

To: Robin Scheu, Chair House Appropriations Committee
Fr: Martin LaLonde, Chair House Judiciary Committee
Date: February 26, 2025
Re: Judiciary Committee Budget Recommendation

Thank you for the opportunity to provide our recommendations for the budget. Our recommendations are targeted towards the goal of addressing public safety concerns statewide.

Increasing Resources for the Criminal Justice System: Public safety continues to be a concern across Vermont.

In the Governor's budget address, the Governor said "taxpayers also made it clear they want us to *fix* broken systems, not just *fund* them." In turning to public safety, he noted that Vermonters do not feel safe and that incidents of certain types of crime have increased. He correctly noted that, "one solution is more accountability."

As for the Governor's suggested fixes, the House Judiciary Committee is working to address the Governor's identified concerns, including the raise the age initiative, while the Senate Judiciary Committee is addressing concerns related to sealing and expungements. The Committees also intend to consider amendments to the State's bail revocation law and the currently used DOC definition of recidivism. These initiatives may bring additional accountability, but true consequences for criminal offenses will require additional funding.

As many witnesses have testified before the House Judiciary Committee, the two most effective ways to deter crime are 1) a high probability of being caught and 2) certain and swift punishment for engaging in criminal activity. The House Judiciary Committee's focus is on the certainty and immediacy of consequences. These outcomes depend on a well-functioning, well-resourced criminal justice system.

The Governor's proposed budget does not provide the resources the criminal justice system needs to ensure the public is safe. Accordingly, the House Judiciary Committee recommends that the budget include the resources necessary to enable cases to be resolved in a timely fashion. Only by doing so will individuals

be held accountable for their actions as soon as possible after offending – a key to ensuring public safety.

One of the biggest challenges our court system currently faces is a backlog of cases, which pre-dated the COVID pandemic. During the pandemic, fewer cases were filed, but those that were filed were not being processed. After the courts fully reopened, a surge in filings left the courts falling further behind. In 2023, the courts experienced a number of judicial vacancies, which have since been filled. Early this year, three additional judges, which the legislature approved in the FY 2025 budget, started their tenure. The increase in judicial resources will help, but without additional resources for the pre-charge diversion program, as well as additional resources for prosecutors, and public defenders, it will still take years to clear the backlog and to be able to expeditiously dispose of cases.

The courts track whether they are making progress on reducing the backlog through data measures, including clearance rates – the number of new filings compared to the number of cases the courts dispose each month. If the clearance rate is over 100%, that means the backlog is being reduced. Last year, the courts achieved a clearance rate on criminal cases of 109%. With the three new judges coming on board, we expect that rate to improve, but we remain concerned that it will take years to clear the backlog without further investments in the criminal justice and restorative justice systems. With additional resources for the criminal justice system, the goal is to reach a clearance rate of 125%.

Due in part to the backlog and to a lack of resources, criminal cases are not being processed in a timely manner. To ensure more expeditious resolution of criminal cases, we must provide the entire justice system with sufficient resources. Unfortunately, some of the stakeholders in the criminal justice system face cuts under the Governor's recommended budget. For example, to meet the Administration's budget, the Department of State's Attorneys and Sheriffs will need to cut up to six transport deputies. To address the deluge of criminal cases more effectively, we should not only provide the funds to continue these positions, but also by adding six transport deputies to ensure defendants being held in prison can appear in person at hearings. This will allow for quicker resolution of cases. In addition, the budget recommendation contains no funding to divert cases from the courts through the pre-charge diversion program, a

program that diverted over 600 cases from the courts last year through funding from the Department of Corrections, which is not being provided in FY26.

Support for Victims

Although addressing public safety by having consequences closer in time to the occurrence of the offense is critical, the House Judiciary Committee also wants to ensure that victims are supported in our criminal justice and restorative justice systems. We have serious concerns about the revenue shortfalls faced by organizations supporting crime victims, including through the Vermont Center for Crime Victim Services, the Vermont Network Against Domestic and Sexual Violence State's Attorneys offices. We are also cognizant of the threat of a fiscal crisis due to the potential loss of federal funds to these organizations.

Civil Court Access

Finally, the House Judiciary Committee has heard from witnesses explaining the increasing challenges to ensuring access to justice in the civil courts. Entities such as Legal Aid, Vermont Legal Services, and the Access to Justice Coalition, need additional resources to help individuals access the courts to address concerns related to housing shortages, mental health crises, discrimination, and immigration.

Support for Other Committees' Recommendations

Also of note, House Judiciary shares the concerns of our colleagues in House Human Services regarding the need for appropriate funding across the system of care for justice-involved youth. As we devote significant resources to the highest levels of care and custody, we must also provide robust support for earlier upstream interventions through community-based services.

We also wish to amplify the information provided to House Appropriations by House General and Housing concerning the needs of the Human Rights Commission. We heard testimony that the modest funding of this vital resource has led to understaffing, which presents a barrier to the more than 100 Vermonters filing a new inquiry with the HRC every month.

