

Bill as Introduced

HB 609-FN - AS INTRODUCED

2011 SESSION

11-0574

09/01

HOUSE BILL

609-FN

AN ACT

establishing the New Hampshire circuit court to replace the current probate courts, district courts, and judicial branch family division.

SPONSORS:

Rep. G. Richardson, Merr 4; Sen. Houde, Dist 5; Sen. Morse, Dist 22

COMMITTEE:

Judiciary

ANALYSIS

This bill establishes the New Hampshire circuit court to replace the current probate courts, district courts, and judicial branch family division.

This bill was requested by the supreme court.

Explanation:

Matter added to current law appears in **bold italics**.

Matter removed from current law appears ~~[in brackets and struck through]~~.

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT establishing the New Hampshire circuit court to replace the current probate courts, district courts, and judicial branch family division.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; Circuit Court. Amend RSA by inserting after chapter 490-E the following new
2 chapter:

3 CHAPTER 490-F

4 CIRCUIT COURT

5 490-F:1 Purpose. The general court hereby organizes, constitutes, and establishes the
6 New Hampshire circuit court. The goals of the circuit court are the respectful treatment of all
7 individuals, the prompt and fair resolution of all issues within its jurisdiction, the use of alternative
8 dispute resolution to reduce the adversarial nature of proceedings, the effective use of technology
9 and the assignment of judicial and nonjudicial staff specially selected for their commitment to these
10 goals.

11 490-F:2 Circuit Court; General. The circuit court shall be a court of record with statewide
12 jurisdiction. Each circuit court location shall have the authority to hear all cases within the subject
13 matter jurisdiction of the circuit court. Subject to part 1, article 17 of the New Hampshire
14 constitution, nothing in this chapter shall prohibit the reassignment of cases within the circuit court
15 as justice or efficiency require in the discretion of the administrative judge of the circuit court.

16 490-F:3 Circuit Court Divisions. The circuit court shall consist of 3 divisions: a probate
17 division, a district division, and a family division. The circuit court shall have the jurisdiction,
18 powers, and duties conferred upon the former probate and district courts and upon the former
19 judicial branch family division by RSA 547, RSA 502-A, and RSA 490-D.

20 490-F:4 Circuit Court Locations. The judicial districts for the district and family divisions shall
21 be as set forth in RSA 502-A:1 and RSA 490-D:4, respectively, and each county shall be a judicial
22 district for the probate division. The supreme court may, from time to time, establish other locations
23 for each of the divisions. The probate court records shall be maintained at the circuit court site at
24 each county seat. The circuit courts shall be as follows:

- | | | |
|----|----------------------|----------------|
| 25 | I. Coos county | first circuit |
| 26 | II. Grafton county | second circuit |
| 27 | III. Carroll county | third circuit |
| 28 | IV. Belknap county | fourth circuit |
| 29 | V. Sullivan county | fifth circuit |
| 30 | VI. Merrimack county | sixth circuit |

| | | |
|---|-------------------------|-----------------|
| 1 | VII. Stafford county | seventh circuit |
| 2 | VIII. Cheshire county | eighth circuit |
| 3 | IX. Hillsborough county | ninth circuit |
| 4 | X. Rockingham county | tenth circuit |

5 490-F:5 Circuit Court Judges and Masters; Appointment; Tenure.

6 I. On the effective date of this chapter, the circuit court shall consist of those justices and
7 masters previously appointed and commissioned by the governor and council as prescribed by the
8 constitution and the laws of the state of New Hampshire. The tenure of office of persons serving as
9 justices or special justices of the district and probate courts or marital masters in the judicial branch
10 family division and superior court shall not be affected hereby, and they shall continue in office as
11 judges or masters respectively of the circuit court.

12 II. Judicial and master appointments to fill vacancies which exist on the effective date of
13 this chapter in the former probate and district courts and in the former judicial branch family
14 division shall be to the New Hampshire circuit court. No judicial officer appointed to the circuit
15 court shall be appointed to a particular location; however, the assignment of a circuit court judge to a
16 particular location shall be within the discretion of the administrative judge of the circuit court who
17 shall take into account the weighted caseload and judicial need of that location.

18 490-F:6 Circuit Court Judges and Masters; Assignment; Certification.

19 I. Circuit court judges and masters shall be assigned to one or more circuits or locations in
20 the discretion of the administrative judge of the circuit court after considering population, judicial
21 time and efficiency, available judicial resources, and the needs of the public.

22 II. The assignment of a circuit court judge to a division within the circuit court shall be
23 based upon the judge's knowledge of, commitment to, and expertise in the subject matter of the
24 division.

25 III. For purposes of part 2, articles 80 and 81 of the New Hampshire constitution, a judge of
26 probate shall be any circuit court judge assigned to the probate division.

27 IV. Judges and marital masters appointed prior to the effective date of this chapter shall be
28 initially assigned within the circuit court as follows:

29 (a) Judges of the former probate court shall be initially assigned to the probate division
30 of the circuit court;

31 (b) Judges of the former district court shall be initially assigned to the district division of
32 the circuit court;

33 (c) Judges certified in the former family court division shall be initially assigned to the
34 division that corresponds with their initial appointment and to the family division of the circuit
35 court; and

36 (d) Masters appointed to the former judicial branch family division or superior court
37 shall be permanently assigned to the family division of the circuit court.

1 V. The assignment of a circuit court judge to a division following initial assignment shall be
2 within the discretion of the administrative judge; provided, however, the circuit court judge shall be
3 certified by the supreme court to hear cases coming within the newly assigned division prior to such
4 assignment. A judge initially assigned to a division within the circuit court pursuant to paragraph I
5 shall be deemed certified in the division of initial assignment.

6 VI. Thereafter, judges appointed to the circuit court shall be assigned to a division at the
7 discretion of the administrative judge subject to the following considerations:

8 (a) The knowledge, commitment to, and expertise of the judge in the subject matter of
9 the particular division to which the judge is to be assigned;

10 (b) The division in which the judicial vacancy resulting in the new appointment exists,
11 and

12 (c) The judicial needs of a particular circuit court location as determined by the
13 administrative judge.

14 VII. Judges may be certified in all divisions of the circuit court pursuant to rules adopted by
15 the supreme court.

16 VIII. Nothing in this section shall prohibit the administrative judge from assigning judges to
17 a division as justice and efficiency require.

18 IX. The judges and masters shall be entitled to receive their actual personal expenses when
19 absent from their assigned court in the performance of their official duties. The judges and masters
20 shall not be reimbursed for mileage to commute from the judge's residence to his or her assigned
21 court except for any mileage in excess of 50 miles each way.

22 490-F:7 Circuit Court Judges; Number.

23 I. Except as provided in paragraphs II and III, the number of judges and masters in the
24 circuit court shall not be less than the number of authorized judicial and master positions in the
25 former district court, probate court, and judicial branch family division, as well as any superior court
26 judicial officer or marital master equivalent not yet transferred to the former judicial branch family
27 division on the effective date of this chapter but necessary to complete the family division
28 implementation as set forth in RSA 490-D.

29 II. Upon the retirement, resignation, disability, or removal of a part-time justice or special
30 justice of the former probate or district courts, the position shall be eliminated, unless within 30 days
31 of such retirement, resignation, disability, or removal the supreme court certifies in writing to the
32 governor that due to population, caseload, and available judicial resources, the position needs to be
33 continued in the circuit court.

34 III. Upon the retirement, resignation, disability, or nonrenewal of appointment of a marital
35 master, the position shall be converted to a full-time judicial position, provided that the fiscal
36 committee of the general court approves and further provided that sufficient funds have been
37 appropriated for the salary and benefits of the full-time judicial position. Once converted to a full-

1 time judicial vacancy, the governor may nominate and the council may confirm any qualified person
2 pursuant to part 2, article 46 of the New Hampshire constitution. If the fiscal committee of the
3 general court does not approve, or if there are not sufficient funds available to fund the salary and
4 benefits of the full-time judicial position, the master position shall not be eliminated, and a new
5 master may be appointed pursuant to RSA 490-D:7.

6 IV. The supreme court, after reviewing population, caseload, judicial time, and efficiency,
7 available judicial resources, the needs of the circuit court, and other relevant criteria may request
8 the governor and council to designate a sitting part-time judge as a full-time judge. The court may
9 recommend certain judges; however, the governor and council shall not be bound by that
10 recommendation. Upon designation, that judge shall become full-time. Prior to making its request,
11 the supreme court shall receive the approval of the fiscal committee of the general court and there
12 shall be funds in the court's budget specifically appropriated for the salary and benefits of an
13 additional full-time circuit court judge.

14 490-F:8 Circuit Court Judges; Retired Judges.

15 I. Nothing in this chapter shall limit the ability of retired judges of the former district and
16 probate courts or of the circuit court to elect senior active status or to serve as a judicial referee
17 pursuant to RSA 493-A.

18 II. Judges who have elected senior active status, are eligible to elect senior active status, or
19 are eligible to serve as a judicial referee on the effective date of this chapter shall maintain such
20 eligibility.

21 II. The assignment and certification provisions of this chapter shall apply to senior active
22 judges and retired judges acting as judicial referees.

23 490-F:9 Disqualifications of Judges. No judge or clerk of the circuit court shall be retained or
24 employed as an attorney in any action, complaint, or proceeding pending in a division of the circuit
25 court or circuit court site in which that judge or clerk has been certified or assigned. No attorney
26 shall be permitted to practice before any division of the circuit court where any justice, associate
27 justice, or special justice is associated with such attorney in the practice of law.

28 490-F:10 Full-Time Circuit Court Judges. A circuit court judge designated to be full-time under
29 RSA 491-A:3, IV shall not be permitted to engage in the practice of law to any degree. Full-time
30 judges shall receive the salary specified in RSA 491-A:1.

31 490-F:11 Judicial Branch Budget Request. For the purpose of calculating the biennial budget
32 request and judicial salaries as well as the number of judicial positions required in the circuit court,
33 the supreme court shall establish and revise as needed a weighted case value, relating to the judicial
34 time required for each type of case included in the court's jurisdiction, which when multiplied by the
35 caseload of each court will produce the number of weighted case units for that court. Any revisions
36 to the weighted case values shall be approved by the fiscal committee of the general court. The
37 number of weighted case units shall be calculated by the administrative office of the courts in

1 October of each year, using caseload statistics for the preceding 12-month period. Said weighted
2 case units shall serve as the basis for determining the salary of part-time judges for the next
3 calendar year.

4 490-F:12 Part-Time Judges; Salary Calculation. The salary of judges who were part-time judges
5 in the district and probate courts shall be calculated each year based on the weighted caseload of the
6 former jurisdiction less any weighted values for case types that are no longer within the jurisdiction
7 of the circuit court or judicial branch.

8 490-F:13 Circuit Court Clerks; Appointment. The administrative judge of the circuit court shall
9 appoint a clerk with responsibility for each circuit court site. In the interest of the effective
10 administration of justice, any such clerk may have responsibility for one or more circuit court
11 locations. Circuit court clerks shall have the same duties as clerks of the former district court and
12 judicial branch family division and as registers of probate with the exception of RSA 15-B, RSA 456-
13 B, RSA 548, RSA 653, RSA 655, and RSA 661 which shall remain as duties of the registers of
14 probate. Circuit court clerks shall hold office at the pleasure of the administrative judge of the
15 circuit court.

16 490-F:14 Staff. The administrative judge of the circuit court shall identify a mechanism by
17 which to assign and transfer existing staff in the probate and district courts and in the judicial
18 branch family division to operate the circuit court. The number of circuit court staff shall be based
19 upon a review of anticipated caseload, population, available staff resources, and other relevant
20 criteria, including information from any weighted caseload system.

21 490-F:15 Referees. The circuit court, with the consent of the parties shall, and without the
22 consent of the parties may, commit to one or more referees any cause at law or in equity, or the
23 determination of any question of fact pending in the court wherein the parties are not, as matter of
24 right, entitled to a trial by jury; and with the consent of the parties shall in the same manner commit
25 any other cause or the determination of any other question of fact.

26 490-F:16 Alternative Dispute Resolution. Alternative dispute resolution shall be utilized in the
27 circuit court when practicable to reduce the adversarial nature of proceedings.

28 490-F:17 Existing Procedure Applicable. All provisions of law, not inconsistent herewith,
29 relating to procedure in civil or criminal matters and practice in the former probate and district
30 courts and the former judicial branch family division shall remain in full force and apply to the
31 circuit courts hereby established.

32 490-F:18 Statutory References. During the implementation of the circuit court, references in
33 statutes involving the jurisdiction of the circuit court to the probate or district courts or to the
34 judicial branch family division shall be deemed to include the circuit court. Following the full
35 implementation of the circuit court, those references shall be deemed to be to the New Hampshire
36 circuit court where it has exclusive jurisdiction of a subject matter and to the superior court and
37 circuit court where the circuit court has concurrent jurisdiction with the superior court.

1 490-F:19 Implementation Plan. On the effective date of this chapter, the New Hampshire
2 circuit court shall be operational based upon a plan of implementation developed by the
3 administrative judge of the circuit court in consultation with the supreme court.

4 2 Family Division; Nominations and Appointments of Marital Masters. Amend RSA 490-D:7 to
5 read as follows:

6 490-D:7 Nominations and Appointments of Marital Masters.

7 I. The administrative judge of the [~~judicial branch family division~~] **circuit court**
8 **established in RSA 490-F**, with the concurrence of the supreme court, shall recommend persons to
9 the governor and council for initial appointment as marital masters. In recommending candidates
10 for initial appointment as marital masters under this chapter, the division shall utilize the
11 procedures and standards described in the rules of the judicial branch family division, except as
12 otherwise provided in this chapter.

13 II. For appointments of new marital masters, the administrative judge of the [~~judicial~~
14 ~~branch family division~~] **circuit court**, with the concurrence of the supreme court, shall submit to the
15 governor the name of a nominee. The governor may accept the candidate nominated by the
16 administrative judge and submit the candidate to the council for confirmation or may reject the
17 candidate submitted by the administrative judge, and request a new nominee. If the council rejects
18 a candidate for confirmation, the governor shall request a new nominee.

19 III. Marital masters shall serve an initial term of 3 years. Subsequent reappointments shall
20 be made in accordance with judicial branch family division rules. During appointment terms, the
21 authority and responsibility to conduct annual performance reviews, and termination, if necessary,
22 shall be with the administrative judge of the [~~judicial branch family division~~] **circuit court**.

23 3 Judicial Branch Family Division Clerks, Fees. Amend RSA 490-D:12, II and III to read as
24 follows:

25 II. Fees as established by the supreme court under RSA 490:26-a shall be paid to the clerk of
26 the [~~judicial branch family division~~] **applicable circuit court established in RSA 490-F** for the
27 benefit of the state. The clerk shall set aside 7 percent of each entry fee paid into the court for
28 deposit into a special escrow account established under RSA 490:26-c and 14 percent of each entry
29 fee paid into the court for deposit into the judicial branch information technology fund established
30 under RSA 490:26-h. The proceeds of fees for motions to appear in court pro hac vice shall be paid
31 into the law library revolving fund established in RSA 490:25, III.

32 III. The sum of \$5 shall be added to each entry fee collected [~~in the judicial branch family~~
33 ~~division~~] **by the circuit court clerk** on cases which, prior to the establishment of the judicial branch
34 family division, would have been filed in the probate court. Sums collected under this paragraph
35 shall be deposited in the mediation and arbitration fund established under RSA 490-E:4.

36 4 Sessions in Towns Within District. Amend RSA 502-A:2, II to read as follows:

1 II. The administrative judge of the ~~[district courts]~~ ***circuit court established in RSA 490-***
 2 ***F*** shall have the authority to and shall, on an annual basis, establish the number of court sessions
 3 and the hours and days of operation required for each district court. The administrative judge shall
 4 consider the convenience of each court's users, caseload, resources, and security. Each court shall
 5 submit a plan for flexible scheduling to the administrative judge that meets the needs of the
 6 community served by that court which may include evening, early morning, and/or weekend sessions
 7 and other alternative sessions. In evaluating the community need for alternative sessions, the
 8 administrative judge and local courts shall evaluate separately civil suits, small claims, order of
 9 notice, motor vehicle matters, and criminal cases to determine the needs of the community. ~~[The~~
 10 ~~administrative judge shall file an annual report on the progress of implementing flexible schedules~~
 11 ~~in the district courts with the chairpersons of the house and senate judiciary committees on or before~~
 12 ~~November 1 of 2000, 2001, 2002, and 2003.]~~

13 5 Duties of Clerks; Disposition of Fines. Amend RSA 502-A:8 to read as follows:

14 502-A:8 Duties of Clerks; Disposition of Fines.

15 I. The clerk ***of the applicable circuit court established in RSA 490-F*** shall receive all
 16 fines and forfeitures paid into the district court from any source. The clerk of any district court may
 17 accept payment of the fine by credit card in lieu of cash payment. Any transaction costs assessed by
 18 the issuer of the credit card shall be paid out of the portion of the fine amount which is deposited
 19 with the treasurer and not out of the penalty assessment charged by a district court. The clerk shall
 20 forward fines collected for violations of title XXI to the treasurer for deposit in the highway fund and
 21 fines collected for violations of title LXII and all other statutes to the treasurer for deposit in the
 22 general fund within 14 days. The clerk shall separately indicate which fines were for violations of
 23 title XXI. Fines and forfeitures collected by the clerk for violations of municipal ordinances, codes, or
 24 regulations, except those adopted pursuant to RSA 31:39, I(g); RSA 41:11; RSA 47:17, IV, VI, VII, or
 25 VIII; and RSA 105:6 through RSA 105:7, shall be remitted monthly to the treasurer of the
 26 municipality prosecuting said violations, for the use of the municipality. All expenses related to the
 27 processing of parking violations and the administrative collection of parking fines shall be the
 28 responsibility of the local unit of government, and all fines collected shall be retained in their
 29 entirety by the local unit of government.

30 II. ***Nothing in this section shall prevent the court from transferring the collection***
 31 ***of fines to a centralized location. Any fines collected by the central location shall be***
 32 ***distributed as indicated in paragraph I. References to duties and responsibilities of clerks***
 33 ***contained in paragraph I shall be deemed to include the central fine collection center as***
 34 ***appropriate.***

35 6 Criminal Cases; District Courts. Amend RSA 502-A:11 to read as follows:

36 502-A:11 Criminal Cases, District Courts. Each district court shall have the powers of a justice
 37 of the peace and quorum throughout the state and shall have original jurisdiction, subject to appeal,

1 of all crimes and offenses committed within the confines of the district in which such court is located
 2 which are punishable by a fine not exceeding \$2,000 or imprisonment not exceeding one year, or
 3 both, including all violations of the provisions of RSA 266:16 and 266:25 pertaining to vehicles
 4 exceeding permitted size or weight, regardless of whether the defendant is a natural person or any
 5 other person[; provided, however, that any town which may vote to continue its municipal court in
 6 accordance with the provisions of RSA 502-A:35 shall have exclusive jurisdiction over offenses
 7 committed within the confines of that town, in accordance with the provisions of RSA 502:18, until
 8 such municipal court is subsequently abolished under the provisions of RSA 502-A:35].

9 7 Jury Trial. Amend RSA 502-A:15 to read as follows:

10 502-A:15 Jury Trial.

11 [H] In cases in which the damages claimed exceed \$1,500 or the title to real estate is
 12 involved, if the defendant, upon the entry of any action for damages under RSA 502-A:14, II or II-a,
 13 within 7 days of the return date of the action or within such additional time as the district court for
 14 good cause may allow, files a written request for trial by jury, the cause shall be at once transferred
 15 to the superior court [or to the regional jury trial district court, as provided in paragraph II,] for the
 16 county or judicial region in which the court is located, to be heard and tried as if originally entered in
 17 the transferee court. The original entry fee and cost of transferring the action shall be paid by the
 18 moving party but shall be recoverable as costs if the moving party prevails in the action. If, after
 19 transfer for trial by jury, the moving party waives the right to jury trial, the cause shall at once be
 20 remanded to the district court of original jurisdiction.

21 [~~II. The supreme court shall have the same authority to designate regional jury trial district~~
 22 ~~courts to hear and determine civil causes as under RSA 502-A:12 a. In any region so designated, the~~
 23 ~~case to be transferred shall be transferred to the regional jury trial district court and heard and tried~~
 24 ~~as if originally entered there. Questions of law may be appealed therefrom to the supreme court.]~~

25 8 District Court Fees. Amend RSA 502-A:28, I to read as follows:

26 I. Fees as established by the supreme court under RSA 490:26-a shall be paid to the clerk of
 27 each [district] **applicable circuit court established in RSA 490-F** for the benefit of the state.

28 9 Other Fees. Amend RSA 502-A:29 to read as follows:

29 502-A:29 Other Fees. For other certificates or papers which he *or she* is authorized to make or
 30 certify, the clerk of a [district] **circuit** court shall receive the same fees as a clerk of the superior
 31 court.

32 10 Probate Court Fees. Amend RSA 490:27, I to read as follows:

33 I. Probate court fees as established by the supreme court under RSA 490:26-a shall be paid
 34 to the [register] **clerk of the applicable circuit court established in RSA 490-F** for the benefit of
 35 the state.

36 11 Seal. RSA 547:1 is repealed and reenacted to read as follows:

1 547:1 Seal. The court of probate is a court of record for all purposes, and each probate court
2 shall be provided with a seal bearing upon its face the name of the court and the name of this state.

3 12 Transfer to Superior Court. RSA 547:11-d is repealed and reenacted to read as follows:

4 547:11-d Transfer to Superior Court. In cases where a right to jury trial is guaranteed by the
5 constitution or granted by statute, a plaintiff desiring a jury trial shall file the action in the superior
6 court, and filing the action in the probate court where there is concurrent jurisdiction shall
7 constitute a waiver of a jury trial by the plaintiff. If the defendant desires a jury trial, the defendant
8 shall indicate the request for a jury trial at the time of the defendant's initial pleading with the
9 court. Failure to timely request a jury trial shall constitute a waiver by the defendant thereof. If a
10 jury trial is requested by the defendant, the matter shall be transferred to the superior court.

