

The Vermont Judicial Branch Overview for the 2019 Legislative Session, which accompanies the Judiciary's budget materials, sets forth in greater detail the Mission, Vision, and Principles for Administration of the Vermont Judiciary adopted by the Supreme Court, as well as performance measures established by the Judiciary, where applicable, and measurements of performance outcomes, to the extent available.

Upward Caseload Pressures on Court Resources

Projected Increase in Juvenile Filings

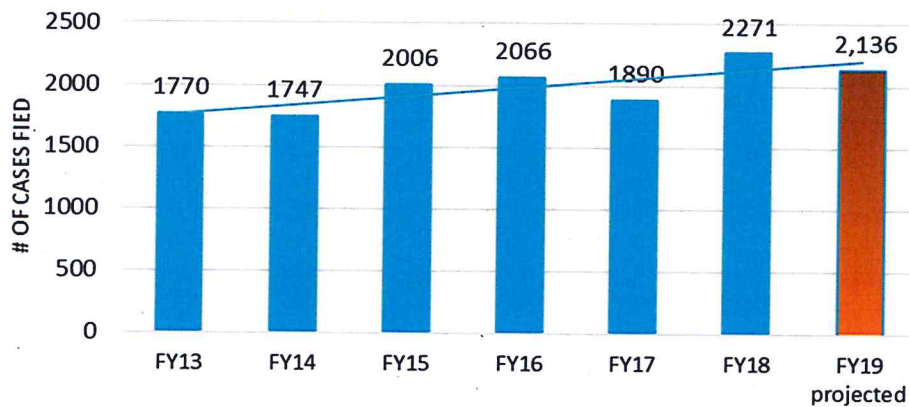
CHINS

Of the CHINS cases filed in FY18, 81% were abuse/neglect cases, and the remainder were beyond parental control or truant. Overall, CHINS filings rose in the past year, primarily because more abuse/neglect cases were filed (20% higher than the previous year). However, projections based on the first half of FY19 indicate filings will likely decline, although not significantly.

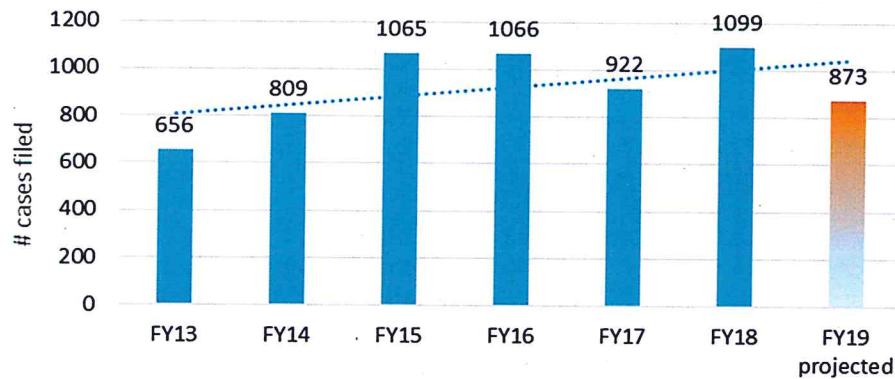
The 89% clearance rate for abuse/neglect cases remains one of the lowest of any group of cases in any division of the superior court. CHINS cases are labor intensive for judges and court staff. They require numerous hearings and the stakes for the litigants are high. Not only are many of the children involved in these cases removed from the custody of their parents, there is always the threat of termination of parental rights if parents are unable to regain custody within a reasonable amount of time. Clearance rates below 100% is a source of concern. It means the development of a backlog of cases that will be difficult to overcome without a dramatic decline in the number of filings or an increase in resources.