Unless otherwise noted, the requests outlined below are in addition to what is in the Governor's recommended budget.

TIER ONE

1. Pre-charge Diversion

Funding Request:

- \$1.7M for FY26 (~1M for grants to existing programs and ~.7M for the the establishment of new programs)
- Funding for 1 FTE for Pre-Charge Supervisor - \$119,300

Budgetary Commitment to Act 180 - Enacted into law in 2024, Act 180 establishes a state-wide pre-charge diversion program. Pre-charge diversion occurs when individuals who commit low-level crimes are referred to community providers of restorative justice, such as community justice centers, instead of to court.

The act allows law enforcement or prosecutors to divert more offenders from the criminal justice system before they are charged with a crime. If an individual does not complete the restorative justice program, they would be referred to the traditional court system.

Currently, Vermont counties vary in how actively they employ pre-charge diversion. Act 180 adds stability to existing programs by placing administrative oversight and funding responsibilities with the Attorney General's Office, while also encouraging the expansion of pre-charge diversion statewide. Our entire State will benefit from more timely justice interventions and reduced pressure on the courts. In FY24, 604 cases were diverted from the criminal justice system through pre-charge referrals and the FY22-24 three-year average was 698 cases. Without a funded program in the future, these cases would either go to the criminal justice system and add to the backlog or the individuals would not be charged, thus undermining accountability for misbehavior. Full study found at: https://crgvt.org/client_media/files/reports/vt_court_diversion_recidivism_study_and_cost_benefit_analysis_june_2019.pdf

2. State Transport Deputy Sheriffs

Funding Request:

- * Restore Vacancy savings - \$673,170 – the vacancy savings in the administration’s recommended budget would require holding 6 Transport Deputy positions vacant for the majority of the fiscal year.
- * Add six additional Transport Deputies - \$800,000

The House Judiciary and House Corrections and Institutions committees held a joint hearing on the issue of remote criminal hearings and transports. All witnesses, including the Commissioner of the Department of Corrections, the Executive Director of the Department of State’s Attorneys and Sheriffs, and the Chief Superior Judge agreed that increasing the capacity to get alleged criminal offenders to court would expedite the disposition of cases. Having legal counsel and the defendants in person often enables quicker resolution of criminal cases. To accomplish this, currently there are 24 Transport Deputies in Vermont, moving defendants from prisons to courts throughout the State. Witnesses agreed that this is insufficient staffing, leading to the inability to get defendants to courts and to decreased safety and security when only one deputy is available for a transport (best practice requires two deputies for a transport). In addition, the Committees learned that the availability of remote criminal hearings does not make up for the lack of transport capacity. Remote hearings can keep cases moving, but they are not conducive for expeditiously concluding criminal cases.

3. Support for Victims of Crimes

Center for Crime Victims Services

- * Make up for reduced Victim of Crime Act (“VOCA”) funds - \$1,500,000
- * Address projected deficit in the Victims Compensation Special Fund - \$600,000
- * Address the projected deficit in the Restitution Special Fund - \$324,000
- * 5% of the \$2.3 million of the General Funds and Domestic and Sexual Violence Special Funds to support administrative requirements - \$115,000

The Center oversees and funds programs that compensate victims for crime-related losses and collect restitution owed to victims by criminal defenders. It administers 240 subgrants to 62 statewide programs that support victim services and pass-through general funds to child advocacy centers, supervised visitation programs, domestic and sexual violence prosecutor positions, and the Vermont Network Anti-Violence grants. The Center's services are dependent on fluctuating and declining sources of Federal, General, and Special funds.

Vermont Network Against Domestic and Sexual Violence

- * Increase base funding for Vermont's Domestic and Sexual Violence Fund - \$1,200,000

The Network has 15 independent, non-profit organization members that provide advocacy and support to survivors of domestic and sexual violence. The members provide a 24/7 hotline, emergency housing, legal advocacy, children's services, and prevention programming. The Network is heavily reliant on federal funding, but also on Vermont's Domestic and Sexual Violence Fund, which has seen annual shortfalls. Funding has failed to keep pace with the essential services that the Network provides.

State's Attorneys Victim Advocates

- * 6 Victim Advocates: \$750,000

Each victim advocate is carrying approximately 600 cases, leading to burnout of advocates and the inability to provide the liaison services to the victims of crime in Vermont.