11 13 New Sections; Dockets and Index; Records; Probate Court Entry Fees. Amend RSA 547 by
12 inserting after section 27 the following new sections:

13 547:27-a Docket and Index. The probate court shall keep a docket of all cases and matters, and
14 an index thereto which shall be open to public inspection at all reasonable times.

15 547:27-b Records.

16 I. The probate court shall appropriately retain all wills and their probate; all proceedings
17 with regard to real estate; all accounts settled, and all orders, decisions and appointments from
18 which an appeal may be claimed.

19 II. The probate court, subject to the approval of the supreme court, shall establish and
20 implement retention and destruction schedules for those original files, papers and records in cases
21 and matters disposed of by the court.

22 547:27-c Probate Court Entry Fees.

23 I. Entry fees as established by the supreme court under RSA 490:26-a shall be paid to the
24 clerk of each applicable circuit court established in RSA 490-F for the benefit of the state.

25 II. The clerk shall set aside 7 percent of each entry fee paid into the court for deposit into a
26 special escrow account established under RSA 490:26-c and 14 percent of each entry fee paid into the
27 court for deposit into the judicial branch information technology fund established under RSA 490:26-
28 h. The proceeds of fees for motions to appear in court pro hac vice shall be paid into the law library
29 revolving fund established in RSA 490:25, III.

30 14 Residence. Amend RSA 548:1 to read as follows:

31 548:1 Residence, etc. The register of probate shall dwell in the county in which the probate
32 records are required to be kept, ~~and shall be present at the probate office on all days when that~~
33 ~~office shall be required to be kept open or, in lieu of such presence, shall employ a competent clerk~~
34 ~~who shall dwell in said county and shall be present in the place of the register].~~ If a register shall
35 dwell in any other county and continue so dwelling for 30 consecutive days, the office shall be
36 deemed vacant.

37 15 Preservation of Files. RSA 548:5 is repealed and reenacted to read as follows:

1 548:5 Preservation of Files. The register of probate shall be responsible for coordinating with
2 the administrative judge of the circuit court established in RSA 490-F the preservation of any closed
3 files having the potential for historical significance. The register may recommend that these files be
4 given to any public historical society or corporation organized for the preservation of historical
5 documents, or be sent to the records center established under RSA 5.

6 16 Salaries. Amend RSA 548:17 to read as follows:

7 548:17 Salaries. The annual salaries of the registers of probate shall be established by the
8 supreme court in accordance with the compensation system established by the supreme court. [~~The~~
9 ~~register shall set the salary of the deputy register and all nonjudicial court support staff being~~
10 ~~directly supervised by the register consistent with the personnel procedures and compensation~~
11 ~~system established by the supreme court.~~]

12 17 Acting as Counsel. Amend RSA 548:24 to read as follows:

13 548:24 Counsel Acting As. [~~He~~] *The register* shall not act as counsel or advocate in any
14 proceeding in, or to be brought into, the *probate* court of which [~~he is~~] *the register was elected*, nor
15 receive any fee for such service.

16 18 Acting as Appraiser. Amend RSA 548:25 to read as follows:

17 548:25 Appraiser, or Commissioner, Acting As. [~~He~~] *The register* shall not be appointed nor act
18 as appraiser or commissioner on any estate under administration in the *probate* court of *the county*
19 *in which* [~~he is~~] *the register was elected*.

20 19 Publication of Notice in Newspaper or Electronic Media. RSA 550:10 is repealed and
21 reenacted to read as follows:

22 550:10 Publication of Notice in Newspaper or Electronic Media.

23 I. Notwithstanding any other provision of law, whenever notice is required to be published
24 by the probate court, the clerk of the applicable circuit court established in RSA 490-F shall cause
25 such notice to be published 2 weeks successively in a newspaper which circulates in the town or city
26 in which the person whose estate is involved last resided, or in the county whose court has
27 jurisdiction, or shall cause such notice to be made available to the public by electronic media for no
28 less than 2 weeks, or otherwise as ordered by the judge.

29 II. The clerk may select the newspaper or electronic media for publication, provided only
30 that it is a newspaper or electronic media in the English language, unless the judge shall otherwise
31 order. The clerk may publish a notice in a newspaper or electronic media in other than the English
32 language, provided that the same notice is published in the English language at the same time. If in
33 a newspaper, the first such publication shall be at least 2 weeks before the day or thing of which
34 notice is given and the second publication shall be at least 7 days before the day or thing of which
35 notice is given, unless otherwise ordered by the judge. If published by electronic media, such
36 publication shall commence no later than 2 weeks before the day or thing of which notice is given,
37 unless otherwise ordered by the judge.

1 III. The clerk may publish in one notice the necessary information pertaining to more than
2 one estate, provided, however, that each separate subject matter such as the appointment of a
3 fiduciary, a hearing on an account, a hearing on a license to sell real estate, or any other designated
4 subject matter shall have a specific designation within each such notice.

5 IV. Prior to such publication, the fiduciary of the estate concerned shall advance and pay to
6 the clerk the cost of such publication as determined by the clerk, and a fee to the clerk as established
7 by the supreme court under RSA 490:27. The fiduciary shall be allowed said sums so paid to the
8 clerk in the account.

9 20 New Section; Record of Decedent's Real Estate. Amend RSA 554 by inserting after section 14
10 the following new section:

11 554:14-a Record of Decedent's Real Estate. Whenever it appears from the inventory or any
12 other instrument pertaining to real estate filed with the court in connection with the administration
13 of any estate that the estate contains real estate located in another county within the state, the court
14 shall notify, within 15 days, the register of deeds of the county in which the real estate lies of the
15 name and date of death of the decedent. A register of deeds who receives such a notice shall record
16 in the grantor's index of the register's office the name of the decedent, the decedent's date of death,
17 and the county in which the estate is being probated. The cost for filing said notice shall be assigned
18 to the estate.

19 21 New Section; Notice to Fiduciaries. Amend RSA 554 by inserting after section 26 the
20 following new section:

21 554:26-a Notice to Fiduciaries.

22 I. A fiduciary appointed by the probate court shall file, as required by law, an inventory
23 within 90 days after the date of appointment, or an account of administration within one year after
24 the date of appointment. If a fiduciary fails to file an inventory within 30 days after the required
25 filing date, or an account of administration within 90 days after the required filing date, the
26 fiduciary is in default. The clerk of the applicable circuit court established in RSA 490-F shall give
27 notice of the default to the fiduciary by first class mail within 10 days after the default. In the case
28 of any inventory, account, annual report, statement of voluntary administration, or waiver of
29 administration affidavit, the fiduciary shall either file the inventory, account, annual report,
30 statement of voluntary administration, or waiver of administration affidavit, or show good cause for
31 the failure to file, within 30 days after notice of the default from the clerk. If the fiduciary fails to
32 file or to show good cause, the judge of probate shall issue a citation to the fiduciary to appear before
33 the judge pursuant to RSA 550:2. The fiduciary shall pay default and citation fees as established by
34 the supreme court under RSA 490:26-a to the clerk, pursuant to RSA 490:27. The requirements of
35 this section shall apply to fiduciaries previously appointed as the judges of probate may prescribe by
36 rules adopted pursuant to RSA 547:33.

1 II. The clerk shall contemporaneously with the issuance of any citation pursuant to
2 paragraph I and RSA 550:2 send a copy of such citation by first class mail to the following:

- 3 (a) Any surety for the fiduciary;
4 (b) Any person who has filed an appearance; and
5 (c) Any residuary beneficiary, and the director of charitable trusts in cases involving
6 charitable dispositions and trusts.

7 22 Name Change. Amend the following RSA provisions by replacing "register of probate" and
8 "register" with "clerk:" 5-C:32, 7:29, 21-J:14, 87:21, 87:22, 87:26, 135-C:38, 170-B:16 170-B:22, 171-
9 B:6, 401:1, 457:28-b, 464-A:12, 464-A:20, 464-A:26, 464-A:28, 464-A:33, 464-A:35, 464-A:36, 505:11,
10 553:25, 553:32, 554:1, 561:19, 564:4, 564:12, 568:30, 568:35, and 568:54.

11 23 Waiver in Lieu of Court Appearance; Default. Amend RSA 262:44 to read as follows:
12 262:44 Waiver in Lieu of Court Appearance; Default. Any person charged with a violation of the
13 provisions of title XXI on vehicles, excluding a violation of **RSA 263:1**, RSA 263:1-a, RSA 265:79,
14 RSA 265-A:2, RSA 265-A:3, RSA 265:115, RSA 265:117, a speeding offense under RSA 265:60 for
15 which the defendant must appear in court, and any offense which is a misdemeanor or felony, may
16 plead guilty, nolo contendere, or not guilty by mail in the following manner:

17 I. Such defendant shall receive, in addition to the summons, a uniform fine schedule entitled
18 "Notice of Fine, Division of Motor Vehicles" which shall contain the normal fines for violations of the
19 provisions of title XXI on vehicles for which a plea may be entered by mail. The defendant shall be
20 given a notice of fine indicating the amount of the fine plus penalty assessment at the time the
21 summons is issued; except if, for cause, the summoning authority wishes the defendant to appear
22 personally *at the bureau of hearings or, in those cases in which the offense is related to a*
23 *case outside the jurisdiction of the bureau, in court.* Defendants summoned to appear
24 personally shall do so on the ~~[arraignment]~~ date specified in the summons, unless otherwise ordered
25 by the court *or bureau based upon the designated location of the personal appearance.*
26 Defendants who are issued a summons and notice of fine and who wish to plead guilty or nolo
27 contendere shall enter their plea on the summons and return it with payment of the fine plus
28 penalty assessment to the director of the division of motor vehicles within 30 days of the date of the
29 summons. The director of the division of motor vehicles may accept payment of the fine by credit
30 card in lieu of cash payment. Any transaction costs assessed by the issuer of the credit card shall be
31 paid out of the portion of the fine amount which is credited as agency income and not out of the
32 penalty assessment ~~[charged by the district court]~~. The director of the division of motor vehicles
33 shall remit the penalty assessments collected to the police standards and training council for deposit
34 in the police standards and training council training fund and to the state treasurer to be credited
35 and continually appropriated to the victims' assistance fund and the judicial branch information
36 technology fund in the percentages and manner prescribed in RSA 188-F:31. Fines shall be paid

1 over to the state treasurer, and shall be credited as agency income by the department of safety
2 within 14 days of their receipt.

3 II. If the defendant wishes to enter a not guilty plea, he shall enter such plea on the
4 summons and return it to the division of motor vehicles within 30 days of the date of the summons.
5 The division shall transmit the plea to the [~~appropriate court and the court shall~~] **bureau of**
6 **hearings** to schedule a trial. *If the offense is related to a case outside the jurisdiction of the*
7 *bureau, the division shall transmit the plea to the appropriate court and the court shall*
8 *schedule a trial.* [~~Upon the conclusion of the trial, the court shall transmit the result of the trial to~~
9 ~~the division for division records.~~] *A hearings examiner shall conduct the trial according to the*
10 *Saf-C 200 rules. The commissioner of the department of safety shall adopt rules, pursuant*
11 *to RSA 541-A, relative to duties for the conduct of such trials.*

12 III.(a) Whenever a defendant:

13 (1) Does not enter a plea-by-mail with the director of the division of motor vehicles
14 within 30 days of the date of the summons or, if required to appear in court *or at the bureau*
15 personally, does not appear personally or by counsel at the court *or bureau* on or before the
16 required date or move for a continuance; or

17 (2) Fails to pay a fine or other penalty in connection with a conviction of a title XXI
18 offense or payment of such fine or other penalty is uncollectible or unacceptable pursuant to
19 RSA 6:11-a, the defendant shall be defaulted. In cases where the defendant has failed to enter a
20 plea-by-mail with the director, the director of designee shall determine what the fine would be upon
21 a plea of guilty or nolo contendere and shall impose an administrative processing fee in addition to
22 the fine and penalty assessment. In cases where the defendant has defaulted on a court obligation,
23 the court shall determine what the fine would be upon a plea of guilty or nolo contendere and shall
24 impose an administrative processing fee in addition to the fine and penalty assessment. In any case,
25 the defendant's driving privileges shall be suspended as provided in RSA 263:56-a.

26 (b) Whenever a defendant otherwise fails to appear for a scheduled *trial or other*
27 *hearing related to an offense within the jurisdiction of the department or a scheduled court*
28 *appearance in connection with a summons for any violation level offense* [~~for which a defendant may~~
29 ~~plea by mail~~], the court *or bureau* shall proceed to hear the state's evidence, by offer of proof or
30 otherwise, and enter a finding in accordance therewith. If a finding of guilty is made, the court *or*
31 *bureau* shall set the fine, and the clerk, *director, or designee* shall mail or deliver to the
32 defendant's last known address a notice of finding and imposition of fine form approved by the
33 administrative justice of the [~~district~~] *circuit* court, appointed under supreme court rule. Payment
34 in full shall be required within 30 days from the date of the notice. Any defendant who fails to make
35 the payment shall be subject to the provisions of RSA 262:44, III(a)(1)-(2). No finding made by the
36 court shall be set aside except for cause.

1 (c) In defaulted court cases for violations of title XXI, the court shall notify the director
2 of the division of motor vehicles of the defendant's default, and the amounts of the fine and other
3 penalties, on a form prescribed by the director or by electronic means. The amount of the
4 administrative processing fee shall be ~~[determined by the New Hampshire supreme court in~~
5 ~~accordance with the provisions of RSA 502-A:19-b, V]~~ **changed only by statute** and shall be
6 retained by the court for the benefit of the state in those cases in which the fee is assessed by the
7 court. In other cases, the fee shall be retained by the department of safety for the benefit of the
8 state.

9 IV. The court may, in its discretion, issue a bench warrant for the arrest of any defendant
10 who:

11 (a) Has defaulted as provided in RSA 262:44, III; or

12 (b) Fails to pay a fine or other penalty imposed in connection with a conviction of any
13 offense which a court has determined the defendant is able to pay, or payment of a fine or other
14 penalty is uncollectible or unacceptable, pursuant to RSA 6:11-a; or

15 (c) Fails to comply with a similar court order of the director or a court on any matter
16 within the director's or court's jurisdiction.

17 V. For cause, the court *or bureau* in its discretion may refuse to accept a plea by mail and
18 may impose a fine other than that prescribed by the uniform fine schedule. The court may order the
19 defendant to appear personally in court for the disposition of the case.

20 VI. The uniform fine schedule referred to in paragraph I shall be ~~[developed pursuant to~~
21 ~~RSA 502-A:19-b, V]~~ **changed only by statute**.

22 VII. The commissioner of the department of safety shall adopt rules, pursuant to RSA 541-A,
23 relative to the forms and procedures required for the division of motor vehicles and department of
24 safety to carry out their duties and responsibilities under this section.

25 VIII. The commissioner of the department of safety shall make an annual report to the
26 legislative fiscal committee on fines and fines in default, paid and unpaid, for each year beginning
27 with 1993.

28 24 New Section; Appeal. Amend RSA 262 by inserting after section 44 the following new
29 section:

30 262:44-a Appeal.

31 I. Any person aggrieved by a decision of the department under 262:44, after the
32 administrative trial or review, may appeal the decision as provided in this section.

33 II. After a guilty finding, a person shall have the right to file a petition in the circuit court in
34 the jurisdiction in which he or she was cited to review the final order by the director or the director's
35 authorized agent within 30 days of the date of the final order. Jurisdiction to hear such appeals is
36 vested in the circuit court.

1 III. At the earliest practical time, the court shall review the record as developed before the
2 director or authorized agent, together with any written legal argument presented to the court.
3 Based on that review, the court may affirm or reverse the decision of the director or agent or order
4 that oral argument be held. As justice may require, the court may remand the case to the director or
5 authorized agent for further findings or rulings. The petition for appeal shall set forth all the
6 grounds upon which the final order is sought to be overturned. Issues not raised by the appellant
7 before the director or agent shall not be raised before the circuit court. The burden of proof shall be
8 upon the appellant to show that the decision of the director or agent was clearly unreasonable or
9 unlawful, and all findings of the director or agent upon all questions of fact properly before him or
10 her shall be deemed to be prima facie lawful and reasonable. The order or decision appealed from
11 shall not be set aside or vacated except for errors of law, unless the court is satisfied, by a clear
12 preponderance of the evidence before it, that the order is unjust or unreasonable.

13 IV. No new or additional evidence shall be introduced in the circuit court, but the case shall
14 be determined upon the record and evidence transferred, except that in any case, if it shall be
15 necessary in order that no party shall be deprived of any constitutional right, or if the court shall be
16 of the opinion that justice requires the reception of evidence of facts which have occurred since the
17 hearing, or which by reason of accident, mistake, or misfortune could not have been offered before
18 the director or authorized agent, it shall remand the case to the director or authorized agent to
19 receive and consider such additional evidence.

20 25 New Subparagraph; Department of Safety; General Functions. Amend RSA 21-P:2, II by
21 inserting after subparagraph (i) the following new subparagraph:

22 (j) Conducting motor vehicle trials for non-must appear (plea by mail) motor vehicle
23 violations.

24 26 New Paragraph; Department of Safety; Bureau of Hearings. Amend RSA 21-P:13 by
25 inserting after paragraph II the following new paragraph:

26 III. The bureau of hearings shall conduct motor vehicle trials for non-must appear (plea by
27 mail) motor vehicle violations.

28 27 New Paragraph; Rulemaking; Commissioner of Safety. Amend RSA 21-P:14 by inserting
29 after paragraph IX the following new paragraph:

30 X. The commissioner of safety shall adopt rules, pursuant to RSA 541-a, for conducting
31 motor vehicle trials for non-must appear (plea by mail) motor vehicle violations. Such trails may be
32 conducted based on hearsay evidence and by video teleconference. The burden of proof shall be by
33 the preponderance of the evidence.

34 28 Suspension for Nonpayment of Fines. Amend RSA 263:56-a to read as follows:

35 263:56-a Suspension or Revocation for Default, Noncompliance, or Nonpayment of Fine.

36 I. Whenever any defendant:

1 (a) Defaults on an arraignment or other scheduled court appearance in connection with a
2 charge or conviction of any offense, or

3 (b) Fails to pay a fine or other penalty imposed in connection with a conviction of any
4 offense which a court *or the bureau of hearings* has determined he is able to pay, or issues a bad
5 check in payment of a fine or other penalty; or

6 (c) Fails to comply with a similar order of the director or a court *or the bureau of*
7 *hearings* on any matter within the director's or court's *or bureau's* jurisdiction, his driver's license
8 or resident or nonresident driving privilege and in any motor vehicle case or related case the resident
9 plates and motor vehicle registration shall be suspended or revoked only upon written consent of the
10 director, effective 30 days after such default or failure, except as provided in subparagraph I(d) of
11 this section.

12 (d) If a defendant receives a summons in hand from a law enforcement officer, no further
13 notification to such defendant is required before the suspension of his driving privileges occurs as
14 provided in subparagraph I(c). If a defendant receives a summons in any manner other than in hand
15 by a law enforcement officer, the court or director, as applicable, shall notify such defendant by
16 certified mail at his last known address that his driving privileges shall be suspended 30 days after
17 the mailing of such notification.

18 (e) Is a sexual offender as defined in RSA 651-B:1, IV or an offender against children as
19 defined in RSA 651-B:1, VI, and fails to comply with the registration requirements under RSA 651-B,
20 and where the failure to comply persists for more than 30 days, the offender's driver's license or
21 resident or nonresident driving privileges shall be suspended or revoked by the director under this
22 section, provided, that the department shall first attempt to notify the offender in person, or by first
23 class mail, return receipt requested, sent to the offender's last known address, that he or she is in
24 violation of the registration requirements and that his or her driving privileges will be suspended or
25 revoked if he or she fails to comply with the registration requirements within 15 days of the
26 department's attempted notice of noncompliance.

27 I-a. The department shall cause written notice to be sent to any driver licensed by or person
28 whose vehicle is registered by the state of New Hampshire who defaults as otherwise provided in
29 this section on an appearance, summons, or court order issued in this state. Any person who
30 defaults as provided in subparagraph I(c) shall be required to produce proof of satisfaction of the
31 default either in hand or through the court to the department.

32 II.(a) If such defendant fails to appear, pay the fine or comply with an order within the
33 applicable period, as provided in subparagraph I(c) or (d) of this section, or fails to demonstrate that
34 the defendant is financially unable to pay the fine or to comply with the order within the applicable
35 period, the director shall suspend such defendant's driver's license or resident or nonresident driving
36 privilege effective from the applicable date for an indefinite period and mark the defendant's files
37 accordingly.

1 (b) The director shall purge the record of violations in default, related suspensions, and
 2 all fees and fines assessed against these defaults and suspensions under this section that have been
 3 on file for more than 7 years; provided, however, that the director shall not purge such records for a
 4 violation of RSA 265:79, RSA 265-A:2, I, RSA 265-A:3, RSA 265:115, RSA 265:117, and any offense
 5 which is a misdemeanor or felony during the defendant's lifetime until the defendant's driver's
 6 license or driving privilege is reinstated. All courts shall notify the director of any such failure on a
 7 form prescribed by the director.

8 (c) The director shall report the names of all persons whose driver's licenses and driving
 9 privileges are suspended under this section to the National Driver Register administered by the
 10 National Highway Traffic Safety Administration.

11 (d) The director may report the names of all persons whose driver's licenses and driving
 12 privileges are suspended under this section, due to nonpayment, to a consumer reporting agency as
 13 defined in RSA 359-B:3.

14 III. Except as provided in paragraph IV, the license or driving privilege of any defendant
 15 whose license or privilege has been suspended pursuant to paragraph II shall be reinstated upon:

16 (a) Payment to the director of a fee of \$100, which shall be in lieu of any other
 17 reinstatement fee and shall be deposited into the highway fund pursuant to RSA 260:23 and RSA
 18 6:12, I(b)(5), provided, however, that in the event of a license suspension under RSA 263:14, a fee of
 19 \$50 shall be paid to the director in lieu of the reinstatement fee under RSA 263:42, V and shall be
 20 deposited into the highway fund pursuant to RSA 260:23 and RSA 6:12, I(b)(5); and

21 (b) Appearance by such defendant, payment of his fine, or compliance with the order of
 22 the director *or bureau of hearings*, as applicable, or upon demonstration that such defendant is
 23 financially unable to pay the fine or to comply with the order. Any court *or the bureau* which has
 24 ordered a suspension or revocation pursuant to paragraph II shall vacate the order and so notify the
 25 director and the affected defendant immediately after such defendant has appeared or paid his fine,
 26 as applicable, or has demonstrated that he is financially unable to pay the fine or to comply with the
 27 order.