I. JUVENILE CASES ADDED (multiple years)							(statewide) (5.5 mo.)	
	FY13	FY14	FY15	FY16	FY17	FY18	Partial FY19	FY19 Projected
CHINS-Abused or Neglected	656	809	1,065	1066	922	1,099	400	873
CHINS-Truant	135	123	112	137	165	181	18	39
CHINS-Unmanageable	91	93	84	85	65	75	33	72
Delinquency	816	668	703	735	705	883	308	672
Youthful Offender	72	54	42	43	33	33	220	480
Total	1,770	1,747	2,006	2,066	1,890	2,271	979	2,136

of juvenile petitions filed (all case types)



of abuse/neglect petitions filed



II. CUSTODY OF CHILDREN; CASES ADDED IN CURRENT FY (custody status before disposition) through 12/14/18 (5.5 months)

Count of Cases, FY19

PREDISPOSITION CUSTODY

CASE TYPE	Custody			Total # of cases
	DCF custody	to "Other"	No Custody	
CHINS-Abused and Neglected	197	23	180	400
CHINS-Truant	0	0	18	18
CHINS-Unmanageable	23	0	10	33
Delinquency	24	0	284	308
Youthful Offender	0	0	220	220
Grand Total	244	23	712	979

Source: Juvenile 10 Year Filing with Disposition report

III. ABUSE/NEGLECT CASES FILED BY COUNTY

This is ab/neglect cases added in FY19 (1st 5.5 months) by county, with year-end FY19 projected filings:

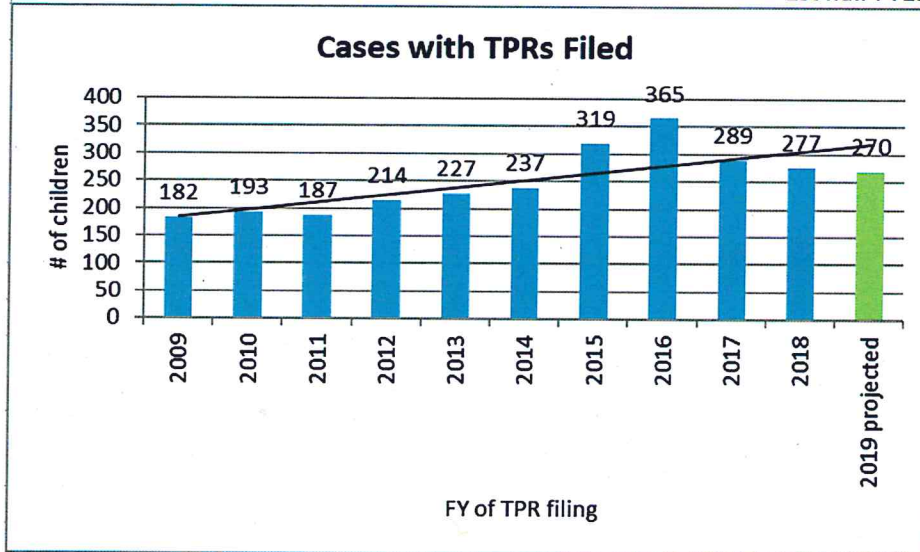
Abuse/Neglect Cases	An	Bn	Ca	Cn	Ex	Fr	Gl	Le	Oe	Os	Rd	Wn	Wm	Wr	Total
FY17	69	80	41	193	0	92	0	31	13	29	74	100	108	92	922
FY18	67	81	54	220	9	166	9	30	26	39	83	97	125	93	1099
FY19 (5.5 mo.)	24	30	18	88	1	68	8	16	8	6	34	22	45	32	400
FY19 projection	52	65	39	192	2	148	17	35	17	13	74	48	98	70	873

Termination of Parental Rights (TPRs)

Although TPR petitions have decreased nearly 5% in the last year, they remain 18% higher than five years ago. The clearance rate for termination of parental rights petitions declined slightly in the past year, but remained well over 100%, meaning more cases were disposed than added.

IV. TPRs FILED OVER TIME

1st half FY19



TPRs are typically filed a year into a case.

Contested TPRs place heavy demands on judicial resources. Courts are hard pressed to find time for multiple-day contested TPRs, which also require findings time for the judge.

