

## **Department/Program Description**

### **THE SUPREME COURT**

The Chief Justice and the four Associate Justices constitute the Vermont SUPREME COURT.

Justices are appointed by the Governor from a list of qualified candidates submitted by the Judicial Nominating Board and confirmed by the Senate for six-year terms. When a justice's term expires, the General Assembly votes whether to retain the justice in office.

### **THE SUPREME COURT'S JUDICIAL DUTIES**

The Supreme Court is the court of final appeal in Vermont. It hears cases primarily in Montpelier. The court hears appeals from the Civil, Family, Criminal and Environmental Divisions of the Vermont Superior Court, from certain administrative agency proceedings and from the Probate Division when a question of law is involved. In special types of cases, the Supreme Court has original or exclusive jurisdiction. This is when a case is brought directly to the Supreme Court without having to be heard first in one of the lower courts.

The five justices of the Supreme Court resolve approximately 500 cases per year by deciding whether the trial court judge accurately applied Vermont law to the facts in the case. The Supreme Court does not take evidence, listen to witnesses or receive exhibits in a case. Instead, the court looks at the legal issues to determine whether the law was correctly applied to the facts in the lower court. Decisions of the Vermont Supreme Court are final unless the case presents a federal question involving the United States Constitution, statutes, or treaties. If there is a federal question, decisions of the Vermont Supreme Court may be appealed to the United States Supreme Court.

### **THE SUPREME COURT'S ADMINISTRATIVE DUTIES**

The Vermont Constitution gives the Supreme Court the responsibility of administering the Vermont Court system. It authorizes the Supreme Court to make rules regulating practice and procedure. The General Assembly has authority to revise rules as set out in the Vermont Constitution. The Supreme Court also has the power to discipline judges and attorneys, to license attorneys and to regulate the practice of law.

The Supreme Court Justices administer the Vermont Court System with the assistance of the Chief Superior Judge and the Court Administrator.

The Chief Superior Judge assigns the superior court judges, environmental judges, child support magistrates, judicial bureau hearing officers and assistant judges to the trial court divisions, resolves attorney conflicts, and in cooperation with the Court Administrator, assumes general administrative control of the work of the courts.

The Chief Superior Judge assigns each of the judges to sit in each of the trial courts for a specific length of time, generally for a year. (The environmental judges hear and dispose of

most cases in the environmental division, which has statewide jurisdiction.) In the smaller counties, one judge may be assigned to sit in the Civil, Criminal, and Family divisions of the Vermont Superior Court concurrently, especially when all three divisions are located in the same building. In the larger counties, a different judge may sit in each of the trial court divisions.

The State Court Administrator provides leadership and support to the judges and court staff to enable them to resolve disputes fairly, expeditiously and efficiently. The State Court Administrator is responsible for the overall management of the court system, including judicial and employee education, budgetary and personnel matters, computer services, recordkeeping and court security. The State Court Administrator serves as liaison between the Supreme Court and its boards and committees and between the Judiciary and the Legislative and Executive branches of government.

## THE VERMONT SUPERIOR COURT

The Vermont Superior Court was created by Act 154 of the 2010 session of the General Assembly. The Act reorganized the trial courts as divisions of the new Superior Court. There is a unit of the Superior Court in every county, comprised of a civil, criminal, family and probate division. The former environmental court became a statewide environmental division of the Superior Court. The former district court judges were re-designated superior court judges under the act.

## CRIMINAL DIVISION

Each unit has a Criminal Division. The Division is responsible for the approximately 16,000 criminal and civil suspension cases that the State's Attorneys, Attorney General and Municipal Grand Jurors file each year:

- \*Through jury trials, court trials and the acceptance of guilty pleas, the Superior Court Judges determine the guilt or innocence of persons charged with crimes;

- \*Through sentencing decisions, the Superior Court Judges: punish persons who engage in acts not tolerated by society, protect the public by separating violent persons from society, protect the public by deterring others from violating the law, and attempt to rehabilitate criminals so that they will be productive members of society;

- \*Through determinations of probable cause and decisions on requests for arrest warrants, search warrants, and motions to suppress evidence, the Superior Court Judges protect the public from arbitrary use of government power.

## FAMILY DIVISION

Each unit has a Family Division. The Division is responsible for the approximately 2,600 divorce and annulment actions, 1,200 other domestic actions (primarily parentage) and the

4,500 post-judgment actions filed each year. Most of the post-judgment actions involve attempts by parents to modify or enforce child support, visitation or custody orders.

The Family Division is also responsible for approximately 7,800 motions to establish, modify or enforce child support, 750 juvenile delinquency cases, 1000 cases involving the abuse and neglect of children, 335 cases in which the state seeks to terminate parental rights, 200 cases involving children who may be beyond the control of their parents or truant, and 3,200 petitions for relief from domestic abuse and 1013 other family matters including how the state should care for persons with mental illness and developmental disabilities.