28 IV. No license or driving privilege or plates suspended or revoked under this section shall be
 29 reinstated before the expiration of any other period of suspension or revocation in effect.

30 V. Nothing shall prevent any person affected by this section from obtaining a prompt review
 31 or hearing, upon showing just cause, before either the court or director *or the bureau of hearings*
 32 for appropriate relief.

33 VI. The provisions of this section shall be the primary sanction for defendants who fail to
 34 appear, pay a fine, or other penalty or comply with an order of the director or a court *or the bureau*
 35 *of hearings*, but shall not exclude other provisions of law relative to sanctions for defendants who
 36 fail to appear, pay a fine, or other penalty or comply with an order of the director or a court *or the*
 37 *bureau*.

1 VII: Notwithstanding any other provision of law, upon application, the commissioner may,
 2 as justice may require, waive the driver's license suspension of any New Hampshire resident whose
 3 license or driving privileges have been suspended in this state or another state for a default on a
 4 non-drug or alcohol-related offense, where the default is more than 5 years old. This paragraph shall
 5 not apply to offenses which are misdemeanors or felonies.

6 29 Suspension by Justice for Cause. Amend RSA 263:57 to read as follows:

7 263:57 Suspension by Justice for Cause.

8 I. Any justice of a district or municipal court or of the superior court *or the bureau of*
 9 *hearings* may suspend any license issued to any person, for a period not to exceed 30 days, after a
 10 conviction of an offense under the provisions of this title, after due hearing, for any cause which he
 11 may deem sufficient.

12 II. The court *or the bureau of hearings* may also suspend any license issued to any person
 13 under the circumstances prescribed in, and in accordance with, RSA 634:2, VII.

14 30 Records; Reports. Amend RSA 263:60 to read as follows:

15 263:60 Records; Reports. A full record shall be kept by every court or justice *or the bureau or*
 16 *hearings examiner* in this state of every case in which a person is charged with a violation of any
 17 of the provisions of any law relative to motor vehicles, and an abstract of the record in cases of
 18 conviction shall be sent within 7 days by the court or justice *or the bureau or hearings examiner*
 19 to the department. Said abstracts shall be made upon forms prepared under authority of the
 20 director and shall include all necessary information as to the parties to the case, the nature and date
 21 of the offense, the date of the hearing, the plea and the judgment, and shall be certified by the clerk
 22 of the court or by the justice *or the bureau or hearings examiner*. The department shall keep
 23 such records in its office, and they shall be open to the inspection of any person.

24 31 Flagrant Cases. Amend RSA 263:61 to read as follows:

25 263:61 Flagrant Cases. Every court or justice *or hearings examiner* in this state shall
 26 furnish to the director the details of any particularly flagrant cases which may be heard before said
 27 court or justice *or hearings examiner*, upon said court or justice's *or hearing examiner's* own
 28 initiative, or upon the request of the director or his agents. Said court or justice *or hearings*
 29 *examiner* may make such recommendations as to the suspension or revocation of the licenses and
 30 certificates of registration of the defendants in such cases as the court or justice *or hearings*
 31 *examiner* shall determine.

32 32 Reference Change. Amend RSA 31:39-d, IV to read as follows:

33 IV. Civil penalties collected by the district court under this section shall be remitted to the
 34 municipality issuing the citation. Whenever a defendant (a) does not enter a plea by mail prior to the
 35 arraignment day and does not appear personally or by counsel on or before that date or move for a
 36 continuance; or (b) otherwise fails to appear for a scheduled court appearance in connection with a
 37 summons for any offense, the defendant shall be defaulted and the court shall determine what the civil

1 penalty would be upon a plea of guilty or nolo contendere and shall impose an administrative processing
2 fee in addition to the civil penalty. Such fee shall be the same as the administrative processing fee
3 under RSA ~~[502-A:19-b]~~ 262:44, and shall be retained by the court for the benefit of the state.

4 33 Reference Change. Amend RSA 149-M:17, II(b) to read as follows:

5 (b) Notwithstanding RSA 31:39, III, towns are authorized to levy civil penalties up to
6 \$3,000 for each act which violates the bylaws enacted pursuant to this paragraph. For violations for
7 which any penalty provided in the bylaws is \$500 or less, the official designated in the bylaws as the
8 enforcement authority may issue a summons and notice of fine as provided in RSA ~~[502-A:19-b]~~
9 262:44, except that a copy of the fines for violations of the local bylaws shall be substituted for the
10 uniform fine schedule. Defendants who are issued such summons and notice of fine may plead guilty
11 or nolo contendere by mail by entering a plea as provided in RSA ~~[502-A:19-b]~~ 262:44. If the plea is
12 accepted by the court, the defendant shall not be required to appear unless directed by the court.

13 34 Reference Deleted. Amend RSA 151-A:15, I to read as follows:

14 I. If within 180 days after the date of a testate or intestate patient's death in any nursing
15 home no petition for probate has been filed under any section of RSA 553 and the gross value of the
16 personal property remaining at the nursing home belonging to the deceased, including any amount
17 left in a patient account, is no more than \$2,500, the nursing home administrator shall file in the
18 probate court in the county where the nursing home is located an affidavit for the purpose of
19 disposing of such deceased patient's estate. The form of the affidavit, and the rules governing
20 proceedings under this section, shall be provided by the probate court pursuant to RSA 547:33 ~~and~~
21 ~~RSA 548:8~~. The nursing home administrator shall not file a death certificate with the probate court,
22 but shall attest to the death in the affidavit. If the nursing home patient died testate and if the
23 nursing home administrator has the will or a copy of the will, the nursing home administrator shall
24 file the same in the probate court in the county where the nursing home is located. The probate
25 court shall waive all filing fees.

26 35 Reference Change. Amend RSA 206:34, III to read as follows:

27 III. Any person charged with a violation of any provision of RSA title XVIII, excluding any
28 offense for which the penalty is a misdemeanor or felony, may plead guilty or nolo contendere by
29 mail by entering a plea as provided in RSA ~~[502-A:19-b]~~ 262:44. If the plea is accepted by the court,
30 the defendant shall not be required to appear as directed by the court.

31 36 Reference Change. Amend RSA 227-G:5-a, I and II to read as follows:

32 I. The commissioner shall recommend a uniform fine schedule for any forestry law violation,
33 which shall be submitted to the supreme court for its use under RSA ~~[502-A:19-b, V]~~ 262:44.

34 II. Any person charged with a violation of any provision of title XIX-A, excluding any offense
35 for which the penalty is a misdemeanor or felony, may plead guilty or nolo contendere by mail by
36 entering a plea as provided in RSA ~~[502-A:19-b]~~ 262:44. If the plea is accepted by the court, the
37 defendant shall not be required to appear.

1 37 Reference Change. Amend RSA 231:132-a, IV to read as follows:

2 IV. If the administrative enforcement system established under paragraph II is unsuccessful
3 at resolving alleged parking violations, or in the case of municipalities which have not established
4 such a system, a summons may be issued as in the case of other violations of RSA title XXI, including
5 the use of the procedure for plea by mail set forth in RSA ~~[502-A:19-b]~~ 262:44. Notwithstanding any
6 other provision of law, a complaint and summons for a parking offense may be served upon the
7 defendant by postpaid certified mail, return receipt requested. Return receipt showing that the
8 defendant has received the complaint and summons shall constitute an essential part of the service.
9 If service cannot be effected by certified mail, then the court may direct that service on the defendant
10 be completed as in other violation complaints.

11 38 Reference Change. Amend RSA 262:45, I(a) to read as follows:

12 (a) Periodically review the fines for motor vehicle violations established pursuant to
13 RSA ~~[502-A:19-b, V]~~ 262:44, considering the appropriateness of the fine amounts and the advisability
14 of raising or lowering the fine amounts.

15 39 Reference Change. Amend RSA 270:11, I(d) to read as follows:

16 (d) A recommended uniform fine schedule for any boating violations, which shall be
17 submitted to the supreme court for their use under RSA ~~[502-A:19-b, V]~~ 262:44.

18 40 Reference Change. Amend RSA 270:11-a to read as follows:

19 270:11-a Waiver in Lieu of Court Appearance. Any person charged with a violation of the
20 provisions of RSA 270; RSA 270-A; or RSA 270-E on boats, floats, and rafts, excluding any offense for
21 which the penalty is a misdemeanor or felony, may plead guilty or nolo contendere by mail by
22 entering a plea as provided in RSA ~~[502-A:19-b]~~ 262:44. If the plea is accepted by the court, the
23 defendant shall not be required to appear as directed by the court.

24 41 Reference Change. Amend the introductory paragraph of RSA 464-A:35, I to read as follows:

25 I. A guardian of the person shall file an annual report with the court within 90 days after
26 the anniversary date of the guardian's appointment, or be in default. The register of probate shall
27 give notice of the default to the guardian by first class mail within 10 days after the default. The
28 register of probate shall issue a citation notice in accordance with RSA ~~[548:5-a]~~ 554:26-a. The
29 report shall contain a brief summary of the present status of the ward including, but not limited to:

30 42 Reference Change. Amend RSA 464-A:36, I to read as follows:

31 I. Subject to the provisions of RSA 464-A:26, V, a guardian of the estate shall file an annual
32 account under oath with the court within 90 days after the anniversary date of the guardian's
33 appointment, or be in default. The register of probate shall give notice of the default to the guardian
34 by first class mail within 10 days after the default. The register of probate shall issue a citation
35 notice in accordance with RSA ~~[548:5-a]~~ 554:26-a.

36 43 Reference Change. Amend RSA 490:25, III to read as follows:

1 III. Receive and accept at any time funds from the sale or exchange of books, pamphlets,
2 maps, manuscripts, and other related material, or from the sale of data base services, barcodes,
3 cataloging records, magnetic tapes, laser discs, video tapes, or related or similar material, or from
4 fees and fines as established by the law library and approved by the supreme court. Any funds
5 accruing to the law library from such sources and as provided under RSA 490:24, I; RSA 490-D:12, II;
6 RSA 499:18, II; RSA 502-A:28, II; and RSA [548:23-a, II] 547:27-c, II shall be paid into the state
7 treasury and held in a continually appropriated fund which shall not lapse for the use of the law
8 library upon approval by the supreme court;

9 44 Reference Change. Amend RSA 491-A:1 to read as follows:

10 491-A:1 Salaries Established. The salaries for the positions set forth below shall be as follows:

| | |
|--|-----------|
| 11 Chief justice, supreme court | \$151,477 |
| 12 Associate justices, supreme court | \$146,917 |
| 13 Chief justice, superior court and administrative judges | |
| 14 appointed pursuant to supreme court rule 54 | \$146,917 |
| 15 Associate justices, superior court | \$137,804 |
| 16 District court justices prohibited from practice | |
| 17 pursuant to RSA [521-A:21] 490-F:9 | \$137,804 |
| 18 Probate judges prohibited from practice | |
| 19 pursuant to RSA [547:2-a] 490-F:4 | \$137,804 |

20 45 Reference Change. Amend RSA 553:32, I to read as follows:

21 I. Notwithstanding any provision of law, whenever a deceased dies testate and the surviving
22 spouse or, if no spouse, an only child is named in the will as the sole beneficiary of the deceased's
23 estate and is appointed to serve as administrator; or whenever a deceased dies intestate and the
24 surviving spouse or, if no spouse, an only child is the sole heir of the deceased's estate and is
25 appointed to serve as administrator, there shall be no requirement for an inventory of the estate, no
26 requirement for a bond, and no requirement for an accounting for assets. Administration of the
27 estate shall be completed upon the administrator's filing, and the probate court's approval of an
28 affidavit of administration. Such filing shall occur not less than 6 months nor more than one year
29 after the date of appointment of the administrator. The affidavit of administration shall state that to
30 the best of the knowledge and belief of the administrator there are no outstanding debts or
31 obligations attributable to the deceased's estate and shall list all real estate owned by the decedent
32 at the time of death, including the location, book, and page. If the administrator fails to file the
33 affidavit of administration within the time prescribed above, the administrator is in default. The
34 register of probate shall give notice of the default to the administrator by first class mail within 10
35 days after the default. The register of probate shall issue a citation notice in accordance with
36 RSA [548:5-a] 554:26-a.

37 46 Reference Change. Amend RSA 554:1 to read as follows:

1 554:1 Inventory. Every administrator shall file under oath, with the court, within 90 days after
 2 the date of appointment, a full, true and itemized inventory of all the estate of the deceased which
 3 has come to the administrator's knowledge. If an administrator fails to file an inventory within 30
 4 days after the required filing date, the administrator is in default. The register of probate shall give
 5 notice of the default to the administrator by first class mail within 10 days after the default. The
 6 register of probate shall issue a citation notice in accordance with RSA [548:5-a] 554:26-a. The
 7 inventory shall contain a description of the real estate; a correct schedule of all goods, chattels,
 8 stocks, bonds, cemetery plots or burial spaces, and other effects of the deceased; of all notes, with
 9 their dates and terms of payment, and the date and amount of each endorsement thereon; of all
 10 deposits in savings banks, with the name and location of each bank, the number of each book, the
 11 date of the last dividend, and the whole amount then due thereon less any withdrawals since that
 12 date; and a list and description of any other written evidences of debt. If any person claims a present
 13 legal or equitable right of title to real or personal property in the estate of the deceased, the
 14 administrator may petition the probate court pursuant to RSA 547:11-b to determine the question as
 15 between the parties.

16 47 Reference Change. Amend RSA 599:1 to read as follows:

17 599:1 Appeals. A person convicted by a district court of a class A misdemeanor, at the time the
 18 sentence is declared, may appeal therefrom to obtain a de novo jury trial in the superior court, which
 19 shall hear the appeal ~~[except in cases in district courts served by regional jury trial courts as~~
 20 ~~provided in RSA 502-A:12-a]~~. The appeal shall be entered by the defendant at the next return day
 21 unless for good cause shown the time is extended by the superior court. If, after a jury trial in the
 22 superior court, the defendant is found guilty, the superior court shall sentence the defendant, and
 23 the defendant may appeal questions of law arising therefrom to the supreme court. In the event the
 24 defendant waives the right to jury trial after the case has been appealed, the superior court shall
 25 forthwith remand the case to the district court for imposition of the sentence originally imposed by
 26 the district court, and the defendant may appeal questions of law arising therefrom to the supreme
 27 court. In all misdemeanor cases which are appealed to superior court or in which defendants are
 28 bound over it shall be the duty of the superior court to transmit to the justice of the district court,
 29 within 10 days after the case is finally disposed of, a certificate showing the final disposition of the
 30 case.

31 48 Reference Change. Amend RSA 676:17-b to read as follows:

32 IV. Civil penalties collected by the district court under this section shall be remitted to the
 33 municipality issuing the citation. Whenever a defendant (a) does not enter a plea by mail prior to
 34 the arraignment day or does not appear personally or by counsel on or before that date or move for a
 35 continuance; or (b) otherwise fails to appear for a scheduled court appearance in connection with a
 36 summons for any offense, the defendant shall be defaulted and the court shall determine what the
 37 civil penalty would be upon a plea of guilty or nolo contendere and shall impose an administrative

1 processing fee in addition to the civil penalty. Such fee shall be the same as the administrative
2 processing fee under RSA ~~[502-A:19-b]~~ 262:44, and shall be retained by the court for the benefit of
3 the state.

4 49 Repeal. The following are repealed:

5 I. RSA 490-D:6, relative to judges and marital masters.

6 II. RSA 490-D:10, relative to referees.

7 III. RSA 490-D:11, relative to staff.

8 IV. RSA 490-D:12, I, relative to judicial branch family division clerks.

9 V. RSA 490-D:13, relative to alternative dispute resolution.

10 VI. RSA 490-D:15, relative to marital master's expenses.

11 VII. RSA 502-A:1-a, relative to additional district courts.

12 VIII. RSA 502-A:3, relative to appointment and tenure of district court justices.

13 IX. RSA 502-A:3-a, relative to associate justices of Manchester, Nashua, and Concord

14 District Courts.

15 X. RSA 502-A:3-b, relative to tenure of district court justices following consolidation.

16 XI. RSA 502-A:3-c, relative to elimination of special justices unless need certified.

17 XII. RSA 502-A:5, relative to powers of other justices.

18 XIII. RSA 502-A:5-a, relative to assignment of judges.

19 XIV. RSA 502-A:6, III, relative to salaries of clerks.

20 XV. RSA 502-A:6, V, relative to salaries of deputy clerks.

21 XVI. RSA 502-A:7, relative to district court clerks.

22 XVII. RSA 502-A:7-a, relative to deputy clerk of the Nashua District Court.

23 XVIII. RSA 502-A:7-b, relative to deputy clerks.

24 XIX. RSA 502-A:8-a, relative to assignment of juvenile intake officers.

25 XX. RSA 502-A:8-b, relative to duties of juvenile intake officers.

26 XXI. RSA 502-A:12-a, relative to regional jury trials.

27 XXII. RSA 502-A:19-b, relative to procedure for pleas by mail

28 XVIII. RSA 502-A:20, relative to courts of record.

29 XXIV. RSA 502-A:21, relative to disqualification of justices.

30 XXV. RSA 502-A:21-a, relative to full-time district court justices.

31 XXVI. RSA 502-A:32, relative to existing procedure applicable.

32 XXVII. RSA 502-A:34, relative to functions of municipal courts vested in district court.

33 XXVIII. RSA 502-A:35, relative to an exception to the abolition of municipal courts.

34 XXIX. RSA 502-A:36, relative to the transfer of pending actions.

35 XXX. RSA 547:11-e, relative to failure to prosecute appeal.

36 XXXI. RSA 547:27, relative to if the register is not present.

37 XXXII. RSA 547:38, relative to assignment of judges.

- 1 XXXIII. RSA 548:2, relative to office hours.
- 2 XXXIV. RSA 548:3, relative to the seal.
- 3 XXXV. RSA 548:4, relative to docket and index.
- 4 XXXVI. RSA 548:4-a, relative to scheduling.
- 5 XXXVII. RSA 548:5-a, relative to notice to fiduciaries.
- 6 XXXVIII. RSA 548:6, relative to destruction of records.
- 7 XXXIX. RSA 548:7-a, relative to the record of decedent's real estate.
- 8 XL. RSA 548:8, relative to blanks and stationery.
- 9 XLI. RSA 548:9, relative to inventory blanks.
- 10 XLII. RSA 548:14, relative to deputy registers.
- 11 XLIII. RSA 548:14-a, relative to additional deputy registers.
- 12 XLIV. RSA 548:16, relative to the disability of the register.
- 13 XLV. RSA 548:23, relative to receipts.
- 14 XLVI. RSA 548:23-a, relative to probate court entry fees.
- 15 50 Effective Date. This act shall take effect July 1, 2011.

LBAO
11-0574
01/21/11

HB 609-FN - FISCAL NOTE

AN ACT establishing the New Hampshire circuit court to replace the current probate courts, district courts, and judicial branch family division.

FISCAL IMPACT:

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill at this time. When completed, the fiscal note will be forwarded to the House Clerk's Office.

Amendments

Rep. Wall, Straf. 7
March 8, 2011
2011-0707h
09/04

Draft Amendment to HB 609-FN

1 Amend RSA 548:5 as inserted by section 14 of the bill by replacing it with the following:

2

3 548:5 Preservation of Files. The register of probate shall be responsible for coordinating with
4 the administrative judge of the circuit court established in RSA 490-F the preservation of any closed
5 files having the potential for historical significance. The register may recommend that these files be
6 sent to the records center established under RSA 5. The register of probate shall maintain a current
7 index describing the location of any files which have been removed from the court pursuant to this
8 section.

Rep. Sorg, Graf. 3
Rep. Weber, Ches. 2
Rep. Rowe, Hills. 6
Rep. Giuda, Merr. 7
Rep. Wall, Straf. 7
March 9, 2011
2011-0739h
09/01

Amendment to HB 609-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Chapter; Circuit Court. Amend RSA by inserting after chapter 490-E the following new
4 chapter:

5

CHAPTER 490-F

6

CIRCUIT COURT

7 490-F:1 Purpose. The general court hereby organizes, constitutes, and establishes the
8 New Hampshire circuit court. The goals of the circuit court are the respectful treatment of all
9 individuals, the prompt and fair resolution of all issues within its jurisdiction, the use of alternative
10 dispute resolution to reduce the adversarial nature of proceedings, the effective use of technology
11 and the assignment of judicial and nonjudicial staff specially selected for their commitment to these
12 goals.

13 490-F:2 Circuit Court; General. The circuit court shall be a court of record with statewide
14 jurisdiction. Each circuit court location shall have the authority to hear all cases within the subject
15 matter jurisdiction of the circuit court. Subject to part 1, article 17 of the New Hampshire
16 constitution, nothing in this chapter shall prohibit the reassignment of cases within the circuit court
17 as justice or efficiency require in the discretion of the administrative judge of the circuit court.

18 490-F:3 Circuit Court Divisions. The circuit court shall consist of 3 divisions: a probate
19 division, a district division, and a family division. The circuit court shall have the jurisdiction,
20 powers, and duties conferred upon the former probate and district courts and upon the former
21 judicial branch family division by RSA 547, RSA 502-A, and RSA 490-D.