FY19: 127 TPRs filed through 12/14/18

The rate of new TPR filings appears to be leveling off

V. 127 TPRs filed in FY 19 (1st half FY, thru 12/19):

Addison	10
Bennington	6
Caledonia	8
Chittenden	21
Essex	0
Franklin	19
Grand Isle	0
Lamoille	4
Orange	1
Orleans	0
Rutland	14
Washington	16
Windham	19
Windsor	9

source: TPR Trends report.xls

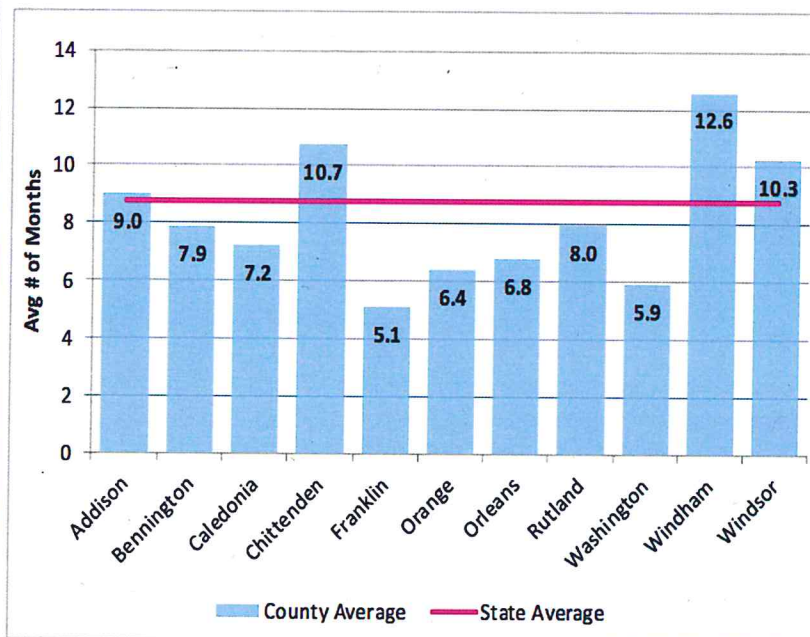
125 Cases w/ TPRs pending: (1st half FY19, thru 12/21)

0
1
8
29
0
14
1
0
1
0
29
16
20
6

source: Analytics (TPRs pending)

VI. TIMELINESS OF TPRs DECIDED THIS FY
Fiscal Year: 2019

(1st half FY thru 12/19): count is docket #s (children)



(1st TPR filed to last TPR decided per child)

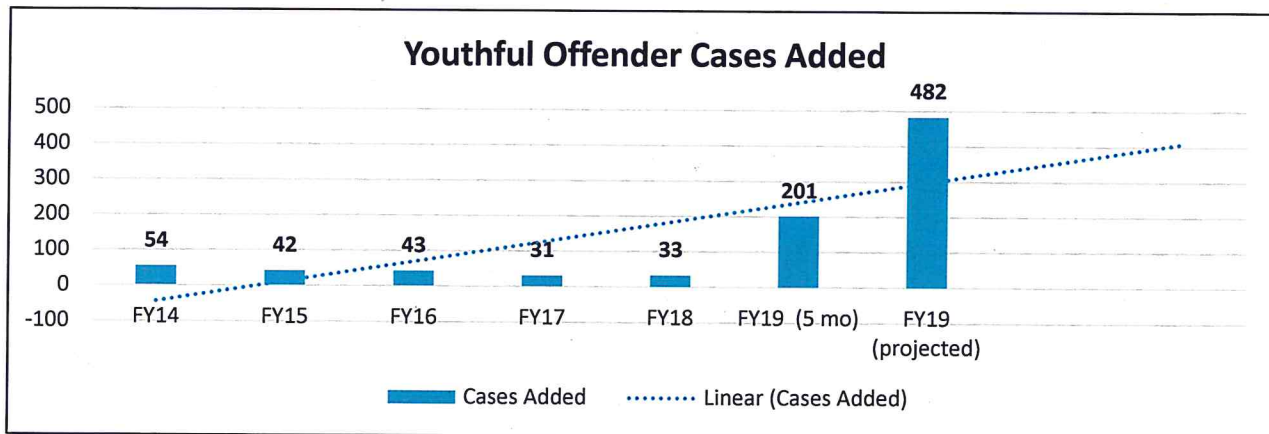
County	# of Cases with TPRs Decided
Addison	7
Bennington	9
Caledonia	3
Chittenden	21
Franklin	15
Orange	8
Orleans	2
Rutland	3
Washington	12
Windham	13
Windsor	22
Total	115

