot afford an attorney moves cases more swiftly through the civil courts
18 and increases access to justice for vulnerable Vermonters.

19 (9) In certain types of cases, the fact that only one side is represented by
20 an attorney can lead to a power imbalance. For eviction cases, landlords are
21 represented by an attorney in more than 90 percent of cases, while tenants are

1 represented in less than 30 percent of cases. Many homeowners facing
2 foreclosure live on fixed income, and foreclosures make up nearly one-third of
3 the court's civil court docket. In 2023, there were nearly 1,900 eviction
4 actions and 400 foreclosures across the State.

5 (10) Legal assistance organizations provide critical services that help
6 individuals with low income to address issues impacting their families' homes,
7 incomes, jobs, and access to vital services. By creating meaningful access to
8 the legal system, these services bring stability to low-income Vermonters,
9 which also contributes to alleviating the court backlog. To fulfill this role,
10 these organizations need additional resources.

11 (11) Vermont Legal Aid assisted nearly 18,000 Vermonters to address
12 legal challenges in 2023, an increase of 10 percent over the previous year.

13 Sec. 2. 13 V.S.A. § 7282 is amended to read:

14 § 7282. SURCHARGE

15 (a) In addition to any penalty or fine imposed by the court for a criminal
16 offense or any civil penalty imposed by the Judicial Bureau for a traffic
17 violation, including any violation of a fish and wildlife statute or regulation,
18 violation of a motor vehicle statute, or violation of any local ordinance relating
19 to the operation of a motor vehicle, except violations relating to seat belts and
20 child restraints and ordinances relating to parking violations, the clerk of the
21 court or Judicial Bureau shall levy an additional surcharge of:

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(8)(A) For any offense or violation committed after June 30, 2006, but before July 1, 2008, \$26.00, of which \$18.75 shall be deposited in the Victims Compensation Special Fund.

(B) For any offense or violation committed after June 30, 2008, but before July 1, 2009, \$36.00, of which \$28.75 shall be deposited in the ~~Victims~~² Victims Compensation Special Fund.

(C) For any offense or violation committed after June 30, 2009, but before July 1, 2013, \$41.00, of which ~~\$27.50~~ \$23.75 shall be deposited in the Victims Compensation Special Fund created by section 5359 of this title, and of which ~~\$13.50~~ \$10.00 shall be deposited in the Domestic and Sexual Violence Special Fund created by section 5360 of this title.

(D) For any offense or violation committed after June 30, 2013, \$47.00, of which ~~\$33.50~~ \$29.75 shall be deposited in the Victims Compensation Special Fund created by section 5359 of this title, and of which ~~\$13.50~~ \$10.00 shall be deposited in the Domestic and Sexual Violence Special Fund created by section 5360 of this title.

(E) For any offense or violation committed after June 30, 2024, \$47.00, of which \$33.50 shall be deposited in the Victims Compensation Special Fund created by section 5359 of this title, and of which \$13.50 shall be

1 deposited in the Domestic and Sexual Violence Special Fund created by
2 section 5360 of this title.

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4 Sec. 3. ACCESS TO JUSTICE; APPROPRIATION

5 In fiscal year 2025, the sum of \$525,000.00 is appropriated from the
6 General Fund to the Agency of Administration for a grant to the Vermont
7 Access to Justice Coalition to provide legal services to Vermonters with low
8 incomes.

9 Sec. 4. EFFECTIVE DATE

10 This act shall take effect on July 1, 2024.