22 490-F:4 Circuit Court Locations. The judicial districts for the district and family divisions shall
23 be as set forth in RSA 502-A:1 and RSA 490-D:4, respectively, and each county shall be a judicial
24 district for the probate division. The supreme court may, from time to time, establish other locations
25 for each of the divisions. The probate court records shall be maintained at the circuit court site at
26 each county seat. The circuit courts shall be as follows:

27

I. Coos county first circuit

28

II. Grafton county second circuit

29

III. Carroll county third circuit

Amendment to HB 609-FN

- Page 2 -

| | | |
|---|-------------------------|-----------------|
| 1 | IV. Belknap county | fourth circuit |
| 2 | V. Sullivan county | fifth circuit |
| 3 | VI. Merrimack county | sixth circuit |
| 4 | VII. Strafford county | seventh circuit |
| 5 | VIII. Cheshire county | eighth circuit |
| 6 | IX. Hillsborough county | ninth circuit |
| 7 | X. Rockingham county | tenth circuit |

8 490-F:5 Circuit Court Judges and Masters; Appointment; Tenure.

9 I. On the effective date of this chapter, the circuit court shall consist of those justices and
10 masters previously appointed and commissioned by the governor and council as prescribed by the
11 constitution and the laws of the state of New Hampshire. The tenure of office of persons serving as
12 justices or special justices of the district and probate courts or marital masters in the judicial branch
13 family division and superior court shall not be affected hereby, and they shall continue in office as
14 judges or masters respectively of the circuit court.

15 II. Judicial and master appointments to fill vacancies which exist on the effective date of
16 this chapter in the former probate and district courts and in the former judicial branch family
17 division shall be to the New Hampshire circuit court. No judicial officer appointed to the circuit
18 court shall be appointed to a particular location; however, the assignment of a circuit court judge to a
19 particular location shall be within the discretion of the administrative judge of the circuit court who
20 shall take into account the weighted caseload and judicial need of that location.

21 490-F:6 Circuit Court Judges and Masters; Assignment; Certification.

22 I. Circuit court judges and masters shall be assigned to one or more circuits or locations in
23 the discretion of the administrative judge of the circuit court after considering population, judicial
24 time and efficiency, available judicial resources, and the needs of the public.

25 II. The assignment of a circuit court judge to a division within the circuit court shall be
26 based upon the judge's knowledge of, commitment to, and expertise in the subject matter of the
27 division.

28 III. For purposes of part 2, articles 80 and 81 of the New Hampshire constitution, a judge of
29 probate shall be any circuit court judge assigned to the probate division.

30 IV. Judges and marital masters appointed prior to the effective date of this chapter shall be
31 initially assigned within the circuit court as follows:

32 (a) Judges of the former probate court shall be initially assigned to the probate division
33 of the circuit court;

34 (b) Judges of the former district court shall be initially assigned to the district division of
35 the circuit court;

36 (c) Judges certified in the former judicial branch family division shall be initially
37 assigned to the division that corresponds with their initial appointment and to the family division of

1 the circuit court; and

2 (d) Masters appointed to the former judicial branch family division or superior court
3 shall be permanently assigned to the family division of the circuit court.

4 V. The assignment of a circuit court judge to a division following initial assignment shall be
5 within the discretion of the administrative judge; provided, however, the circuit court judge shall be
6 certified by the supreme court to hear cases coming within the newly assigned division prior to such
7 assignment. A judge initially assigned to a division within the circuit court pursuant to paragraph I
8 shall be deemed certified in the division of initial assignment.

9 VI. Thereafter, judges appointed to the circuit court shall be assigned to a division at the
10 discretion of the administrative judge subject to the following considerations:

11 (a) The knowledge, commitment to, and expertise of the judge in the subject matter of
12 the particular division to which the judge is to be assigned;

13 (b) The division in which the judicial vacancy resulting in the new appointment exists,
14 and

15 (c) The judicial needs of a particular circuit court location as determined by the
16 administrative judge.

17 VII. Judges may be certified in all divisions of the circuit court pursuant to rules adopted by
18 the supreme court.

19 VIII. Nothing in this section shall prohibit the administrative judge from assigning judges to
20 a division as justice and efficiency require.

21 IX. The judges and masters shall be entitled to receive their actual personal expenses when
22 absent from their assigned court in the performance of their official duties. The judges and masters
23 shall not be reimbursed for mileage to commute from the judge's residence to his or her assigned
24 court except for any mileage in excess of 50 miles each way.

25 490-F:7 Circuit Court Judges; Number.

26 I. Except as provided in paragraph II, the number of judges and masters in the circuit court
27 shall not be less than the number of authorized judicial and master positions in the former district
28 court, probate court, and judicial branch family division, as well as any superior court judicial officer
29 or marital master equivalent not yet transferred to the former judicial branch family division on the
30 effective date of this chapter but necessary to complete the family division implementation as set
31 forth in RSA 490-D.

32 II. Upon the retirement, resignation, disability, or removal of a part-time justice or special
33 justice of the former probate or district courts, the position shall be eliminated, unless within 30 days
34 of such retirement, resignation, disability, or removal the supreme court certifies in writing to the
35 governor that due to population, caseload, and available judicial resources, the position needs to be
36 continued in the circuit court.

37 III. Upon the completion of the current term of a marital master, the position shall be

1 converted to a full-time judicial position, provided that the fiscal committee of the general court
2 approves and further provided that sufficient funds have been appropriated for the salary and
3 benefits of the full-time judicial position. Once converted to a full-time judicial vacancy, the governor
4 may nominate and the council may confirm any qualified person pursuant to part 2, article 46 of the
5 New Hampshire constitution.

6 IV. The supreme court, after reviewing population, caseload, judicial time, and efficiency,
7 available judicial resources, the needs of the circuit court, and other relevant criteria may request
8 the governor and council to designate a sitting part-time judge as a full-time judge. The court may
9 recommend certain judges; however, the governor and council shall not be bound by that
10 recommendation. Upon designation, that judge shall become full-time. Prior to making its request,
11 the supreme court shall receive the approval of the fiscal committee of the general court and there
12 shall be funds in the court's budget specifically appropriated for the salary and benefits of an
13 additional full-time circuit court judge.

14 490-F:8 Circuit Court Judges; Retired Judges.

15 I. Nothing in this chapter shall limit the ability of retired judges under 70 years of age of the
16 former district and probate courts or of the circuit court to elect senior active status or of such retired
17 judges 70 years of age and older to serve as judicial referees pursuant to RSA 493-A.

18 II. Judges who have elected senior active status, are eligible to elect senior active status, or
19 are eligible to serve as a judicial referee on the effective date of this chapter shall maintain such
20 eligibility.

21 III. The assignment and certification provisions of this chapter shall apply to senior active
22 judges and retired judges acting as judicial referees.

23 490-F:9 Disqualifications of Judges. No judge or clerk of the circuit court shall be retained or
24 employed as an attorney in any action, complaint, or proceeding pending in a division of the circuit
25 court or circuit court site in which that judge or clerk has been certified or assigned. No attorney
26 shall be permitted to practice before any division of the circuit court where any justice, associate
27 justice, or special justice is associated with such attorney in the practice of law.

28 490-F:10 Full-Time Circuit Court Judges. A circuit court judge designated to be full-time under
29 RSA 490-F:7, IV shall not be permitted to engage in the practice of law to any degree. Full-time
30 judges shall receive the salary specified in RSA 491-A:1.

31 490-F:11 Judicial Branch Budget Request. For the purpose of calculating the biennial budget
32 request and judicial salaries as well as the number of judicial positions required in the circuit court,
33 the supreme court shall establish and revise as needed a weighted case value, relating the judicial
34 time required for each type of case included in the court's jurisdiction, which when multiplied by the
35 caseload of each court will produce the number of weighted case units for that court. Any revisions
36 to the weighted case values shall be approved by the fiscal committee of the general court. The
37 number of weighted case units shall be calculated by the administrative office of the courts in

Amendment to HB 609-FN

- Page 5 -

1 October of each year, using caseload statistics for the preceding 12-month period. Said weighted
2 case units shall serve as the basis for determining the salary of part-time judges for the next
3 calendar year.

4 490-F:12 Part-Time Judges; Salary Calculation. The salary of judges who were part-time judges
5 in the district and probate courts shall be calculated each year based on the weighted caseload of the
6 former jurisdiction less any weighted values for case types that are no longer within the jurisdiction
7 of the circuit court or judicial branch.

8 490-F:13 Circuit Court Clerks; Appointment. The administrative judge of the circuit court shall
9 appoint a clerk with responsibility for each circuit court site. In the interest of the effective
10 administration of justice, any such clerk may have responsibility for one or more circuit court
11 locations. Circuit court clerks shall have the same duties as clerks of the former district court and
12 judicial branch family division and as registers of probate with the exception of RSA 15-B, RSA 456-
13 B, RSA 548, RSA 653, RSA 655, and RSA 661 which shall remain as duties of the registers of
14 probate. Circuit court clerks shall hold office at the pleasure of the administrative judge of the
15 circuit court.

16 490-F:14 Staff. The administrative judge of the circuit court shall identify a mechanism by
17 which to assign and transfer existing staff in the probate and district courts and in the judicial
18 branch family division to operate the circuit court. The number of circuit court staff shall be based
19 upon a review of anticipated caseload, population, available staff resources, and other relevant
20 criteria, including information from any weighted caseload system.

21 490-F:15 Referees. The circuit court, with the consent of the parties shall, and without the
22 consent of the parties may, commit to one or more referees any cause at law or in equity, or the
23 determination of any question of fact pending in the court wherein the parties are not, as matter of
24 right, entitled to a trial by jury; and with the consent of the parties shall in the same manner commit
25 any other cause or the determination of any other question of fact.

26 490-F:16 Alternative Dispute Resolution. Alternative dispute resolution shall be utilized in the
27 circuit court when practicable to reduce the adversarial nature of proceedings.

28 490-F:17 Existing Procedure Applicable. All provisions of law, not inconsistent herewith,
29 relating to procedure in civil or criminal matters and practice in the former probate and district
30 courts and the former judicial branch family division shall remain in full force and apply to the
31 circuit courts hereby established.

32 490-F:18 Statutory References. During the implementation of the circuit court, references in
33 statutes involving the jurisdiction of the circuit court to the probate or district courts or to the
34 judicial branch family division shall be deemed to include the circuit court. Following the full
35 implementation of the circuit court, those references shall be deemed to be to the New Hampshire
36 circuit court where it has exclusive jurisdiction of a subject matter and to the superior court and
37 circuit court where the circuit court has concurrent jurisdiction with the superior court.

Amendment to HB 609-FN

- Page 6 -

1 490-F:19 Implementation Plan. On the effective date of this chapter, the New Hampshire
2 circuit court shall be operational based upon a plan of implementation developed by the
3 administrative judge of the circuit court in consultation with and approved by the supreme court.

4 2 Judicial Branch Family Division Clerks, Fees. RSA 490-D:12, II and III are repealed and
5 reenacted to read as follows:

6 II. Fees as established by the supreme court under RSA 490:26-a shall be paid to the clerk of
7 the applicable circuit court established in RSA 490-F for the benefit of the state. The clerk shall set
8 aside 7 percent of each entry fee paid into the court for deposit into a special escrow account
9 established under RSA 490:26-c and 14 percent of each entry fee paid into the court for deposit into
10 the judicial branch information technology fund established under RSA 490:26-h. The proceeds of
11 fees for motions to appear in court pro hac vice shall be paid into the law library revolving fund
12 established in RSA 490:25, III.

13 III. The sum of \$5 shall be added to each entry fee collected by the circuit court clerk on
14 cases which, prior to the establishment of the judicial branch family division, would have been filed
15 in the probate court. Sums collected under this paragraph shall be deposited in the mediation and
16 arbitration fund established under RSA 490-E:4.

17 3 Sessions in Towns Within District. RSA 502-A:2, II is repealed and reenacted to read as
18 follows:

19 II. The administrative judge of the circuit court established in RSA 490-F shall have the
20 authority to and shall, on an annual basis, establish the number of court sessions and the hours and
21 days of operation required for each district court. The administrative judge shall consider the
22 convenience of each court's users, caseload, resources, and security. Each court shall submit a plan
23 for flexible scheduling to the administrative judge that meets the needs of the community served by
24 that court which may include evening, early morning, and/or weekend sessions and other alternative
25 sessions. In evaluating the community need for alternative sessions, the administrative judge and
26 local courts shall evaluate separately civil suits, small claims, order of notice, motor vehicle matters,
27 and criminal cases to determine the needs of the community.

28 4 Duties of Clerks; Disposition of Fines. RSA 502-A:8 is repealed and reenacted to read as
29 follows:

30 502-A:8 Duties of Clerks; Disposition of Fines.

31 I. The clerk of the applicable circuit court established in RSA 490-F shall receive all fines
32 and forfeitures paid into the district court from any source. The clerk of any circuit court may accept
33 payment of the fine by credit card in lieu of cash payment. Any transaction costs assessed by the
34 issuer of the credit card shall be paid out of the portion of the fine amount which is deposited with
35 the treasurer and not out of the penalty assessment charged by a district court. The clerk shall
36 forward fines collected for violations of title XXI to the treasurer for deposit in the highway fund and
37 fines collected for violations of title LXII and all other statutes to the treasurer for deposit in the

Amendment to HB 609-FN

- Page 7 -

1 general fund within 14 days. The clerk shall separately indicate which fines were for violations of
2 title XXI. Fines and forfeitures collected by the clerk for violations of municipal ordinances, codes, or
3 regulations, except those adopted pursuant to RSA 31:39, I(g); RSA 41:11; RSA 47:17, IV, VI, VII, or
4 VIII; and RSA 105:6 through RSA 105:7, shall be remitted monthly to the treasurer of the
5 municipality prosecuting said violations, for the use of the municipality. All expenses related to the
6 processing of parking violations and the administrative collection of parking fines shall be the
7 responsibility of the local unit of government, and all fines collected shall be retained in their
8 entirety by the local unit of government.

9 II. Nothing in this section shall prevent the court from transferring the collection of fines to
10 a centralized location. Any fines collected by the central location shall be distributed as indicated in
11 paragraph I. References to duties and responsibilities of clerks contained in paragraph I shall be
12 deemed to include the central fine collection center as appropriate.

13 5 Criminal Cases; District Courts. RSA 502-A:11 is repealed and reenacted to read as follows:

14 502-A:11 Criminal Cases, District Courts. Each district court shall have the powers of a justice
15 of the peace and quorum throughout the state and shall have original jurisdiction, subject to appeal,
16 of all crimes and offenses committed within the confines of the district in which such court is located
17 which are punishable by a fine not exceeding \$2,000 or imprisonment not exceeding one year, or
18 both, including all violations of the provisions of RSA 266:16 and 266:25 pertaining to vehicles
19 exceeding permitted size or weight, regardless of whether the defendant is a natural person or any
20 other person.

21 6 Jury Trial. RSA 502-A:15 is repealed and reenacted to read as follows:

22 502-A:15 Jury Trial. In cases in which the damages claimed exceed \$1,500 or the title to real
23 estate is involved, if the defendant, upon the entry of any action for damages under RSA 502-A:14, II
24 or II-a, within 7 days of the return date of the action or within such additional time as the district
25 court for good cause may allow, files a written request for trial by jury, the cause shall be at once
26 transferred to the superior court for the county or judicial region in which the court is located, to be
27 heard and tried as if originally entered in the transferee court. The original entry fee and cost of
28 transferring the action shall be paid by the moving party but shall be recoverable as costs if the
29 moving party prevails in the action. If, after transfer for trial by jury, the moving party waives the
30 right to jury trial, the cause shall at once be remanded to the district court of original jurisdiction.

31 7 District Court Fees. RSA 502-A:28, I is repealed and reenacted to read as follows:

32 I. Fees as established by the supreme court under RSA 490:26-a shall be paid to the clerk of
33 each applicable circuit court established in RSA 490-F for the benefit of the state.

34 8 Other Fees. RSA 502-A:29 is repealed and reenacted to read as follows:

35 502-A:29 Other Fees. For other certificates or papers which he or she is authorized to make or
36 certify, the clerk of a circuit court shall receive the same fees as a clerk of the superior court.

37 9 Probate Court Fees. RSA 490:27, I is repealed and reenacted to read as follows:

Amendment to HB 609-FN

- Page 8 -

1 I. Probate court fees as established by the supreme court under RSA 490:26-a shall be paid
2 to the clerk of the applicable circuit court established in RSA 490-F for the benefit of the state.

3 10 Court of Record. RSA 547:1 is repealed and reenacted to read as follows:

4 547:1 Court of Record. The court of probate is a court of record for all purposes, and each
5 probate court shall be provided with a seal bearing upon its face the name of the court and the name
6 of this state.

7 11 Transfer to Superior Court. RSA 547:11-d is repealed and reenacted to read as follows:

8 547:11-d Transfer to Superior Court. In cases where a right to jury trial is guaranteed by the
9 constitution or granted by statute, a plaintiff desiring a jury trial shall file the action in the superior
10 court, and filing the action in the probate court where there is concurrent jurisdiction shall
11 constitute a waiver of a jury trial by the plaintiff. If the defendant desires a jury trial, the defendant
12 shall indicate the request for a jury trial at the time of the defendant's initial pleading with the
13 court. Failure to timely request a jury trial shall constitute a waiver by the defendant thereof. If a
14 jury trial is requested by the defendant, the matter shall be transferred to the superior court.

15 12 New Sections; Dockets and Index; Records; Probate Court Entry Fees. Amend RSA 547 by
16 inserting after section 27 the following new sections:

17 547:27-a Docket and Index. The probate court shall keep a docket of all cases and matters, and
18 an index thereto which shall be open to public inspection at all reasonable times.

19 547:27-b Records.

20 I. The probate court shall appropriately retain all wills and their probate; all proceedings
21 with regard to real estate; all accounts settled, and all orders, decisions and appointments from
22 which an appeal may be claimed.

23 II. The probate court, subject to the approval of the supreme court, shall establish and
24 implement retention and destruction schedules for those original files, papers and records in cases
25 and matters disposed of by the court.

26 547:27-c Probate Court Entry Fees.

27 I. Entry fees as established by the supreme court under RSA 490:26-a shall be paid to the
28 clerk of each applicable circuit court established in RSA 490-F for the benefit of the state.

29 II. The clerk shall set aside 7 percent of each entry fee paid into the court for deposit into a
30 special escrow account established under RSA 490:26-c and 14 percent of each entry fee paid into the
31 court for deposit into the judicial branch information technology fund established under RSA 490:26-
32 h. The proceeds of fees for motions to appear in court pro hac vice shall be paid into the law library
33 revolving fund established in RSA 490:25, III.

34 13 Residence. RSA 548:1 is repealed and reenacted to read as follows:

35 548:1 Residence, etc. The register of probate shall dwell in the county in which the probate
36 records are required to be kept. If a register shall dwell in any other county and continue so dwelling
37 for 30 consecutive days, the office shall be deemed vacant.

Amendment to HB 609-FN

- Page 9 -

1 14 Preservation of Files. RSA 548:5 is repealed and reenacted to read as follows:

2 548:5 Preservation of Files. The register of probate shall be responsible for coordinating with
3 the administrative judge of the circuit court established in RSA 490-F the preservation of any closed
4 files having the potential for historical significance. The register may recommend that these files be
5 sent to the records center established under RSA 5. The register of probate shall maintain a current
6 index describing the location of any files which have been removed from the court pursuant to this
7 section.

8 15 Salaries. RSA 548:17 is repealed and reenacted to read as follows:

9 548:17 Salaries. The annual salaries of the registers of probate shall be established by the
10 supreme court in accordance with the compensation system established by the supreme court.

11 16 Acting as Counsel. RSA 548:24 is repealed and reenacted to read as follows:

12 548:24 Counsel Acting As. The register shall not act as counsel or advocate in any proceeding
13 in, or to be brought into, the probate court of which the register was elected, nor receive any fee for
14 such service.

15 17 Acting as Appraiser. RSA 548:25 is repealed and reenacted to read as follows:

16 548:25 Appraiser, or Commissioner, Acting As. The register shall not be appointed nor act as
17 appraiser or commissioner on any estate under administration in the probate court of the county in
18 which the register was elected.

19 18 New Section; Record of Decedent's Real Estate. Amend RSA 554 by inserting after section 14
20 the following new section:

21 554:14-a Record of Decedent's Real Estate. Whenever it appears from the inventory or any
22 other instrument pertaining to real estate filed with the court in connection with the administration
23 of any estate that the estate contains real estate located in another county within the state, the court
24 shall notify, within 15 days, the register of deeds of the county in which the real estate lies of the
25 name and date of death of the decedent. A register of deeds who receives such a notice shall record
26 in the grantor's index of the register's office the name of the decedent, the decedent's date of death,
27 and the county in which the estate is being probated. The cost for filing said notice shall be assigned
28 to the estate.

29 19 New Section; Notice to Fiduciaries. Amend RSA 554 by inserting after section 26 the
30 following new section:

31 554:26-a Notice to Fiduciaries.

32 I. A fiduciary appointed by the probate court shall file, as required by law, an inventory
33 within 90 days after the date of appointment, or an account of administration within one year after
34 the date of appointment. If a fiduciary fails to file an inventory within 30 days after the required
35 filing date, or an account of administration within 90 days after the required filing date, the
36 fiduciary is in default. The clerk of the applicable circuit court established in RSA 490-F shall give
37 notice of the default to the fiduciary by first class mail within 10 days after the default. In the case

1 of any inventory, account, annual report, statement of voluntary administration, or waiver of
2 administration affidavit, the fiduciary shall either file the inventory, account, annual report,
3 statement of voluntary administration, or waiver of administration affidavit, or show good cause for
4 the failure to file, within 30 days after notice of the default from the clerk. If the fiduciary fails to
5 file or to show good cause, the judge of probate shall issue a citation to the fiduciary to appear before
6 the judge pursuant to RSA 550:2. The fiduciary shall pay default and citation fees as established by
7 the supreme court under RSA 490:26-a to the clerk, pursuant to RSA 490:27. The requirements of
8 this section shall apply to fiduciaries previously appointed as the judges of probate may prescribe by
9 rules adopted pursuant to RSA 547:33.

10 II. The clerk shall contemporaneously with the issuance of any citation pursuant to
11 paragraph I and RSA 550:2 send a copy of such citation by first class mail to the following:

12 (a) Any surety for the fiduciary;

13 (b) Any person who has filed an appearance; and

14 (c) Any residuary beneficiary, and the director of charitable trusts in cases involving
15 charitable dispositions and trusts.