4. State's Attorneys

Restore Vacancy savings - \$649,126 – the vacancy savings in the administration's recommended budget would require holding 5 positions open

Limited-Service positions to be converted to Permanent positions (eliminated on June 14, 2025):

267197: Caledonia SAO Legal Assistant (filled)

267199: Chittenden SAO Deputy State's Attorneys (filled)
267202: Franklin SAO: Deputy State's Attorney (filled)
267227: Orange SAO: Legal Assistant (filled)
247175: Rutland SAO: Victim Advocate (filled)
267200: Bennington SAO: Deputy State's Attorney
267201: Windham SAO: Deputy State's Attorney
267203: Lamoille SAO: Deputy State's Attorney
267204: Washington SAO: Deputy State's Attorney
Additional GF to fund the above positions in FY26 - \$350,000

1 PCR/Public Records/Training Attorney: \$150,000

- * 6 Paralegals: \$650,000
- * 6 Administrative support staff: \$560,000

To improve our clearance rate of criminal cases and to have swifter consequences for criminal behavior, the budget should provide additional resources to State's Attorneys.

5. Defender General

Current services that remain unfunded:

- * Assigned Counsel Contract Increases - \$57,851
- * In-person training - \$60,000

Cost concerns that have emerged since the administration budget The Judiciary is not requesting funds beyond the Governor's Recommendation.
recommendation:

- * Public Defender Special Fund Shortfall - \$275,000
- * IT Server Capacity Storage (needed for storage of evidence) - \$30,000
- * Orleans Staff Office if current Public Defender contract remains unfilled (this ask may be withdrawn depending on contract negotiations that should conclude soon) - \$87,500

The Defender General's Office's request maintains its current staffing level.

6. Judiciary

Tech Fund revenue replacement	\$1,328,522
Security Services COLA	<u>\$ 200,522</u>
Total Judiciary	\$1,529,044

TIER TWO

7. State's Attorneys

- * 1 Docket Manager: \$105,000
- * 1 Fiscal Support staff: \$94,000
- * 1 IT field support staff: \$94,000

8. Vermont Network Against Domestic and Sexual Violence

- * Establish a contingency fund for domestic and sexual violence organizations in case of federal funding reductions - \$4,100,000

9. Vermont Legal Aid

- * Increase in base funding - \$1,600,000

This funding would go to the following initiatives:

Maintaining Legal Aid's housing work. Funding for the Homeownership Legal Assistance Project ended in December of 2024. Legal Aid's Housing for Everyone Law Project, representing tenants in evictions, will end in June. According to the Vermont Housing Needs Assessment, over 25,000 households are cost-burdened, paying more than 50% of their income toward housing. Without continued funding, many vulnerable Vermonters will lose access to critical legal support to help them keep a roof over their heads.

Staff Attorney for the Mental Health Legal Project (MHLP): Due to increased demand for mental health legal services, including representation that the legislature requires Legal Aid to provide in commitment proceedings under 13 VSA 4820, Legal Aid needs funding for an additional staff attorney. Data shows that the complexity and volume of cases involving mental health legal issues are

growing rapidly, making this position essential to maintaining effective service delivery.

Staff Attorney for the Victims' Rights Project (VRP): Family law is the second highest unmet legal need in the state. The Victims' Rights project provides direct representation and legal advocacy for victims of domestic and sexual violence, victims of crime, and clients seeking assistance with family legal needs. Legal Aid frequently turns away Vermonters in need, due to a lack of staffing in this vital project.

Restore Staffing for the Poverty Law Project (PLP): The PLP, which assists Vermont's most vulnerable populations, is currently operating with only 8.2 FTEs—down from 10.8 FTEs. This reduction was due in part to pandemic funding coming to an end. The PLP is primarily funded through the AHS budget, and without restoration to full staffing levels, Legal Aid cannot meet the needs of those most affected by economic hardship and systemic inequities.

Eviction Protection Support for Legal Services Vermont (LSV): Vermont is in the midst of an eviction crisis. Requests for assistance with evictions have risen by 45% over the past five years. In 2019, eviction-related calls comprised 28% of all housing inquiries; by 2024, that number had jumped to 43%. Housing now represents the highest area of legal need, accounting for 43% of all inquiries.

10. Vermont Access to Justice Coalition

\$525,000 to the Vermont Bar Foundation for access to justice programs; \$500,000 of this amount will be used for direct grants to qualifying organizations, and \$25,000 will fund VBF administration of its programs.

The Vermont A2J Coalition consists of the Vermont Supreme Court (VSC), Vermont Legal Aid (VLA), Legal Services Vermont (LSV), Vermont Law and Graduate School (VLGS)/South Royalton Legal Clinic (SRLC), the Vermont Bar Association (VBA) and the Vermont Bar Foundation (VBF). Its members provide a variety of legal services to low-income Vermonters.

The 6-partner Coalition has long been aware of significant gaps in legal services to Vermonters. Most of these gaps relate to lack of funding. All A2J partners are affected when one partner's coverage is reduced by budget cuts and staffing

decreases—it means more work for other A2J organizations and growing gaps in services to clients. This is occurring at the same time demand for legal services has doubled. The Coalition members have resolved to unite for the funding increases necessary to meet this demand and close the service gaps.

This request made by the Coalition is in addition to annual appropriations for Vermont Legal Aid and Legal Services Vermont, and in addition to the annual funding of the Vermont Judiciary.