Source: "TPRTrends" report

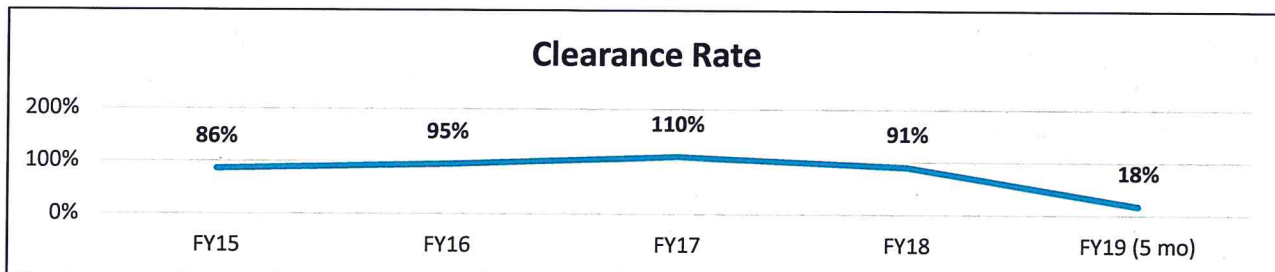
Projected Increase in Youthful Offender Filings

Under Act 72, a State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 16 years of age, but not 22 years of age that could otherwise be filed in the Criminal Division. While this bill was signed into law in 2017, its full impact was not realized until FY19.

In FY17, 31 youthful offender cases were filed in the judiciary's family division. In FY18, there were 33 such cases filed. In the first five months of FY19, there have been 201 youthful offender cases transferred or filed in the juvenile courts.



This represents a 500% increase in YO cases. If this filing trend continues, it is projected that there will be nearly 500 cases in the juvenile courts in FY19. These cases are highly resource intensive and such a marked jump in filings may contribute to increased backlog for family and juvenile cases in FY19. The increased filings have already resulted in a significantly reduced clearance rate, falling from 91% in FY18 to 18% for the first five months of FY19.



An Increase in Statutorily Required Expungements

The Vermont General Assembly ushered many significant expungement related bills into law during the 2017-2018 legislative session. These bills have affected the expungement of qualifying criminal charges in several ways:

- Act 178 (2018) relaxed the eligibility requirements for expungement by amending 13 VSA §7602(c)(1)(B)—this permits a defendant who committed a felony crime to petition to expunge unrelated qualifying crimes if the felony crime was not committed in the last 7 years. Act 178 requires the court to seal charges that are dismissed without prejudice, and to then expunge the charges after the statute of limitation expires. State’s attorneys do not provide the Judiciary with the statute of limitations and VTADS does not have a field for this data. Therefore, the Judiciary cannot identify when to expunge these cases.
- Act 86 (2018) expanded the list of expungement eligible charges by decriminalizing possession of small amounts of marijuana.
- Act 178 (2018), Act 201 (2018), and Act 8 (2018 Special Session) shifted the onus of initiating expungement off defendants and onto the courts under certain circumstances. Act 201 requires the court to expunge qualifying crimes post-conviction for persons 18-21 years old. However, the SA’s do not instruct the Judiciary which charges are qualifying and VTADS does not have a field for this data. Therefore, the Judiciary is not able to identify these cases that should be expunged. Another challenge with implementing the expungement of cases involving persons 18-21 years old is that it requires the Department of Corrections to notify the Judiciary when sentences are successfully completed (that is, those sentences that involve more than a fine).
- Act 8 was not a totally new law. It was a revision of existing adult diversion statutes that required the courts to **seal** cases 2 years after date of completion of program. Modifying paperwork and practices to reflect expungement was not overly burdensome.