16 20 Name Change. Amend the following RSA provisions by replacing "register of probate" and
17 "register" with "clerk:" 5-C:32, 7:29, 21-J:14, 87:21, 87:22, 87:26, 135-C:38, 170-B:16 170-B:22, 171-
18 B:6, 401:1, 457:28-b, 464-A:12, 464-A:20, 464-A:26, 464-A:28, 464-A:33, 505:11, 553:16, 553:25,
19 561:19, 564:4, 564:12, 568:30, 568:35, and 568:54.

20 21 Reference Deleted. RSA 151-A:15, I is repealed and reenacted to read as follows:

21 I. If within 180 days after the date of a testate or intestate patient's death in any nursing
22 home no petition for probate has been filed under any section of RSA 553 and the gross value of the
23 personal property remaining at the nursing home belonging to the deceased, including any amount
24 left in a patient account, is no more than \$2,500, the nursing home administrator shall file in the
25 probate court in the county where the nursing home is located an affidavit for the purpose of
26 disposing of such deceased patient's estate. The form of the affidavit, and the rules governing
27 proceedings under this section, shall be provided by the probate court pursuant to RSA 547:33. The
28 nursing home administrator shall not file a death certificate with the probate court, but shall attest
29 to the death in the affidavit. If the nursing home patient died testate and if the nursing home
30 administrator has the will or a copy of the will, the nursing home administrator shall file the same in
31 the probate court in the county where the nursing home is located. The probate court shall waive all
32 filing fees.

33 22 Reference Change. The introductory paragraph of RSA 464-A:35, I is repealed and reenacted
34 to read as follows:

35 I. A guardian of the person shall file an annual report with the court within 90 days after
36 the anniversary date of the guardian's appointment, or be in default. The clerk shall give notice of
37 the default to the guardian by first class mail within 10 days after the default. The clerk shall issue

Amendment to HB 609-FN

- Page 11 -

1 a citation notice in accordance with RSA 554:26-a. The report shall contain a brief summary of the
2 present status of the ward including, but not limited to:

3 23 Reference Change. RSA 464-A:36, I is repealed and reenacted to read as follows:

4 I. Subject to the provisions of RSA 464-A:26, V, a guardian of the estate shall file an annual
5 account under oath with the court within 90 days after the anniversary date of the guardian's
6 appointment, or be in default. The clerk shall give notice of the default to the guardian by first class
7 mail within 10 days after the default. The clerk shall issue a citation notice in accordance with RSA
8 554:26-a.

9 24 Reference Change. RSA 490:25, III is repealed and reenacted to read as follows:

10 III. Receive and accept at any time funds from the sale or exchange of books, pamphlets,
11 maps, manuscripts, and other related material, or from the sale of data base services, barcodes,
12 cataloging records, magnetic tapes, laser discs, video tapes, or related or similar material, or from
13 fees and fines as established by the law library and approved by the supreme court. Any funds
14 accruing to the law library from such sources and as provided under RSA 490:24, I; RSA 490-D:12,
15 II; RSA 499:18, II; RSA 502-A:28, II; and RSA 547:27-c, II shall be paid into the state treasury and
16 held in a continually appropriated fund which shall not lapse for the use of the law library upon
17 approval by the supreme court;

18 25 Reference Change. RSA 491-A:1 is repealed and reenacted to read as follows:

19 491-A:1 Salaries Established. The salaries for the positions set forth below shall be as follows:

| | |
|--|-----------|
| 20 Chief justice, supreme court | \$151,477 |
| 21 Associate justices, supreme court | \$146,917 |
| 22 Chief justice, superior court and administrative judges | |
| 23 appointed pursuant to supreme court rule 54 | \$146,917 |
| 24 Associate justices, superior court | \$137,804 |
| 25 District court justices prohibited from practice | |
| 26 pursuant to RSA 502-A:21-a | \$137,804 |
| 27 Probate judges prohibited from practice | |
| 28 pursuant to RSA 547:2-a | \$137,804 |

29 26 Reference Change. RSA 553:32, I is repealed and reenacted to read as follows:

30 I. Notwithstanding any provision of law, whenever a deceased dies testate and the surviving
31 spouse or, if no spouse, an only child is named in the will as the sole beneficiary of the deceased's
32 estate and is appointed to serve as administrator; or whenever a deceased dies intestate and the
33 surviving spouse or, if no spouse, an only child is the sole heir of the deceased's estate and is
34 appointed to serve as administrator, there shall be no requirement for an inventory of the estate, no
35 requirement for a bond, and no requirement for an accounting for assets. Administration of the
36 estate shall be completed upon the administrator's filing, and the probate court's approval of an
37 affidavit of administration. Such filing shall occur not less than 6 months nor more than one year

Amendment to HB 609-FN

- Page 12 -

1 after the date of appointment of the administrator. The affidavit of administration shall state that
2 to the best of the knowledge and belief of the administrator there are no outstanding debts or
3 obligations attributable to the deceased's estate and shall list all real estate owned by the decedent
4 at the time of death, including the location, book, and page. If the administrator fails to file the
5 affidavit of administration within the time prescribed above, the administrator is in default. The
6 clerk shall give notice of the default to the administrator by first class mail within 10 days after the
7 default. The clerk shall issue a citation notice in accordance with RSA 554:26-a.

8 27 Reference Change. RSA 554:1 is repealed and reenacted to read as follows:

9 554:1 Inventory. Every administrator shall file under oath, with the court, within 90 days after
10 the date of appointment, a full, true and itemized inventory of all the estate of the deceased which
11 has come to the administrator's knowledge. If an administrator fails to file an inventory within 30
12 days after the required filing date, the administrator is in default. The clerk shall give notice of the
13 default to the administrator by first class mail within 10 days after the default. The clerk shall issue
14 a citation notice in accordance with RSA 554:26-a. The inventory shall contain a description of the
15 real estate; a correct schedule of all goods, chattels, stocks, bonds, cemetery plots or burial spaces,
16 and other effects of the deceased; of all notes, with their dates and terms of payment, and the date
17 and amount of each endorsement thereon; of all deposits in savings banks, with the name and
18 location of each bank, the number of each book, the date of the last dividend, and the whole amount
19 then due thereon less any withdrawals since that date; and a list and description of any other
20 written evidences of debt. If any person claims a present legal or equitable right of title to real or
21 personal property in the estate of the deceased, the administrator may petition the probate court
22 pursuant to RSA 547:11-b to determine the question as between the parties.

23 28 Reference Change. RSA 599:1 is repealed and reenacted to read as follows:

24 599:1 Appeals. A person convicted by a district court of a class A misdemeanor, at the time the
25 sentence is declared, may appeal therefrom to obtain a de novo jury trial in the superior court, which
26 shall hear the appeal. The appeal shall be entered by the defendant at the next return day unless
27 for good cause shown the time is extended by the superior court. If, after a jury trial in the superior
28 court, the defendant is found guilty, the superior court shall sentence the defendant, and the
29 defendant may appeal questions of law arising therefrom to the supreme court. In the event the
30 defendant waives the right to jury trial after the case has been appealed, the superior court shall
31 forthwith remand the case to the district court for imposition of the sentence originally imposed by
32 the district court, and the defendant may appeal questions of law arising therefrom to the supreme
33 court. In all misdemeanor cases which are appealed to superior court or in which defendants are
34 bound over it shall be the duty of the superior court to transmit to the justice of the district court,
35 within 10 days after the case is finally disposed of, a certificate showing the final disposition of the
36 case.

37 29 Repeal. The following are repealed:

Amendment to HB 609-FN

- Page 13 -

- 1 1. RSA 490-D:6, relative to judges and marital masters.
- 2 2. RSA 490-D:10, relative to referees.
- 3 3. RSA 490-D:11, relative to staff.
- 4 4. RSA 490-D:12, I, relative to judicial branch family division clerks.
- 5 5. RSA 490-D:13, relative to alternative dispute resolution.
- 6 6. RSA 490-D:15, relative to marital master's expenses.
- 7 7. RSA 502-A:1-a, relative to additional district courts.
- 8 8. RSA 502-A:3, relative to appointment and tenure of district court justices.
- 9 9. RSA 502-A:3-a, relative to associate justices of Manchester, Nashua, and Concord District
- 10 Courts.
- 11 10. RSA 502-A:3-b, relative to tenure of district court justices following consolidation.
- 12 11. RSA 502-A:3-c, relative to elimination of special justices unless need certified.
- 13 12. RSA 502-A:5, relative to powers of other justices.
- 14 13. RSA 502-A:5-a, relative to assignment of judges.
- 15 14. RSA 502-A:6, III, relative to salaries of clerks.
- 16 15. RSA 502-A:6, V, relative to salaries of deputy clerks.
- 17 16. RSA 502-A:7, relative to district court clerks.
- 18 17. RSA 502-A:7-a, relative to deputy clerk of the Nashua District Court.
- 19 18. RSA 502-A:7-b, relative to deputy clerks.
- 20 19. RSA 502-A:8-a, relative to assignment of juvenile intake officers.
- 21 20. RSA 502-A:8-b, relative to duties of juvenile intake officers.
- 22 21. RSA 502-A:12-a, relative to regional jury trials.
- 23 22. RSA 502-A:20, relative to courts of record.
- 24 23. RSA 502-A:21, relative to disqualification of justices.
- 25 24. RSA 502-A:32, relative to existing procedure applicable.
- 26 25. RSA 502-A:34, relative to functions of municipal courts vested in district court.
- 27 26. RSA 502-A:35, relative to an exception to the abolition of municipal courts.
- 28 27. RSA 502-A:36, relative to the transfer of pending actions.
- 29 28. RSA 547:11-e, relative to failure to prosecute appeal.
- 30 29. RSA 547:27, relative to if the register is not present.
- 31 30. RSA 547:38, relative to assignment of judges.
- 32 31. RSA 548:2, relative to office hours.
- 33 32. RSA 548:3, relative to the seal.
- 34 33. RSA 548:4, relative to docket and index.
- 35 34. RSA 548:4-a, relative to scheduling.
- 36 35. RSA 548:5-a, relative to notice to fiduciaries.
- 37 36. RSA 548:6, relative to destruction of records.

Amendment to HB 609-FN

- Page 14 -

- 1 37. RSA 548:7-a, relative to the record of decedent's real estate.
- 2 38. RSA 548:8, relative to blanks and stationery.
- 3 39. RSA 548:9, relative to inventory blanks.
- 4 40. RSA 548:14, relative to deputy registers.
- 5 41. RSA 548:14-a, relative to additional deputy registers.
- 6 42. RSA 548:16, relative to the disability of the register.
- 7 43. RSA 548:23, relative to receipts.
- 8 44. RSA 548:23-a, relative to probate court entry fees.
- 9 30 Effective Date. This act shall take effect July 1, 2011.

2011-0739h

AMENDED ANALYSIS

This bill establishes the New Hampshire circuit court to replace the current probate courts, district courts, and judicial branch family division.

Speakers

Hearing Minutes

Judges Edwin Kelly and David King, Judicial Branch

(continuation)

Four Themes:

1. Adjustment of trial judges, more efficient use of judges, cross assign judges from case to case – save time and money.
2. Reorganization of Management Structure, Fifty-one (51) clerks of court, span of control from 2 to 22 people. Consolidate management of clerks and personnel cuts down from 51 to 21 clerks of courts. Allows staff to move from court to court.
3. Centralization of Key Functions, Sixty (60) locations all do the same processes, unification can set up a central call center and cut down on expenses. Reduce phone calls by 70%. Allows centralize data processing system. Mountains of data need to be processed. Evening shift processors would get more work done; less money, less interruptions. Fine collection centers would be made easier when centralized. Video arraignment would cut down expenses and time.
4. Continue to look at other things that don't require judges to perform. Dogs barking, too many tenants, etc. can be decided with this legislature and not judges. 51 managers/registers of probate --- city employees. 1984 consolidated courts, but left out registers of probate (unconstitutional). Only elected positions in system. Some supervise only one person; some have fewer than four people. Benefits are over \$900,000 per year for the state.

Atty. David Nixon, (former representative) citizens/court - supports

Anyone in court system will tell you it's not working. Not enough people, not enough time. This change will make litigation more efficient. Drastic change is needed.

Marilyn McNamara, New Hampshire Bar Association -- supports

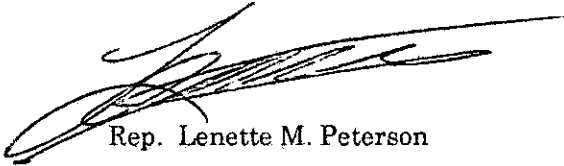
Responsible stewardship. Sees this as significant step forward. Will consolidate, it will reduce processing time and utilize judges' skills more efficiently.

Nina Gardner, Judicial Council -- supports

Judicial branches budget for personnel demands costs of government, employees, and pensions, healthcare became starting point for the changes. Reduce reliance on people and better utilize people.

Katherine Cooper, New Hampshire Association of Criminal Defense Lawyers -- (opposes in part)

Respectfully submitted,



Rep. Lenette M. Peterson

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HOUSE BILL 609

BILL TITLE: establishing the New Hampshire circuit court to replace the current probate courts, district courts, and judicial branch family division.

DATE: 2011 2-22-11

10-11

LOB ROOM: 208

Time Public Hearing Called to Order:

~~10:00 AM~~

PM 12:12

Time Adjourned: {Time}

(please circle if present)

Committee Members: Reps. Rowe, Sors, Souza, Hagan, Silva, Andolina, Giuda, LaCasse, McClarren, Murphy, Palmer, Peterson, Tregenza, Wheaton, Wall, Potter, Weber and Watrous.

Bill Sponsors: Rep. G. Richardson, Merr 4; Sen. Houde, Dist 5; Sen. Morse, Dist 22

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Richardson - have asked Jcd. to function w/ less money & have done a great job. This bill will help them do more with less money.

Chief Justice Dalianis - (S) This bill was produced to create a circuit court that will save money over time. Benefit to people. more work at less cost to them.

Eric Herr - (S) preserve + protect law; affect core critical Judicial Branch judicial processes, in lieu of economy 1) coverage
e. s. judges not always avail. 2) small courts cost more. 3) signifi

Respectfully Submitted,



Rep. Lenette M. Peterson

HB 609

can't cost in cases. Consolidating the courts, expanding w/ circuit; lowers cost, standardize, increase management control. creation will improve productivity

Judge Kelly

Rep. Kirk - (S) was a member. Essence of group is to efficiency of court system. This bill will save money + improve services. By consolidating courts, judges will specialize in many areas. Part of a larger plan.

Judge Kelly
Judge King

(S) = primary purpose - serve as vehicle in implementation savings + cost reduction over ten yrs will save \$38 million. Preserve existing law as much as possible, moved into a different place. few changes to law + locations.

4 Themes

1. Adjustment of Trial Judges - more efficient use of cross assign. judges from case to case - save time + money
2. Reorganization of Management Structure - 51 clerks of court, span of control from 2-22 people consolidate management of clerks + personal cuts down from 51 to 21 clerk of courts. Allows staff to move from court to court
3. Centralization of Key Functions - 60 locations all do the same processes, unification can set up a central call center. Cut down on expenses.

Judges

(2) HB 609

Reduce phone calls by 70%. Allows centralized Data Processing system. Mountains of data need to be processed. Evening shift processors would get more work done less money less interruptions. Fine collection centers would be made easier when centralized. Video arraignment would cut down expenses, time.

4. continue to look at other things that don't require judges to do. dogs banking, too many tenants, etc. can be decided with this legislature + not judges.

IBH Details

51 managers/registrars of probate - city employees. 1984 - consolidated courts, left out registers of probate - unconstitutional. Only elected positions in system. Some supervise only 1 person, some have fewer than 4 people. Benefits over \$900,000 per year for State.

Reasons for

David Nixon - (S) anyone in courts system will tell you its not working - not enough people, not enough time. This change will make litigation more efficient. Drastic change is needed.

Marylyn McNamara (S)

Marylyn McNamara - (S) supports responsible stewardship. Bar Assoc. Sees this as significant + step forward. Will consolidate, it will reduce processing time. Will utilize judges skills more efficiently.

(3) HB 609

Nina Gardner - (s) Jud. Branches budget for personal demands
costs of govt, employees, pensions, healthcare
became starting point for the changes.
Reduce reliance on people, better utilize
people.

Testimony

HB 609
2011 Session

| Statute | Change made | Explanation |
|---|---|--|
| CIRCUIT COURT SECTIONS | | |
| 490-F:1 Purpose | New Section Some of the language is similar to that found in RSA 490-D:1 which establishes the Judicial Branch Family Division. | The goals of the circuit court include many of the "innovations" discussed as part of the "Court Innovation Commission" including ADR, the use of technology and the assignment of staff. Of utmost importance however are the respectful treatment of the citizenry and the fair resolution of disputes. It is anticipated that through the restructure of the three trial courts involved greater efficiencies both judicially and clerically will be realized resulting in cost savings and better public service. |
| 490-F:2 Circuit Court; General | New Section | This section authorizes each location of the Circuit Court to hear all types of cases. Each court location is currently limited in its ability to hear different case types. This section would permit each location to hear all case types coming within the jurisdiction of the circuit court, subject to constitutional venue limitations in criminal cases. In addition, in an effort to gain efficiencies and better serve the public, this section would permit the reassignment of cases from one court location to another, again subject to constitutional limitations in criminal cases. The circuit court will have statewide jurisdiction. |
| 490-F:3 Circuit Court Divisions | New Section | This section sets forth the three circuit court divisions. These divisions mirror the existing courts which will become the circuit court. This section carries over the jurisdictional authority of each division as it currently exists. By virtue of this section, from the outside looking in, many may not notice much difference in the circuit court at inception. |
| 490-F:4 Circuit Court; Locations | See 502-A:1 and 490-D:4 | This section sets forth the circuit court locations. The goal of this section is to maintain the status quo with regard to judicial districts. While each county is assigned a circuit number, the districts have remained unchanged. In addition, because probate hearings may be held at additional locations as a result of the circuit court, this section clarifies that the probate records are to be maintained at the county seat. As a result of this section, someone who had filed a small claim in Berlin for example, will still file the small claim in Berlin. A police department filing a criminal charge in Laconia will continue to file the charge in Laconia. |

| Statute | Change made | Explanation |
|---|---|--|
| <p>490-F:5 Circuit Court Judges and Masters; Appointment; Tenure</p> | <p>New Section</p> | <p>The first paragraph of this section brings into the circuit court all existing judges and masters. The second paragraph indicates that all future appointments will be to the circuit court rather than to the district or probate courts. In addition, the section removes the "location specific" appointment currently in place giving to each new circuit court judge statewide authority without geographic limitation. It gives to the administrative judge the authority to assign new circuit court judges to a location based upon need.</p> |
| <p>490-F:6 Circuit Court Judges and Masters; Assignment; Certification</p> | <p>New Section The language regarding the judges' commitment to the type of case is similar to that found in 490-D:6. In addition, the language is also akin to that in 502-A:3. The assignment language is similar to that found in 502-A:5. See 502-A:6-c and 490-D:15 with regard to expenses.</p> | <p>The first paragraph gives to the administrative judge the authority to assign circuit court judges to different locations based upon need. This should allow the circuit court to realize greater efficiencies in the use of judicial resources given the absence of geographic limitations.</p> <p>The second paragraph addresses the assignment of a judge to a particular division and ensures that the judge will be assigned to a division based upon knowledge and commitment to the subject matter of the division.</p> <p>The third paragraph addresses a constitutional concern about the need for probate judges specifically.</p> <p>The fourth paragraph addresses the issue that judges, previously appointed to a particular court, will now be presiding over cases whose subject matter may be foreign to them. It ensures that the initial assignment of a judge is to the division of the circuit court from which they came, meaning that a district court judge would be initially assigned to the district division, a probate court judge to the probate division, and a family division judge to the family division.</p> <p>The fifth paragraph addresses subsequent assignments and, while leaving subsequent assignments to the discretion of the administrative judge, also mandates a certification process to ensure that the judge is qualified to hear cases in the new division.</p> <p>The sixth paragraph addresses newly appointed judges to the circuit court and leaves the initial division assignment to the discretion of the administrative judge while setting forth the criteria to consider in making that initial assignment.</p> <p>The seventh paragraph permits judges to be assigned to all divisions. In this way the greatest judicial efficiencies of the circuit court may be realized. For example, once a judge has achieved certification in all divisions, in a rural location the circuit court may be able to assign cases to one judge which had previously</p> |

| Statute | Change made | Explanation |
|--|---|---|
| | | <p>required two or three. More specifically, in Lancaster, a location which houses all three trial courts which will comprise the circuit court, one judge who is properly trained and certified will be able to preside over probate matters, district court matters and family division matters rather than each trial court having to provide its own judge.</p> <p>The eighth paragraph carries forward current law dealing with judicial expenses and mileage.</p> |
| <p>490-F:7 Circuit Court Judges; Number</p> | <p>Paragraph I is new. 502-A:3-c for II. Paragraph III is new. 491-A:3, IV (special justice permanent)</p> | <p>The first paragraph maintains the current number of district and probate court judges. While significant judicial efficiencies are anticipated with the implementation of the circuit court, those efficiencies will take time to develop as judges are trained and certified in the different divisions of the circuit court. Also, while judicial efficiencies are anticipated, the number of cases requiring judicial attention is not necessarily shrinking. This section also includes a provision to permit transfer into the family division of those masters remaining in the superior court in locations where the family division has not yet been implemented. (Cheshire County)</p> <p>Paragraph two eliminates part time and special justices automatically upon retirement or resignation unless the Supreme Court certifies a need.</p> <p>Section IV comes from existing law and permits the conversion of a part time judicial position to a full time judicial position based upon the stated criteria but also subject to governor and council approval. In addition, prior to making the request the Supreme Court must obtain the approval of the fiscal committee.</p> |
| <p>490-F:8 Circuit Court Judges; Retired Judges</p> | <p>See 502-A:6-b</p> | <p>Paragraph one carries forward existing law and permits retired judges to elect senior active status or serve as judicial referees.</p> <p>Paragraph two maintains those judges who currently are on senior active status or who now serve as judicial referees in the circuit court without further application.</p> <p>The third paragraph renders the assignment and certification provisions applicable to senior active judges and judicial referees; they are required to obtain certification prior to sitting on different case types.</p> |