The Chief Superior Judge assigns superior court judges, child support magistrates and assistant judges to the Family Division. These judicial officers and court staff attempt:

- \*to conduct timely hearings and issue timely decisions in order to resolve disputes, to provide support to distressed litigants and to provide protection to victims of family violence and emotional abuse; and

- \*to provide courteous, calming and helpful service to assist family members to make informed decisions about how to resolve their disputes on their own through mediation or other community services.

## CIVIL DIVISION

Each unit has a Civil Division. The Division is responsible for the approximately 6,700 civil actions filed each year. Most of these actions involve businesses seeking the collection of unpaid debts, individuals seeking damages resulting from the negligence of others, or general lawsuits involving the failure to abide by the terms of a contract. State environmental, consumer protection and civil rights actions are filed in the Civil Division. People may go to the Civil Division to seek protection from those who have stalked or sexually assaulted them. The Division also hears appeals of some governmental actions.

Through jury trials, court trials and pretrial conferences, the Superior Court Judges resolve disputes such as whether:

- \*one person should have to reimburse another for that person's actions or inaction;

- \*persons should start or stop acting in certain ways; and

- \*persons should lose their homes or other property for failure to pay their debts.

The Civil Division also decides the approximately 5,800 small claims filed each year. Citizens and businesses seeking up to \$5,000 for unpaid debts, shoddy home improvement jobs and a return of their apartment security deposit, save the expense of hiring an attorney and look to the superior court to resolve their disputes.

There are 28 Assistant Judges in the state's Judiciary, two in each of Vermont's 14 counties. They are elected to four-year terms. Their duties are not only judicial in scope, but also

include administrative and legislative functions. In their judicial capacity, the assistant judges serve in non-jury trials as members of a unique three-person panel of judges which determine disputed facts. In some counties, assistant judges sit alone to hear and decide small claims matters and traffic violations. In their administrative capacity, the assistant judges are the chief executive officers of the state's county government. In their legislative capacity, the assistant judges levy a tax on the towns in their respective counties to fund county government. The county budgets include funding for the county sheriff's departments, maintenance of a county courthouse and some expenses of Civil and Probate Divisions.

## ENVIRONMENTAL DIVISION

The Environmental Division has statewide jurisdiction and is responsible for hearing and deciding requests to enforce administrative orders issued by the Secretary of the Agency of Natural Resources and requests to review orders issued by the Secretary. The Division also hears appeals from municipal zoning boards and planning commissions and appeals from Act 250 district commissions. The Division is located in Chittenden County; however, cases are heard in the county where the action arises. Two Environmental Judges hear most matters filed with the Division. Approximately 160 cases are filed each year in the Environmental Division.

## PROBATE DIVISION

On February 1, 2011, the Probate Court became the Probate Division of the Superior Court and each unit has a division. The Probate Division is responsible for the approximately 3,900 guardianships, adoptions, decedent estates and testamentary trusts that are filed each year, and for other administrative actions, including change of names and safekeeping of wills.

The Probate Judges and Staff (called Registers) work to:

- \*assist persons and families to administer and settle estates and any resulting trusts, and if necessary, resolve any disputes over the distribution of the assets of the estates;
- \*determine whether guardianships need to be established for incompetent persons;
- \*assist persons wishing to relinquish parental rights for the purpose of placing a child up for adoption; and
- \*monitor the processing of the cases in the court to insure fiduciaries meet their responsibilities to the estates and guardianships.

## THE JUDICIAL BUREAU

The Judicial Bureau is responsible for the approximately 80,000 traffic tickets issued by state and local law enforcement agencies each year. Many of the violations are speeding

tickets. The Bureau is also responsible for the processing of approximately 1,250 violations of underage drinking laws, 2,200 municipal ordinance violations and 700 fish and wildlife violations each year.

\*Through court trials, the hearing officers and some assistant judges determine whether the 12,000 people who contest their tickets each year have violated the law and whether they must pay civil penalties to the state and municipalities.

\*Through the assistance of court developed computer programs, Bureau staff accepts \$12,900,000 in civil penalties and surcharges from those drivers who chose not to contest their traffic tickets or ordinance violations and those who receive default judgments for failure to respond to their tickets.

### **Key Budget Issues**

Key Budget Issues: The primary budget issue confronting the Judiciary is the same as that faced by other State government entities: the cost pressure of salaries and salary-related benefits. Judiciary is also aware of additional security needs, as identified in several legislatively-mandated reports, and would like to improve the resource capabilities of the Judicial Information Center and Judicial Bureau.