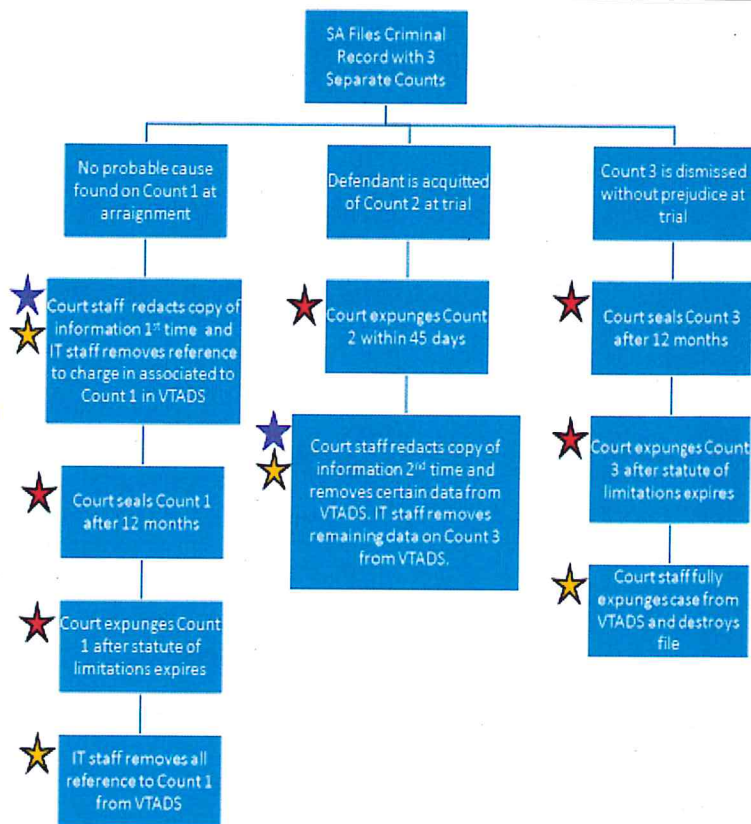
Act 178 Related Case Management

The expungement of an entire case file can take 10-15 minutes once an order to expunge has been signed by a judge. In these 10-15 minutes, court staff removes the case from the electronic case management system, inputs statutorily required case information into a confidential special index, and then destroys the case file. However, the process becomes much more complex and time consuming when there is an expungement of individual counts from a multicount case. After a judge signs an order to expunge an individual count, docket clerks and highly trained IT staff work jointly to remove information from the case management system. The redaction of the physical case file often requires assistance from court managers and sometimes judges. **This process can take about 40 minutes per charge.**

The recent bills on expungement have increased the number of instances in which the courts are statutorily required to expunge individual counts. The flowchart below emphasizes the challenges of implementing Act 178 in its current form. In this scenario, a state’s attorney files criminal charges against a single defendant. The case includes 3 counts, each of which is disposed differently. Judiciary personnel (including court staff, IT staff, and judges) are required to return to this case numerous times prior to complete expungement of the criminal record.

An example of Act 178 related case management:

- Court staff redacts information two times
- Court staff and IT staff modify VTADS four times
- Judge signs five orders



Fiscal Impact

From 2014 to 2017, the courts averaged approximately 719 expungements each year. It is anticipated that the legislation will lead to a significantly higher number of expungements each year. Managing the increase will require the hiring of five temporary docket clerks, whose sole function will be expungement processing, at a cost of \$173,264 per year. The reason these are temporary positions is that we hope the new case management system will not require such a labor-intensive process. In addition, it is anticipated that the judiciary will also incur other costs for the purchase of computer equipment and payment of licensing fees.

Additionally, judiciary management will need to reallocate more effort towards managing the evolving expungement processes. Resources will be spent designing workflows that comply with legislative requirements, recruiting temporary employees, developing and implementing trainings, and programming changes in VTADS until the next generation case management system is implemented statewide. Since the signing of Acts 178, 201 and 8, a crew of court managers, judges, RIS staff have already worked over 100 hours reconciling court processes to the new expungement statutes and reprogramming VTADS.