| Statute | Change made | Explanation |
|--|---|---|
| <p>490-F:9 Disqualifications of Judges</p> | <p>Replaces 502-A:21</p> | <p>This provision is an effort to carry forward current law; however the difficulty is that the court and location limitations now in place render disqualification a narrower matter with which to deal. For example, a district court judge may not practice in the district court but may practice in the family division and probate court. With the unification of the three trial courts, absent some clarification, a circuit court judge could be disqualified from practicing in any division of the circuit court, thereby significantly limiting the ability of part time judges to earn a living through the practice of law. The language in this provision limits the judge's ability to practice but only in the division for which the judge is certified. Therefore a judge certified in the district division would be permitted to practice in the probate division. The provision also limits the practice by location so that a circuit court judge assigned to a particular location should not practice in that location for fear of at least the appearance of impropriety or conflict. This provision extends to those associated with the judge in the practice of law.</p> |
| <p>490-F:10 Full-Time Circuit Court Judges</p> | <p>Replaces 502-A:21-a</p> | <p>This provision carries forward existing law by preventing a full time judge from engaging in the private practice of law.</p> |
| <p>490-F:11 Judicial Branch Budget Request</p> | <p>See 491-A:3 & 4</p> | <p>This section, dealing with the judicial branch budget calculations as they relate to the number of judicial positions and salaries, carries forward the existing law.</p> |
| <p>490-F:12 Part-Time Judges; Salary Calculation</p> | <p>See 491-A:3, III and 491-A:4, III 502-A:6</p> | <p>This section tracks current law; however it also takes into consideration cases which may be removed from the jurisdiction of the circuit court.</p> |
| <p>490-F:13 Circuit Court Clerks; Appointment</p> | <p>New Section. Reference should be made to 502-A:7 and 490-D:12, I.</p> | <p>This section continues the authority of the administrative judge in the appointment of clerks. In addition, it permits a circuit court clerk to function as such in more than one location. Consolidation of management is one of the many reasons for implementation of the circuit court and this provision recognizes that goal statutorily. It may be unnecessary in some locations to have a higher level management clerk on site at all times permitting the management of circuit court locations, with consideration given to size, to be shared. With regard to duties, reference is made to the predecessor statutes which outlined the duties of clerks rendering them unchanged.</p> |
| <p>490-F:14 Staff</p> | <p>Replaces 490-D:11</p> | <p>This provision addresses the transfer of existing staff from the district court, probate court and family division into the circuit court. The number of staff shall be</p> |

| Statute | Change made | Explanation |
|--|--|--|
| | | determined based upon criteria used in the past. With regard to transfer, the mechanism will be left to the administrative judge in that the process of staff transfer and training will require significant attention between enactment and implementation, and administration must be able to do that without statutory constraint. |
| 490-F:15 Referees | Replaces 490-D:10 | This section permits the use of referees in some instances. The increased use of judicial referees was identified as a cost saving measure by the Court Innovation Commission. This statutory provision gives to the circuit court the ability to utilize these judicial officers more broadly than at present. |
| 490-F:16 Alternative Dispute Resolution | Replaces 490-D:13 | This section emphasizes the use of alternative dispute resolution which is a stated purpose of the circuit court and a more efficient means of dispute resolution in certain instances. |
| 490-F:17 Existing Procedure Applicable | Replaces 502-A:32 | This section carries over all statutory provisions relating to procedure in criminal and civil matters to the circuit court, so long as they are not inconsistent. |
| 490-F:18 Statutory References | See 490-D:14. Replaces 502-A:34 | By virtue of this section, all references to the courts which will become the circuit court are deemed to be to the circuit court. This provision alleviates the need to locate every reference to the district court, probate court and family division in the N.H. Revised Statutes and also alleviates the risk of omission. There is a minor distinction between the references during implementation and after implementation but the effect is the same. |
| 490-F:19 Implementation Plan | See 490-D:5 | This section makes the circuit court operational as set forth in an implementation plan to be developed by the administrative judge of the circuit court in consultation with the supreme court. |

| Statute | Change made | Explanation |
|--|--|---|
| FAMILY DIVISION SECTIONS | | |
| 490-D:1 Judicial Branch Family Division Established | See 490-D:1 and 490-F:1 | D:1 Remains in effect F:1 Sets forth the goals of the circuit court, some of which are identical to the goals set forth in D:1 |
| 490-D:2 Jurisdiction | See 490-D:2 and 490-F:3 | D:2 Remains in effect F:3 Confers upon the circuit court the case type jurisdiction that had been conferred through D:2 |
| 490-D:3 Equity Jurisdiction | See 490-D:3 and 490-F:3 | D:3 Remains in effect F:3 Confers upon the circuit court the case type jurisdiction that had been conferred through D:3 |
| 490-D:4 Sites | See 490-D:4 and 490-F:4 | D:4 Remains in effect F:4 Keeps the family division locations as they were in D:4 and designates the 10 circuits across the state along county lines |
| 490-D:5 Implementation Plan | See 490-D:5 and 490-F:19 | D:5 Remains in effect making family division locations operational by supreme court order F:19 Confers authority to make circuit operational based upon a plan of implementation developed by the administrative judge of the circuit court in consultation with the supreme court |
| 490-D:6 Judges and Marital Masters | 490-D:6 replaced by 490-F:6, F:7 and F:11. | D:6 Repealed F:6 Requires knowledge of, commitment to, and expertise in family division matters F:7 Requires that the initial number of judges and marital masters for the circuit court shall not be less than the authorized judicial and master positions in the former district, probate and family division F:11 Requires future numbers of judges and marital masters to be established by weighted case values |
| 490-D:7 Nominations and Appointments of Marital Masters | Amended. | D:7 Remains in effect but references to the circuit court are added |
| 490-D:8 Qualifications of Marital Masters | No change. | D:8 Remains in effect |
| 490-D:9 Recommend- ations of Masters | No change. | D:9 Remains in effect; sets forth requirement for judicial signature on marital masters recommendations. |

| Statute | Change made | Explanation |
|--|--|--|
| 490-D:10 Referee | Repealed and replaced by 490-F:15. | D:10 Repealed F:15 Sets forth an identical referee provision allowing certain cases to be heard by a referee. |
| 490-D:11 Staff | Repealed and replaced by 490-F:14 | D:11 Repealed F:14 Sets forth a similar provision for staff transfer to the circuit court from probate, district, and family division. |
| 490-D:12 Judicial Branch Family Division Clerks | Amended. | D:12, I Is repealed as to family division clerks D:12, II and III Remains in effect for handling of fees, with added references to circuit court F:13 Sets forth appointment and duties of circuit court clerks |
| 490-D:13 Alternative Dispute Resolution | Repealed and replaced by 490-F:16. | D:13 Repealed F:16 Sets forth a similar provision for alternative dispute resolution in the circuit court |
| 490-D:14 Statutory References | No change; 490-F:18 has similar provisions. | D:14 Remains in effect because at the time of the implementation of the circuit court, the family division may not have been fully implemented and this section allows statutory references for the cases to transfer from superior, probate and district shall apply to the same cases in family division. F:18 Sets forth a similar provision for statutory references while in transition from district, probate and family to the circuit court |
| 490-D:15 Marital Masters' Expenses | 490-D:15 repealed and replaced by 490-D:6, IX | D:15 Repealed F:6, IX Sets forth a similar provision for expense reimbursement and mileage limitation reimbursement for judges and marital masters |

| Statute | Change made | Explanation |
|---|--|--|
| DISTRICT COURT SECTIONS | | |
| 502-A:1-a Additional District Courts | Repealed. | Relative to the establishment of additional district courts. |
| 502-A:2, II Sessions in Towns Within District | Amended. | Requires administrative judge to annually set forth the number of court sessions based upon evaluation of a number of factors. Also requires administrative judge to file annual report on progress of flexible scheduling. Amends section to remove reference to district courts and replace with circuit courts. Also deletes requirement of annual report on flexible scheduling. |
| 502-A:3 District Court Justices... | Repealed; replaced by 490- F:5. | Relative to appointment and tenure of district court judges. |
| 502-A:3-a Associate Justices, Manchester, Nashua and Concord | Repealed. | |
| 502-A:3-b District Court; Justices Tenure.. | Repealed; replaced by 490- F:7 | This section regarding tenure following consolidation of districts is replaced by 490-F:7. |
| 502-A:3-c Elimination of Special Justices | Repealed; replaced by 490- F:7. | Replaced by 490-F:7 regarding number of circuit court judges. |
| 502-A:5 Powers of Other Justices | Repealed; replaced by 490- F:5 and F:6. | Unnecessary with the passage of 490-F:5 and 490-F:6 which addresses assignment of judges and their authority. |
| 502-A:5-a Assignment of Judges | Repealed; replaced by 490- F:6. | Unnecessary with the passage of 490-F:6 which addresses the assignment of judges. |
| 502-A:6, III Salaries of Justices, Special Justices, Clerks. | Repealed; replaced by 490- F:13. | Salaries of clerks were set by justice of court. With the passage of 490-F:13, clerks will be appointed by and serve at the pleasure of the administrative judge of the circuit court. |

| Statute | Change made | Explanation |
|---|---|--|
| 502-A:6, V Salaries of Justices, Special Justices, Clerks. | Repealed. | Salaries of deputy clerks were set by justice of court and clerk. |
| 502-A:7 District Court Clerks | Repealed; replaced by 490- F:13. | Clerks were appointed by the presiding judge of individual courts. With the passage of 490-F:13, clerks will be appointed by and serve at the pleasure of the administrative judge of the circuit court. |
| 502-A:7-a Deputy clerk of the Nashua District Court | Repealed. | Appointments for this position shall be made like all other employee appointments. |
| 502-A:7-b Deputy Clerks | Repealed. | Appointments for this position shall be made like all other employee appointments |
| 502-A:8 Duties of Clerks; disposition of fines. | Amended. | Adds reference to clerk of applicable circuit court established in 490-F. Adds section II authorizing the collection of fines at a centralized location. |
| 502-A:8-a Juvenile Intake Officers; assignment | Repealed. | |
| 502-A:8-b Duties of Juvenile Intake Officers | Repealed. | |
| 502-A:11 Criminal Cases, District Courts | Amended. | Deletes prior authorization for towns to continue municipal courts and granting to those courts jurisdiction (exclusive) over offenses committed within the town until abolition of the court in accordance with 502-A:35. |
| 502-A:12-a Regional Jury Trials | Repealed. | Gave Supreme Court authority to designate one or more district courts as regional jury trial district courts. |
| 502-A:15 Jury Trial | Amended. | Deletes reference to regional jury trial district courts in certain civil cases and removes authority of the Supreme Court to designate regional jury trial district courts for civil causes. |
| 502-A:19-b Pleas by Mail | Repealed. | |
| 502-A:20 Courts of Record | Repealed. | |

| Statute | Change made | Explanation |
|--|---|---|
| 502-A:21 Disqualification of Justices | Repealed; replaced by 490- F:9. | See proposed 490-F:9. |
| 502-A:21-a Full-time District Court Justices | Repealed; replaced by 490- F:10. | Justices may not engage in practice of law. See proposed 490-F:10 |
| 502-A:28 District Court Fees | Amended. | Amends reference to district court to applicable circuit court established under 490-F. |
| 502-A:29 Other fees | Amended. | Amends reference from district court to applicable circuit court |
| 502-A:32 Existing Procedure Applicable | Repealed. | Allowed for existing procedure in municipal courts to be extended to district courts. |
| 502-A:34 Functions of Municipal Courts vested in District Courts. | Repealed. | |
| 502-A:35 Municipal court abolished; exception. | Repealed. | Stated exception to abolition of municipal courts-procedure for towns to continue municipal courts. |
| 502-A:36 Pending Actions; how transferred | Repealed. | For transferring between municipal and district courts. |

| Statute | Change made | Explanation |
|--|--|--|
| PROBATE COURT SECTIONS | | |
| 490:27 Probate Ct Fees | Amended. | Says to whom fees are paid. Removed reference to register and replaced with clerk of circuit court. |
| 547:1 Court of Record | Amended; Section moved from current 548:3 | Related to the court seal. Section is more closely related to 547, Judges and their Jurisdiction. |
| 547:11-d Transfer to Superior Court | Amended. | In cases with concurrent jurisdiction with the Superior Court, if a defendant wants a jury trial, the defendant must indicate the request for a jury trial at the time of the defendant's initial pleading with the probate court |
| 547:27 If Register Not Present | Repealed. | Unnecessary since section reflected paper-handling practices of 1866. |
| 547:27-a Docket and Index | New section; information moved from current 548:4 and amended. | Amended to update language and reflect current case-handling practices, including the requirement of the court to keep an index of all cases available to the public. Section is more closely related to 547, Judges and their Jurisdiction. |
| 547:27-b Records | New section includes parts of current 548:5 and 548:6. | Amended to update language regarding retention of probate files. The section of current 548:6 regarding historical significance is now in new 548:5, Preservation of Records. Section related to file retention is more closely related to 547, Judges and their Jurisdiction. |
| 547:27-c Probate Court Entry Fees | New section; information moved from current 548:23-a. | Amended only to change reference to clerk rather than register of probate. Section is more closely related to 547, Judges and their Jurisdiction. |
| 547:38 Assignment of Judges | Repealed; now in 490-F:6. | Unnecessary with the passage of 490-F:6 which addresses the assignment of judges. |
| 548:1 Residence, etc. | Amended; register must still be resident of county. | Removed requirement of register to be present at the probate office on all days when the court is open since that would be unnecessary with the passage of 490-F, Circuit Court. |
| 548:2 Office Hours | Repealed. | Statute said hours were in accordance with procedures established by Supreme Court; those are specified by personnel rules. |

| Statute | Change made | Explanation |
|--|--|---|
| 548:3 Seal | Repealed; moved to new 547:1. | Information regarding court seal is more closely related to 547, Judges and their Jurisdiction. |
| 548:4 Docket and Index | Repealed; moved to new 547:27-a. | Information regarding docket and index of cases files was moved to new 547:27-a. Section is more closely related to 547, Judges and their Jurisdiction. |
| 548:5 Records | Amended with new title of Preservation of Files. | Amended section states registers role in the preservation of closed files with historical significance. The portions regarding recording wills, etc. is in new 547:27-b; those sections are more closely related to 547, Judges and their Jurisdiction. |
| 548:5-a Notice to Fiduciaries | Repealed; information moved in its entirety to new 554:26-a . | Register of probate references changed to clerk of circuit court. Section deals with fiduciary reporting responsibilities and is more closely related to 554, Dealing with Assets. |
| 548:6 Destruction of Records | Repealed. | Information moved to new 547:27-b, II and new 548:5, Preservation of Records. |
| 548:7a Record of Decedent's Real Estate | Repealed; moved to new 554:14-a. | Section deals with notifying Deeds office in another county and is more closely related to 554, Dealing with Assets. |
| 548:8 Blanks and Stationery | Repealed. | Statute is unnecessary given current practices regarding supplies. |
| 548:9 Inventory Blanks | Repealed. | Statute is unnecessary given current practices of forms being available online. |
| 548:14 Deputy Registers | Repealed. | With the passage of 490-F, Circuit Court, it will not be necessary for registers to appoint deputies. |
| 548:14-a Additional Deputy Regs | Repealed. | With the passage of 490-F, Circuit Court, it will not be necessary for registers to appoint additional deputies. |
| 548:16 Disability of Register | Repealed. | With the passage of 490-F, Circuit Court, any duties specified in the new 548 will be performed by the clerk if the register is disabled. |
| 548:17 Salaries | Amended. | Removed the section regarding registers setting salaries for employees in the court since that will be done as specified in new 490-F, Circuit Court. |
| 548:23 Receipt | Repealed. | Standard accounting practices and case processing practices mandate issuing a receipt for copies. |

| Statute | Change made | Explanation |
|--|---|--|
| 548:23-a Probate Court Entry Fees | Repealed; moved in its entirety to new 547:27-c. | Receipt of entry fees and escrow account information are more closely related to 547, Judges and their Jurisdiction. |
| 548:24 Counsel Acting As | Amended to update language. | Section prohibits register from acting as counsel or advocate in any court proceedings. |
| 548:25 Appraiser, Commissioner, Acting As | Amended to update language. | Section prohibits register from acting as appraiser or commissioner on any estate in his/her court. |
| 548:28 Penalty | No Change | Covers penalties for violating provisions of chapter. |
| 554:14-a Record of Decedent's Real Estate | New section; information moved from current 548:7-a. | Section deals with notifying Deeds office in another county and is more closely related to 554, Dealing with Assets |
| 554:26-a Notice to Fiduciaries | New section; information moved from current 548:5-a. | Register of probate references changed to clerk of circuit court. Section deals with fiduciary reporting responsibilities and is more closely related to 554, Dealing with Assets. |
| OTHER SECTIONS | | |
| Reference Changes | HB609 pages 18 – 22 | |
| Repeal | HB609 pages 23-24 | Lists sections repealed that are also noted above on this chart. |

The New Hampshire Judicial Branch
CIRCUIT COURT

-- At A Glance --

- Establishes one trial court with three divisions
- The divisions will be made up of the existing district court, probate court, and family division
- Circuits run along county lines
- Existing court buildings will be utilized
- No existing courts will be closed
- Judges will be certified to sit in multiple divisions based on experience and interest
- Clerks will manage entire circuit court locations and all divisions within each location (as opposed to the current structure which normally has two clerks and a register per location)
- Changes role of Probate Registers
- Permits centralized fine collection
- Emphasizes increased utilization of technology
- Emphasizes the use of alternative dispute resolution to reduce the adversarial nature of proceedings

**STATE OF NEW HAMPSHIRE
OFFICE OF LEGISLATIVE BUDGET ASSISTANT
FISCAL NOTE WORKSHEET**

Date Sent to Judicial Branch 1/5/11 LSR #: 11-0574.0

Judicial Branch _____ Bill #: _____

Due to LBAO: 1/19/11 Amendment #(s): _____

Correction to prior response? (Y/N): N

State Fund(s) Affected:

General: X Federal: _____ Other: _____

| | FIRST BIENNIUM | | | SECOND BIENNIUM | |
|-------------------|----------------|-------------|-------------|-----------------|-------------|
| | FY 2011 | FY 2012 | FY 2013 | FY 2014 | FY 2015 |
| State Revenue | | | | | |
| State Expenditure | | (\$247,787) | (\$247,787) | (\$371,681) | (\$495,575) |
| Net State Impact | | (\$247,787) | (\$247,787) | (\$371,681) | (\$495,575) |

| | | | | | |
|--------------------|--|--|--|--|--|
| County Revenue | | | | | |
| County Expenditure | | | | | |
| Net County Impact | | | | | |

| | | | | | |
|-------------------|--|--|--|--|--|
| Local Revenue | | | | | |
| Local Expenditure | | | | | |
| Net Local Impact | | | | | |

- NOTE: (1) List only the amount of change in the appropriate column.
 (2) Place all negative numbers in parenthesis.
 (3) You may replicate this worksheet.
 (4) Refer to Guidelines for Fiscal Note Worksheets for further information.

- (A) **ASSUMPTIONS:** Explain how estimate was derived. Describe costs that can be absorbed without additional funding. If no estimate can be prepared, **explain why in detail.** If no fiscal impact, **explain why in detail.**

The proposed bill establishes RSA chapter 490-F, the New Hampshire circuit court, unifying the non-judicial and judicial resources in all existing district, probate and family division courts into circuit courts, one per county. No court locations would be closed under this legislation. The legislation does not add any non-judicial resources.

Proposed RSA 490-F:7, III authorizes the replacement of marital masters upon the retirement, resignation, disability, or non-renewal of appointment with a full-time judicial position only if the fiscal committee of the general court approves and further provided that sufficient funds have been appropriated for the salary and benefits of the full-time judicial position. If the approval or funding is not authorized, a new master may be appointed pursuant to RSA 490-D:7.

Proposed RSA 490-F:12 retains the salary calculation mechanism for part-time judges that is currently authorized under statute.

Savings are anticipated through the elimination of non-judicial managers by attrition over a nine-year period. No capital expenditures will be necessary to implement the circuit court.

- (B) **METHOD:** Show calculations used to determine fiscal impact. **Calculations must agree with and explain totals on first page.**

Under the current organizational structure there are 51 clerks of court in the district, probate, and family division, earning \$3,102,861 annually in total. The circuit court implementation plan proposes eliminating 31 clerk positions for a savings of \$1,628,129 through attrition. The 31 clerks would be replaced with 19 court assistant III's (labor grade 17, step 6) for an additional salary cost of \$716,357. Benefit savings on the 12 net positions eliminated are estimated at \$360,000 annually.

Increased travel is anticipated for regional clerks traveling between locations. Increased travel is 398 miles roundtrip, 3 days a week, for 50 weeks or 59,700 miles reimbursed at .55 per mile or \$32,835 for all ten counties.

We have phased in the savings over a nine year period with 20% in FY 2012 and 2013, 30% in FY 2014 and 40% in FY 2015.

(C) **ESTIMATED FISCAL IMPACT (from A and B): Estimated Fiscal Impact must agree with the totals on first page.**

| | | FY 2012 | FY 2013 | FY 2014 | FY 2015 |
|--|-----------|------------|------------|------------|------------|
| Salary savings for 31 Clerk positions | 1,628,129 | | | | |
| Salary cost for 19 Court Asst III's | (716,357) | | | | |
| Est. benefit savings, 12 net positions | 360,000 | | | | |
| Savings through attrition | 1,271,772 | | | | |
| Additional mileage reimbursement 398 miles x 3 days/wk x 50 wks x .55 | (32,835) | | | | |
| Total Estimated Savings over 9 Years | 1,238,937 | | | | |
| Assumed phase in percentages | | 20% | 20% | 30% | 40% |
| Estimated savings | | \$ 247,787 | \$ 247,787 | \$ 371,681 | \$ 495,575 |

(D) **ADDITIONAL OR LONG-RANGE EFFECTS:**

(E) **TECHNICAL OR MECHANICAL DEFECTS:** Note any conflicts with existing law. Do not comment on the merits of the legislation.

(F) **OTHER COMMENTS:** Include tax variables, federal mandates, etc.

JUDICIAL BRANCH REPRESENTATIVE PREPARING WORKSHEET:

/s/ Howard J. Zibel

Name/Signature: Howard J. Zibel

Title and Phone Number: General Counsel to the New Hampshire Supreme Court, 513-5438

Date: January 19, 2011

Circuit Court Proposal
HB 609
Executive Summary

Introduction

The proposals contained in this summary were developed as part of the work of the Innovation Commission formed by the NH Supreme Court in April 2010. The Commission was charged with searching for innovative ways to increase the court system's productivity and efficiency while saving costs and maintaining the core mission of the judicial branch which is to provide access to justice to the people who bring their cases before the courts for resolution.

This summary discusses the recommendations made by only one of the Commission's subcommittees. Wherever possible, cost savings have been estimated. Likewise, projected estimated expenses are indicated. Not all of the recommendations contained within this summary require legislative approval and many will move forward wherever possible within the current budget restrictions.

Unification of the Probate, District and Family Court

Currently, these three trial courts operate as entirely separate entities, each with its own judges, staff, courtrooms etc. The inefficiency of this separation is readily apparent in those facilities that share space with one or more of the current courts. It is not uncommon that one trial court will either require additional clerical assistance or perhaps require the presence of a judge, while another of the courts has the additional judicial or clerical staff. However, because of the statutory restrictions against judges serving in more than one court, with the limited exception of the family division, it is not possible to utilize the available resource and, instead, judges or clerks must be moved from another location to provide the necessary assistance.

This proposal would unify the three trial courts into the Circuit Court and establish three "divisions" within the new court, the probate, district and family division. Judges and staff would be able to be assigned to Circuit Court locations and divisions within those locations where required by the workload.

The efficiencies and savings to be gained through this proposal are contained in the sections that follow. However, in order to maximize those efficiencies the new trial court organization is critical.

Estimated Cost to Implement: None

Legislative Approval: Required

Management Restructuring

There are currently 51 clerks and registers supervising 66 different locations for the existing district, probate and family courts. We are proposing the reduction of our management structure by approximately 50%. This restructuring is planned based upon a study of staffing patterns, commonly accepted standards for staff to manager ratios and experience gained primarily within the family division with the regionalization and centralization of management responsibilities. This proposal also calls for a legislative change to the duties of probate registers in order to bring the probate court within the construct of the new Circuit Court. While it is our intention to implement this proposal through attrition, we intend to be aggressive in its implementation and have, in fact, begun to hold management positions open as they are vacated.

Estimated Cost to Implement: None

Legislative Approval: Required for change to probate register duties

Estimate Savings: \$237,000 in Year One; \$1.2M over 10 years

Transfer Jurisdiction Over Minor Motor Vehicle Cases to Department of Safety

The district courts handle more than 30,000 minor motor vehicle cases each year. The supreme court, in a 1993 decision, ruled that these cases were civil in nature, not criminal. The Department of Safety currently has jurisdiction, and a dedicated Bureau of Hearings, that addresses such complex and important issues as administrative license suspension in DWI cases, issuance and suspension of permits to motor carriers to use the state's highways, suspension and reissuance of driver's licenses etc. This proposal would transfer the responsibility for hearing minor motor vehicle cases (speed, stop sign, yellow line etc.) to Safety. Parties would have a limited right of appeal to the Circuit Court for review of the Bureau's decision.

Estimated Cost to Implement: See Video section below. It is expected that any expenses associated with staffing at the Department of Safety will be more than offset by the savings in the judicial branch.

Legislative Approval: Required

Estimated Savings: \$1M a year in staffing savings in the judicial branch. The Department of Safety and local police departments are estimating significant savings in overtime pay to their officers that may be as high as \$500,000. Safety estimates implementation cannot begin until 2014; therefore savings over the next 10 years are projected at approximately \$10.5M excluding staffing expenses incurred by the Department.

Establishment of a Centralized Call Center

Currently each of the 66 court locations that will comprise the Circuit Court receives telephone inquiries which, cumulatively, total in the many thousands each year. Results of a careful study conducted earlier this year, show that 70% of those calls can be adequately addressed offsite. Those calls tend to require information that is very general in nature or can be answered by a trained person referring to information contained in the courts' central case management system.

Establishment of a centralized call center will increase efficiency, enhance consistency in responses and allow staff at the local courts to devote more time to case processing and customer service. In combination with other recommendations below, it is also expected to reduce the number of staff required at the local courts to perform those functions.

Estimated Cost to Implement: Cost estimates for the phone system are currently being compiled and are expected to be completed before December 31st. Any such cost will be a capital expense and may be as high as \$1M if the entire court system is changed over to VOIP (Voice Over Internet Protocol) in order to join in the effort to convert all state lines to internet based, or as low as \$100,000 if a phone system for only a single location is the final recommendation.

Legislative Approval: Not Required except as to capital budget

Estimated Savings: \$330,000 in Year One and \$3.3M over 10 years

Implement Specialize Case Processor Positions

Traditionally, all clerical staff in our courts work between the hours of 8 a.m. and 4 p.m. and are full time employees. Recently completed studies have shown that staff is up to 100% more efficient when working during hours that court is not in session i.e. evenings or weekends. It is estimated that approximately 50-75% of the work performed by staff in our local courts is in the nature of data processing which can be performed during off hours or in a place separate from the other staff. This recommendation creates a segment of our work force that will work in the evening hours or separate from the other staff and which will be comprised mainly of part time employees. Our studies indicate a dramatic increase in productivity is to be expected with a savings related to the expense for benefits.

Estimate Cost to Implement: We expect to convert currently existing vacant full time positions to part time for use in this proposal. It is anticipated that supervisory staff will be required and may have to be full time. Those positions will, likewise, be filled either with existing staff or from existing vacancies.

Legislative Approval: Not required

Estimated Savings: \$500,000 in Year One with a cumulative savings of \$5M over 10 years.

Expand Use of Videoconferencing

Videoconferencing has been used only randomly in the district, probate and family courts. Primarily it is used for purposes of conducting criminal arraignments in some of our larger courts. While this does not produce a large savings to the judicial branch, it does produce savings related to the transportation of detained individuals and their custody during court appearances. These expenses fall mainly on the county budgets through their Sheriff's Departments and the Department of Administrative Services which has the funds for reimbursement to the counties for custody and control of detained individuals within its budget. The benefit to the courts is in assuring greater courthouse security and creating efficiencies in the conduct of these hearings. This proposal anticipates the expansion of video hearings to other case types including certain family matters, civil and small claims, matters within

the probate jurisdiction that do not require the physical presence of the parties and other cases where parties cannot easily attend due to distance. The proposal is to fit up each court location and each county jail with videoconferencing equipment. Although not formally included within this recommendation, it would be equally advisable to enlist the public defender's office, county attorneys and attorney general in this process to enable those state and county funded entities to achieve similar efficiencies and savings.

Cost Estimate to Implement: The cost is solely related to purchasing and installing videoconferencing equipment and funding internet lines at each site over which the video would be broadcast and received. It is estimated that the capital expense would be approximately \$600,000 to purchase and install the equipment at each court location (43sites) and each county jail (10 sites). Additionally, there will be a \$1200 cost per year for internet access at each location for a total cost of approximately \$52,000 per year, assuming the counties pay their own internet access fee.

Legislative Approval: Required for capital expense

Cost Savings: Savings may be as high as \$240,000 per year for the Department of Administrative Services, but more precise estimates need to be received from DAS. Savings to the courts will be primarily in achieving greater efficiency in conducting these hearings and is, at this point, difficult to estimate. Savings to other non-court entities such as the Sheriffs, public defenders and law enforcement officials will have to be received from them.

Expansion of Centralized Dictation Center

Typically, orders that need to be typed have been typed by staff in the various clerks' offices. In those courts that have court monitors, the monitors have typed the orders. This function is not one that staff are generally hired to perform. Consequently, proficiency is variable and often removes the staff person from other responsibilities required to be performed within that staff person's job description. In short, it is highly inefficient. The family division implemented a centralized dictation center several years ago that is staffed by 2.5 – 3 FTE's. Dictation is called into a centralized software system located in Concord and transcribed within 24-48 hours of receipt and then emailed back to the judicial officer. More than 6,000 orders each year are transcribed

by highly efficient staff that is hired specifically to perform this task. We are currently in the process of purchasing updated software that will allow transcription to take place from noncourt facilities. This will allow us to expand our part time work force and to contract with individuals who may work from home.

Cost Estimate to Implement: Cost of Software is within the existing FY 11 budget. There may be a need for additional staff as more courts are added to this process; however, part time employees will be primarily utilized and gains in efficiency at the local court level will be increased.

Legislative Approval: None Required

Projected Savings: Savings is related to efficiencies to be gained at the local court sites by virtue of staff no longer having to perform this task

Transfer of Certain Case Types to Judicial Referees

The jurisdiction of each of the existing courts that will comprise the Circuit Court includes certain functions that simply do not require the assignment of a judge. Examples of such functions include probable cause determinations in Involuntary Commitment proceedings, determination of payment schedules in small claims cases, determination of reimbursement schedules in lawyer fee reimbursement matters, child support enforcement proceedings, probate account review etc. The court system currently employs 4 child support hearing officers in the family division, two of whom are part time employees. Their use has allowed these matters to proceed far more quickly than if they were put on a judge or master docket and have allowed us to schedule other contested matters which do require a judge far more efficiently. We anticipate the same sort of judicial savings with wider use of referees in these more administrative types of cases.

Estimated Cost of Implementation: At the outset we will utilize existing staff to serve in this capacity, however, as we measure the outcomes of this initiative, we may add part time contracted staff to assist.

Legislative Approval: The probate court and family division already have legislative approval to utilize referees. Legislation will need to be approved to expand their use to the district court segment of the Circuit Court

Projected Savings: We have analyzed the annual savings anticipated by using a referee system for the probable cause determination in Involuntary Commitment proceeding in Concord and project an annual savings of \$40,000, not including any savings attributable to efficiencies to be gained in giving the judges additional time to hear cases requiring judicial involvement.

Centralize/Privatize Fine Collection

The state's district courts impose and collect approximately \$14.7M in fines each year. However, there is also approximately \$1.7M in fines outstanding in the district courts, \$60,000 in the probate courts and \$70,000 in the family division. The courts do an excellent job of collecting fines within the first 30 days of imposition. However, as more time passes, the effort to collect overdue fines becomes increasingly labor intensive. Unfortunately, the court staff does not have the resources or training to engage in debt collection practices that have been proven, in the private sector, to be effective. Those would include, repeated personal contact by telephone or mail, establishment and regular monitoring of payment etc. This recommendation would establish a central place in the court system or elsewhere in state government to which all fines older than 30 days would be sent for collection utilizing proven collection techniques. Alternatively, it would seek authorization to send these debts to a private collection agency.

Estimated Cost of Implementation: None. Existing staff would be used in a pilot project to measure the outcome.

Legislative Approval: Required if private collection is adopted

Projected Savings: The savings would be in greater efficiencies at the local court level once this responsibility was removed and projected increases in fine revenue.

Conclusion

Overall it is estimated that the above recommendations will conservatively produce savings in the range of \$15M over a 10 year period. It is quite possible those savings will be higher. There are other initiatives not detailed here that we intend to test before implementing, but that hold significant promise for achieving higher productivity while saving cost. Those include centralizing public access to court

records and/or making those records available on the internet, centralizing the filing of certain cases, eliminating other areas of jurisdiction that do not seem to require judicial intervention such as dog nuisance matters, parking violations, certain minor zoning violations etc. Our efforts to further investigate other opportunities for innovation are ongoing.

HB 609
2011 Session

| Statute | Change made | Explanation |
|---|---|--|
| CIRCUIT COURT SECTIONS | | |
| 490-F:1 Purpose | New Section Some of the language is similar to that found in RSA 490-D:1 which establishes the Judicial Branch Family Division. | The goals of the circuit court include many of the "innovations" discussed as part of the "Court Innovation Commission" including ADR, the use of technology and the assignment of staff. Of utmost importance however are the respectful treatment of the citizenry and the fair resolution of disputes. It is anticipated that through the restructure of the three trial courts involved greater efficiencies both judicially and clerically will be realized resulting in cost savings and better public service. |
| 490-F:2 Circuit Court; General | New Section | This section authorizes each location of the Circuit Court to hear all types of cases. Each court location is currently limited in its ability to hear different case types. This section would permit each location to hear all case types coming within the jurisdiction of the circuit court, subject to constitutional venue limitations in criminal cases. In addition, in an effort to gain efficiencies and better serve the public, this section would permit the reassignment of cases from one court location to another, again subject to constitutional limitations in criminal cases. The circuit court will have statewide jurisdiction. |
| 490-F:3 Circuit Court Divisions | New Section | This section sets forth the three circuit court divisions. These divisions mirror the existing courts which will become the circuit court. This section carries over the jurisdictional authority of each division as it currently exists. By virtue of this section, from the outside looking in, many may not notice much difference in the circuit court at inception. |
| 490-F:4 Circuit Court; Locations | See 502-A:1 and 490-D:4 | This section sets forth the circuit court locations. The goal of this section is to maintain the status quo with regard to judicial districts. While each county is assigned a circuit number, the districts have remained unchanged. In addition, because probate hearings may be held at additional locations as a result of the circuit court, this section clarifies that the probate records are to be maintained at the county seat. As a result of this section, someone who had filed a small claim in Berlin for example, will still file the small claim in Berlin. A police department filing a criminal charge in Laconia will continue to file the charge in Laconia. |

| Statute | Change made | Explanation |
|---|---|--|
| <p>490-F:5 Circuit Court Judges and Masters; Appointment; Tenure</p> | <p>New Section</p> | <p>The first paragraph of this section brings into the circuit court all existing judges and masters. The second paragraph indicates that all future appointments will be to the circuit court rather than to the district or probate courts. In addition, the section removes the "location specific" appointment currently in place giving to each new circuit court judge statewide authority without geographic limitation. It gives to the administrative judge the authority to assign new circuit court judges to a location based upon need.</p> |
| <p>490-F:6 Circuit Court Judges and Masters; Assignment; Certification</p> | <p>New Section The language regarding the judges' commitment to the type of case is similar to that found in 490-D:6. In addition, the language is also akin to that in 502-A:3. The assignment language is similar to that found in 502-A:5. See 502-A:6-c and 490-D:15 with regard to expenses.</p> | <p>The first paragraph gives to the administrative judge the authority to assign circuit court judges to different locations based upon need. This should allow the circuit court to realize greater efficiencies in the use of judicial resources given the absence of geographic limitations.</p> <p>The second paragraph addresses the assignment of a judge to a particular division and ensures that the judge will be assigned to a division based upon knowledge and commitment to the subject matter of the division.</p> <p>The third paragraph addresses a constitutional concern about the need for probate judges specifically.</p> <p>The fourth paragraph addresses the issue that judges, previously appointed to a particular court, will now be presiding over cases whose subject matter may be foreign to them. It ensures that the initial assignment of a judge is to the division of the circuit court from which they came, meaning that a district court judge would be initially assigned to the district division, a probate court judge to the probate division, and a family division judge to the family division.</p> <p>The fifth paragraph addresses subsequent assignments and, while leaving subsequent assignments to the discretion of the administrative judge, also mandates a certification process to ensure that the judge is qualified to hear cases in the new division.</p> <p>The sixth paragraph addresses newly appointed judges to the circuit court and leaves the initial division assignment to the discretion of the administrative judge while setting forth the criteria to consider in making that initial assignment.</p> <p>The seventh paragraph permits judges to be assigned to all divisions. In this way the greatest judicial efficiencies of the circuit court may be realized. For example, once a judge has achieved certification in all divisions, in a rural location the circuit court may be able to assign cases to one judge which had previously</p> |

| Statute | Change made | Explanation |
|--|---|--|
| | | <p>required two or three. More specifically, in Lancaster, a location which houses all three trial courts which will comprise the circuit court, one judge who is properly trained and certified will be able to preside over probate matters, district court matters and family division matters rather than each trial court having to provide its own judge.</p> <p>The eighth paragraph carries forward current law dealing with judicial expenses and mileage.</p> |
| <p>490-F:7 Circuit Court Judges; Number</p> | <p>Paragraph I is new. 502-A:3-c for II. Paragraph III is new. 491-A:3, IV (special justice permanent)</p> | <p>The first paragraph maintains the current number of district and probate court judges. While significant judicial efficiencies are anticipated with the implementation of the circuit court, those efficiencies will take time to develop as judges are trained and certified in the different divisions of the circuit court. Also, while judicial efficiencies are anticipated, the number of cases requiring judicial attention is not necessarily shrinking. This section also includes a provision to permit transfer into the family division of those masters remaining in the superior court in locations where the family division has not yet been implemented. (Cheshire County)</p> <p>Paragraph two eliminates part time and special justices automatically upon retirement or resignation unless the Supreme Court certifies a need.</p> <p>An Amendment to Delete The Next Paragraph Will Be Submitted</p> <p>The third paragraph would have effectively converted marital master positions, upon resignation, retirement, disability or non-renewal, to full time judicial positions if sufficient funds were available to do so upon a review of the fiscal committee</p> <p>The fourth paragraph comes from existing law and permits the conversion of a part time judicial position to a full time judicial position based upon the stated criteria but also subject to governor and council approval. In addition, prior to making the request the Supreme Court must obtain the approval of the fiscal committee.</p> |
| <p>490-F:8 Circuit Court Judges; Retired Judges</p> | <p>See 502-A:6-b</p> | <p>Paragraph one carries forward existing law and permits retired judges to elect senior active status or serve as judicial referees.</p> <p>Paragraph two maintains those judges who currently are on senior active status or who now serve as judicial referees in the circuit court without further application.</p> <p>The third paragraph renders the assignment and certification provisions applicable to senior active judges and judicial referees; they are required to obtain certification prior to sitting on different case types.</p> |

| Statute | Change made | Explanation |
|--|---|---|
| <p>490-F:9 Disqualifications of Judges</p> | <p>Replaces 502-A:21</p> | <p>This provision is an effort to carry forward current law; however the difficulty is that the court and location limitations now in place render disqualification a narrower matter with which to deal. For example, a district court judge may not practice in the district court but may practice in the family division and probate court. With the unification of the three trial courts, absent some clarification, a circuit court judge could be disqualified from practicing in any division of the circuit court, thereby significantly limiting the ability of part time judges to earn a living through the practice of law. The language in this provision limits the judge's ability to practice but only in the division for which the judge is certified. Therefore a judge certified in the district division would be permitted to practice in the probate division. The provision also limits the practice by location so that a circuit court judge assigned to a particular location should not practice in that location for fear of at least the appearance of impropriety or conflict. This provision extends to those associated with the judge in the practice of law.</p> |
| <p>490-F:10 Full-Time Circuit Court Judges</p> | <p>Replaces 502-A:21-a</p> | <p>This provision carries forward existing law by preventing a full time judge from engaging in the private practice of law.</p> |
| <p>490-F:11 Judicial Branch Budget Request</p> | <p>See 491-A:3 & 4</p> | <p>This section, dealing with the judicial branch budget calculations as they relate to the number of judicial positions and salaries, carries forward the existing law.</p> |
| <p>490-F:12 Part-Time Judges; Salary Calculation</p> | <p>See 491-A:3, III and 491-A:4, III 502-A:6</p> | <p>This section tracks current law; however it also takes into consideration cases which may be removed from the jurisdiction of the circuit court.</p> |
| <p>490-F:13 Circuit Court Clerks; Appointment</p> | <p>New Section. Reference should be made to 502-A:7 and 490-D:12, I.</p> | <p>This section continues the authority of the administrative judge in the appointment of clerks. In addition, it permits a circuit court clerk to function as such in more than one location. Consolidation of management is one of the many reasons for implementation of the circuit court and this provision recognizes that goal statutorily. It may be unnecessary in some locations to have a higher level management clerk on site at all times permitting the management of circuit court locations, with consideration given to size, to be shared. With regard to duties, reference is made to the predecessor statutes which outlined the duties of clerks rendering them unchanged.</p> |
| <p>490-F:14 Staff</p> | <p>Replaces 490-D:11</p> | <p>This provision addresses the transfer of existing staff from the district court, probate court and family division into the circuit court. The number of staff shall be</p> |

| Statute | Change made | Explanation |
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| | | determined based upon criteria used in the past. With regard to transfer, the mechanism will be left to the administrative judge in that the process of staff transfer and training will require significant attention between enactment and implementation, and administration must be able to do that without statutory constraint. |
| 490-F:15 Referees | Replaces 490-D:10 | This section permits the use of referees in some instances. The increased use of judicial referees was identified as a cost saving measure by the Court Innovation Commission. This statutory provision gives to the circuit court the ability to utilize these judicial officers more broadly than at present. |
| 490-F:16 Alternative Dispute Resolution | Replaces 490-D:13 | This section emphasizes the use of alternative dispute resolution which is a stated purpose of the circuit court and a more efficient means of dispute resolution in certain instances. |
| 490-F:17 Existing Procedure Applicable | Replaces 502-A:32 | This section carries over all statutory provisions relating to procedure in criminal and civil matters to the circuit court, so long as they are not inconsistent. |
| 490-F:18 Statutory References | See 490-D:14. Replaces 502-A:34 | By virtue of this section, all references to the courts which will become the circuit court are deemed to be to the circuit court. This provision alleviates the need to locate every reference to the district court, probate court and family division in the N.H. Revised Statutes and also alleviates the risk of omission. There is a minor distinction between the references during implementation and after implementation but the effect is the same. |
| 490-F:19 Implementation Plan | See 490-D:5 | This section makes the circuit court operational as set forth in an implementation plan to be developed by the administrative judge of the circuit court in consultation with the supreme court. |

| Statute | Change made | Explanation |
|--|--|--|
| FAMILY DIVISION SECTIONS | | |
| 490-D:1 Judicial Branch Family Division Established | See 490-D:1 and 490-F:1 | D:1 Remains in effect F:1 Sets forth the goals of the circuit court, some of which are identical to the goals set forth in D:1 |
| 490-D:2 Jurisdiction | See 490-D:2 and 490-F:3 | D:2 Remains in effect F:3 Confers upon the circuit court the case type jurisdiction that had been conferred through D:2 |
| 490-D:3 Equity Jurisdiction | See 490-D:3 and 490-F:3 | D:3 Remains in effect F:3 Confers upon the circuit court the case type jurisdiction that had been conferred through D:3 |
| 490-D:4 Sites | See 490-D:4 and 490-F:4 | D:4 Remains in effect F:4 Keeps the family division locations as they were in D:4 and designates the 10 circuits across the state along county lines |
| 490-D:5 Implementation Plan | See 490-D:5 and 490-F:19 | D:5 Remains in effect making family division locations operational by supreme court order F:19 Confers authority to make circuit operational based upon a plan of implementation developed by the administrative judge of the circuit court in consultation with the supreme court |
| 490-D:6 Judges and Marital Masters | 490-D:6 replaced by 490-F:6, F:7 and F:11. | D:6 Repealed F:6 Requires knowledge of, commitment to, and expertise in family division matters F:7 Requires that the initial number of judges and marital masters for the circuit court shall not be less than the authorized judicial and master positions in the former district, probate and family division F:11 Requires future numbers of judges and marital masters to be established by weighted case values |
| 490-D:7 Nominations and Appointments of Marital Masters | Amended. | D:7 Remains in effect but references to the circuit court are added |
| 490-D:8 Qualifications of Marital Masters | No change. | D:8 Remains in effect |
| 490-D:9 Recommend- ations of Masters | No change. | D:9 Remains in effect; sets forth requirement for judicial signature on marital masters recommendations. |

| Statute | Change made | Explanation |
|--|--|--|
| 490-D:10 Referee | Repealed and replaced by 490-F:15. | D:10 Repealed F:15 Sets forth an identical referee provision allowing certain cases to be heard by a referee. |
| 490-D:11 Staff | Repealed and replaced by 490-F:14 | D:11 Repealed F:14 Sets forth a similar provision for staff transfer to the circuit court from probate, district, and family division. |
| 490-D:12 Judicial Branch Family Division Clerks | Amended. | D:12, I Is repealed as to family division clerks D:12, II and III Remains in effect for handling of fees, with added references to circuit court F:13 Sets forth appointment and duties of circuit court clerks |
| 490-D:13 Alternative Dispute Resolution | Repealed and replaced by 490-F:16. | D:13 Repealed F:16 Sets forth a similar provision for alternative dispute resolution in the circuit court |
| 490-D:14 Statutory References | No change; 490-F:18 has similar provisions. | D:14 Remains in effect because at the time of the implementation of the circuit court, the family division may not have been fully implemented and this section allows statutory references for the cases to transfer from superior, probate and district shall apply to the same cases in family division. F:18 Sets forth a similar provision for statutory references while in transition from district, probate and family to the circuit court |
| 490-D:15 Marital Masters' Expenses | 490-D:15 repealed and replaced by 490-D:6, IX | D:15 Repealed F:6, IX Sets forth a similar provision for expense reimbursement and mileage limitation reimbursement for judges and marital masters |

| Statute | Change made | Explanation |
|---|---|--|
| DISTRICT COURT SECTIONS | | |
| 502-A:1-a Additional District Courts | Repealed. | Relative to the establishment of additional district courts. |
| 502-A:2, II Sessions in Towns Within District | Amended. | Requires administrative judge to annually set forth the number of court sessions based upon evaluation of a number of factors. Also requires administrative judge to file annual report on progress of flexible scheduling. Amends section to remove reference to district courts and replace with circuit courts. Also deletes requirement of annual report on flexible scheduling. |
| 502-A:3 District Court Justices... | Repealed; replaced by 490- F:5. | Relative to appointment and tenure of district court judges. |
| 502-A:3-a Associate Justices, Manchester, Nashua and Concord | Repealed. | |
| 502-A:3-b District Court; Justices Tenure.. | Repealed; replaced by 490- F:7 | This section regarding tenure following consolidation of districts is replaced by 490-F:7. |
| 502-A:3-c Elimination of Special Justices | Repealed; replaced by 490- F:7. | Replaced by 490-F:7 regarding number of circuit court judges. |
| 502-A:5 Powers of Other Justices | Repealed; replaced by 490- F:5 and F:6. | Unnecessary with the passage of 490-F:5 and 490-F:6 which addresses assignment of judges and their authority. |
| 502-A:5-a Assignment of Judges | Repealed; replaced by 490- F:6. | Unnecessary with the passage of 490-F:6 which addresses the assignment of judges. |
| 502-A:6, III Salaries of Justices, Special Justices, Clerks. | Repealed; replaced by 490- F:13. | Salaries of clerks were set by justice of court. With the passage of 490-F:13, clerks will be appointed by and serve at the pleasure of the administrative judge of the circuit court. |

| Statute | Change made | Explanation |
|---|---|--|
| 502-A:6, V Salaries of Justices, Special Justices, Clerks. | Repealed. | Salaries of deputy clerks were set by justice of court and clerk. |
| 502-A:7 District Court Clerks | Repealed; replaced by 490- F:13. | Clerks were appointed by the presiding judge of individual courts. With the passage of 490-F:13, clerks will be appointed by and serve at the pleasure of the administrative judge of the circuit court. |
| 502-A:7-a Deputy clerk of the Nashua District Court | Repealed. | Appointments for this position shall be made like all other employee appointments. |
| 502-A:7-b Deputy Clerks | Repealed. | Appointments for this position shall be made like all other employee appointments |
| 502-A:8 Duties of Clerks; disposition of fines. | Amended. | Adds reference to clerk of applicable circuit court established in 490-F. Adds section II authorizing the collection of fines at a centralized location. |
| 502-A:8-a Juvenile Intake Officers; assignment | Repealed. | |
| 502-A:8-b Duties of Juvenile Intake Officers | Repealed. | |
| 502-A:11 Criminal Cases, District Courts | Amended. | Deletes prior authorization for towns to continue municipal courts and granting to those courts jurisdiction (exclusive) over offenses committed within the town until abolition of the court in accordance with 502-A:35. |
| 502-A:12-a Regional Jury Trials | Repealed. | Gave Supreme Court authority to designate one or more district courts as regional jury trial district courts. |
| 502-A:15 Jury Trial | Amended. | Deletes reference to regional jury trial district courts in certain civil cases and removes authority of the Supreme Court to designate regional jury trial district courts for civil causes. |
| 502-A:19-b Pleas by Mail | Repealed. | |
| 502-A:20 Courts of Record | Repealed. | |

| Statute | Change made | Explanation |
|--|---|---|
| 502-A:21 Disqualification of Justices | Repealed; replaced by 490- F:9. | See proposed 490-F:9. |
| 502-A:21-a Full-time District Court Justices | Repealed; replaced by 490- F:10. | Justices may not engage in practice of law. See proposed 490-F:10 |
| 502-A:28 District Court Fees | Amended. | Amends reference to district court to applicable circuit court established under 490-F. |
| 502-A:29 Other fees | Amended. | Amends reference from district court to applicable circuit court |
| 502-A:32 Existing Procedure Applicable | Repealed. | Allowed for existing procedure in municipal courts to be extended to district courts. |
| 502-A:34 Functions of Municipal Courts vested in District Courts. | Repealed. | |
| 502-A:35 Municipal court abolished; exception. | Repealed. | Stated exception to abolition of municipal courts-procedure for towns to continue municipal courts. |
| 502-A:36 Pending Actions; how transferred | Repealed. | For transferring between municipal and district courts. |

| Statute | Change made | Explanation |
|--|---|--|
| PROBATE COURT SECTIONS | | |
| 490:27 Probate Ct Fees | Amended. | Says to whom fees are paid. Removed reference to register and replaced with clerk of circuit court. |
| 547:1 Court of Record | Amended; Section moved from current 548:3 | Related to the court seal. Section is more closely related to 547, Judges and their Jurisdiction. |
| 547:11-d Transfer to Superior Court | Amended. | In cases with concurrent jurisdiction with the Superior Court, if a defendant wants a jury trial, the defendant must indicate the request for a jury trial at the time of the defendant's initial pleading with the probate court |
| 547:27 If Register Not Present | Repealed. | Unnecessary since section reflected paper-handling practices of 1866. |
| 547:27-a Docket and Index | New section; information moved from current 548:4 and amended. | Amended to update language and reflect current case-handling practices, including the requirement of the court to keep an index of all cases available to the public. Section is more closely related to 547, Judges and their Jurisdiction. |
| 547:27-b Records | New section includes parts of current 548:5 and 548:6. | Amended to update language regarding retention of probate files. The section of current 548:6 regarding historical significance is now in new 548:5, Preservation of Records. Section related to file retention is more closely related to 547, Judges and their Jurisdiction. |
| 547:27-c Probate Court Entry Fees | New section; information moved from current 548:23-a. | Amended only to change reference to clerk rather than register of probate. Section is more closely related to 547, Judges and their Jurisdiction. |
| 547:38 Assignment of Judges | Repealed; now in 490-F:6. | Unnecessary with the passage of 490-F:6 which addresses the assignment of judges. |
| 548:1 Residence, etc. | Amended; register must still be resident of county. | Removed requirement of register to be present at the probate office on all days when the court is open since that would be unnecessary with the passage of 490-F, Circuit Court. |
| 548:2 Office Hours | Repealed. | Statute said hours were in accordance with procedures established by Supreme Court; those are specified by personnel rules. |

| Statute | Change made | Explanation |
|--|--|---|
| 548:3 Seal | Repealed; moved to new 547:1. | Information regarding court seal is more closely related to 547, Judges and their Jurisdiction. |
| 548:4 Docket and Index | Repealed; moved to new 547:27-a. | Information regarding docket and index of cases files was moved to new 547:27-a. Section is more closely related to 547, Judges and their Jurisdiction. |
| 548:5 Records | Amended with new title of Preservation of Files. | Amended section states registers role in the preservation of closed files with historical significance. The portions regarding recording wills, etc. is in new 547:27-b; those sections are more closely related to 547, Judges and their Jurisdiction. |
| 548:5-a Notice to Fiduciaries | Repealed; information moved in its entirety to new 554:26-a . | Register of probate references changed to clerk of circuit court. Section deals with fiduciary reporting responsibilities and is more closely related to 554, Dealing with Assets. |
| 548:6 Destruction of Records | Repealed. | Information moved to new 547:27-b, II and new 548:5, Preservation of Records. |
| 548:7a Record of Decedent's Real Estate | Repealed; moved to new 554:14-a. | Section deals with notifying Deeds office in another county and is more closely related to 554, Dealing with Assets. |
| 548:8 Blanks and Stationery | Repealed. | Statute is unnecessary given current practices regarding supplies. |
| 548:9 Inventory Blanks | Repealed. | Statute is unnecessary given current practices of forms being available online. |
| 548:14 Deputy Registers | Repealed. | With the passage of 490-F, Circuit Court, it will not be necessary for registers to appoint deputies. |
| 548:14-a Additional Deputy Regs | Repealed. | With the passage of 490-F, Circuit Court, it will not be necessary for registers to appoint additional deputies. |
| 548:16 Disability of Register | Repealed. | With the passage of 490-F, Circuit Court, any duties specified in the new 548 will be performed by the clerk if the register is disabled. |
| 548:17 Salaries | Amended. | Removed the section regarding registers setting salaries for employees in the court since that will be done as specified in new 490-F, Circuit Court. |
| 548:23 Receipt | Repealed. | Standard accounting practices and case processing practices mandate issuing a receipt for copies. |

| Statute | Change made | Explanation |
|--|---|--|
| 548:23-a Probate Court Entry Fees | Repealed; moved in its entirety to new 547:27-c. | Receipt of entry fees and escrow account information are more closely related to 547, Judges and their Jurisdiction. |
| 548:24 Counsel Acting As | Amended to update language. | Section prohibits register from acting as counsel or advocate in any court proceedings. |
| 548:25 Appraiser, Commissioner, Acting As | Amended to update language. | Section prohibits register from acting as appraiser or commissioner on any estate in his/her court. |
| 548:28 Penalty | No Change | Covers penalties for violating provisions of chapter. |
| 550:10 Publication of Notice in Newspaper or Electronic Media | Section amended in general. | Removed references to register of probate; added option to allow any notices to be published by the courts to be published using electronic media. (550:10, II) |
| 554:14-a Record of Decedent's Real Estate | New section; information moved from current 548:7-a. | Section deals with notifying Deeds office in another county and is more closely related to 554, Dealing with Assets |
| 554:26-a Notice to Fiduciaries | New section; information moved from current 548:5-a. | Register of probate references changed to clerk of circuit court. Section deals with fiduciary reporting responsibilities and is more closely related to 554, Dealing with Assets. |

| Statute | Change made | Explanation |
|---|--------------------------------|--|
| MINOR MOTOR VEHICLE CASES SECTIONS | | |
| Amendment to Delete These Sections Will Be Submitted | | |
| 262:44 Waiver in Lieu of Court Appearance | Amended | Amendment to delete this section will be submitted. |
| 262:44-a Appeal | New Section | Amendment to delete this section will be submitted. |
| 21-P:2, II Dept of Safety General Functions | New Section | Amendment to delete this section will be submitted. |
| 21-P:13, III Dept of Safety Bureau of Hearings | New Section | Amendment to delete this section will be submitted. |
| 21-P:14, X Rulemaking | New Section | Amendment to delete this section will be submitted. |
| 263:56-a Suspension or Revocation For Default... | Amend | Amendment to delete this section will be submitted. |
| 263:57 Suspension by Justice for Cause | Amend | Amendment to delete this section will be submitted. |
| 263:60 Records; Reports | Amend | Amendment to delete this section will be submitted. |
| 263:61 Flagrant Cases | Amend | Amendment to delete this section will be submitted. |
| OTHER SECTIONS | | |
| Reference Changes | HB609 pages 18 – 22 | |
| Repeal | HB609 pages 23-24 | Lists sections repealed that are also noted above on this chart. |

HB 609

Establishment of Circuit Court



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and green ink and therefore not readable
on next page

INDEX

| | | |
|----------------|------------------|----------------|
| Section | Reference | Page(s) |
|----------------|------------------|----------------|

This section establishes a trial court with three divisions: probate, district and family. The structure, appointment of judicial officers and certification of new and existing judicial officers is also set forth.

These sections amend RSA 490-D:7 by changing the reference from judicial branch family division to circuit court.

§4-9..... District Court6 - 8

These sections make various changes to the existing district court statute. (RSA Ch. 502-A) Changes include amending references to circuit court, permitting centralized fine collection and elimination of reference to regional jury trials.

§4-22..... Probate Court8 - 12

These sections make changes to various probate court statutes.

§23-31..... Minor Motor Vehicle Cases12 - 18

These sections effect the transfer of adjudication of minor motor vehicle matters to the Department of Safety and provide for an appeal mechanism to the circuit court.

These sections simply amend various statutory provisions necessary to effect the other changes listed above.

§45..... Repeal23 - 24

This section repeals several district court, probate court and family division statutes which become unnecessary or impediments to the formation and functioning of the circuit court.

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HOUSE BILL 609-FN

BILL TITLE: establishing the New Hampshire circuit court to replace the current probate courts, district courts, and judicial branch family division..

DATE: March 9, 2011

LOB ROOM: 208

Amendments:

Sponsor: Rep. Sorg OLS Document #: 2011 0739h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. B. Murphy

Seconded by Rep. L. Weber

Vote: 16-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. L. Weber

Seconded by Rep. B. Palmer

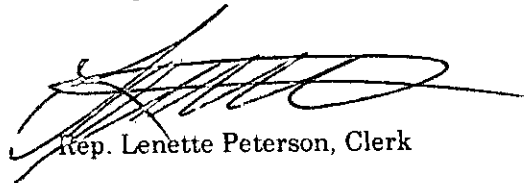
Vote: 16-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep. Lenette Peterson, Clerk

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 609

BILL TITLE: establishing the New Hampshire circuit court to replace the current probate courts, district courts, and judicial branch family division..

DATE: 3/9/11

LOB ROOM: 208

Amendments:

Sponsor: Rep. Song

OLS Document #: 07396

Sponsor: Rep. Weber

OLS Document #:

Sponsor: Rep. Gauda
R

OLS Document #:

Motions:

OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Murphy

Seconded by Rep. Weber

Vote: 14-0 (Please attach record of roll call vote.)

Motions:

OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Weber

Seconded by Rep. Palmer

Vote: 10-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: No

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent:

Refer to Committee Report

Respectfully submitted,


Rep. Benette Peterson, Clerk

JUDICIARY

Bill #: HB609 Title: _____

PH Date: ____/____/____

Exec Session Date: ____/____/____

Motion: OTR 07394 Amendment #: _____

| MEMBER | YEAS | NAYS |
|--|------|------|
| Rowe, Robert H, Chairman | ✓ | |
| Sorg, Gregory M, V Chairman | — | — |
| Souza, Kathleen F | ✓ | |
| Hagan, Joseph M <i>Copeland</i> | ✓ | |
| Silva, Peter L | ✓ | |
| Andolina, Donald C | ✓ | |
| Giuda, J. Brandon | ✓ | |
| LaCasse, Paul D | ✓ | |
| McClarren, Donald B | ✓ | |
| Murphy, Brian JX | ✓ | |
| Palmer, Barry J | ✓ | |
| Peterson, Lenette M | ✓ | |
| Tregenza, Norman A | ✓ | |
| Wheaton, Gary W | — | — |
| Wall, Janet G | ✓ | |
| Potter, Frances D | ✓ | |
| Weber, Lucy M | ✓ | |
| Watrous, Rick H | ✓ | |

16 0

JUDICIARY

Bill #: HB609 Title: _____

PH Date: ____/____/____ Exec Session Date: ____/____/____

Motion: OTP/A - 0-739h Amendment #: _____

| MEMBER | YEAS | NAYS |
|--|------|------|
| Rowe, Robert H, Chairman | ✓ | |
| Sorg, Gregory M, V Chairman | — | — |
| Souza, Kathleen F | ✓ | |
| Hagan, Joseph M <i>Copeland</i> | ✓ | |
| Silva, Peter L | ✓ | |
| Andolina, Donald C | ✓ | |
| Giuda, J. Brandon | ✓ | |
| LaCasse, Paul D | ✓ | |
| McClarren, Donald B | ✓ | |
| Murphy, Brian JX | ✓ | |
| Palmer, Barry J | ✓ | |
| Peterson, Lenette M | ✓ | |
| Tregenza, Norman A | ✓ | |
| Wheaton, Gary W | — | — |
| Wall, Janet G | ✓ | |
| Potter, Frances D | ✓ | |
| Weber, Lucy M | ✓ | |
| Watrous, Rick H | ✓ | |
| | 10 | 0 |
| TOTAL VOTE: | | |

Committee Report

CONSENT CALENDAR

March 10, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on JUDICIARY to which was referred

HB 609-FN,

AN ACT establishing the New Hampshire circuit court to replace the current probate courts, district courts, and judicial branch family division.. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Robert H. Rowe

FOR THE COMMITTEE

COMMITTEE REPORT

| | |
|-------------------|--|
| Committee: | JUDICIARY |
| Bill Number: | HB 609-FN |
| Title: | establishing the New Hampshire circuit court to replace the current probate courts, district courts, and judicial branch family division.. |
| Date: | March 10, 2011 |
| Consent Calendar: | YES |
| Recommendation: | OUGHT TO PASS WITH AMENDMENT |

STATEMENT OF INTENT

The bill represents a complete reorganization of a portion of the Judicial Branch. Three courts have been merged, namely the District Court, Probate Court and the Family Division. The merger of the three court functions into the new court structure, the Circuit Court, will bring the functions of the three courts closer to the citizens with a resulting reduction of citizen's costs, travel and court delay. Judges in all three of the former courts will become certified in district court, probate court and family matters. As a result, there will be greater flexibility in the court in dealing with matters brought before them. In smaller towns, the court will be available to hear a variety of cases, thus reducing delays. The Circuit Court will function in all current court locations; no courts will be closed. Further, the bill provides for the elimination of marital masters at the end of each masters' current contract term. The marital master function will be converted to that of a full-time judicial position depending on available funding and approval of Governor and Council in each case.

Vote 16-0.

Rep. Robert H Rowe
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

JUDICIARY

HB 609-FN, establishing the New Hampshire circuit court to replace the current probate courts, district courts, and judicial branch family division.. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert H. Rowe for JUDICIARY. The bill represents a complete reorganization of a portion of the Judicial Branch. Three courts have been merged, namely the District Court, Probate Court and the Family Division. The merger of the three court functions into the new court structure, the Circuit Court, will bring the functions of the three courts closer to the citizens with a resulting reduction of citizen's costs, travel and court delay. Judges in all three of the former courts will become certified in district court, probate court and family matters. As a result, there will be greater flexibility in the court in dealing with matters brought before them. In smaller towns, the court will be available to hear a variety of cases, thus reducing delays. The Circuit Court will function in all current court locations; no courts will be closed.

Further, the bill provides for the elimination of marital masters at the end of each masters' current contract term. The marital master function will be converted to that of a full-time judicial position depending on available funding and approval of Governor and Council in each case. **Vote 16-0.**

Original: House Clerk
Cc: Committee Bill File

Blurb 609-fn

This bill represents a complete reorganization of a portion of the Judicial Branch. Three courts have been merged, namely the District Court, Probate Court and the Family Division. The merger of the three court functions into the new court structure, the Circuit Court, will bring the functions of the three courts closer to the citizens with a resulting reduction of citizens' costs, travel and court delay. Judges in all three of the former courts will become certified in district court, probate court and family matters. As a result there will be greater flexibility in the court in dealing with matters brought before them. In smaller towns, the court will be available to hear a variety of cases, thus reducing delays. The Circuit Court will function in all current court locations; no courts will be closed.

Further the bill provides for the elimination of marital masters at the end of each masters' current contract term. The marital master function will be converted to that of a full-time judicial position depending on available funding and approval of Governor and Council in each case.

Rowe