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H.490

Senator Sears moves to amend the bill by striking Secs. E.204-E.204.9 and inserting in lieu thereof the following:

* * * Mailing and Service Costs * * *

Sec. 1. 4 V.S.A. § 466 is amended to read:

§ 466. PROCEDURE

(a) A proceeding before a magistrate shall, in cases involving child support, be initiated by the filing of a petition. If a proceeding for divorce, annulment, or separation has been commenced before the Family Division of the Superior Court, the magistrate shall have jurisdiction to determine a temporary amount of child support on the basis of the complaint or petition filed in the Family Division of the Superior Court.

* * *

(e) The ~~Family Division of the Superior Court clerk~~ petitioner shall provide for personal service or shall mail to the respondent, ~~at one or more of the addresses supplied by the respondent,~~ by certified mail, return receipt requested and delivery restricted to the addressee, the expense being paid by the petitioner, a notice signed by the ~~clerk~~ petitioner. If acceptance of service is refused, the ~~clerk~~ petitioner may serve the notice on the respondent by sending it to the respondent by ordinary first class mail and by certifying that such service has been made. In the alternative, the ~~clerk~~ petitioner may

1 provide for mail service as provided in Rule 4(1) of the Vermont Rules of Civil
2 Procedure.

3 * * *

4 Sec. 2. 33 V.S.A. § 5223 is amended to read:

5 § 5223. FILING OF PETITION

6 (a) When notice to the child is provided by citation, the State’s Attorney
7 shall file the petition and supporting affidavit at least 10 days prior to the date
8 for the preliminary hearing specified in the citation.

9 (b) ~~The Court shall send or deliver a~~ A copy of the petition and affidavit
10 shall be made available at the State’s Attorney’s office to all persons required
11 to receive notice, including the noncustodial parent, as soon as possible after
12 the petition is filed and at least five days prior to the date set for the
13 preliminary hearing.

14 Sec. 3. 33 V.S.A. § 5224 is amended to read:

15 § 5224. FAILURE TO APPEAR AT PRELIMINARY HEARING

16 If a child or custodial parent, guardian, or custodian fails to appear at the
17 preliminary hearing as directed by a citation, the Court may issue a summons
18 to appear, an order to have the child brought to Court, or a warrant as provided
19 in section 5108 of this title. The summons, order, or warrant shall be served by
20 the law enforcement agency that cited or took the child into custody, or another
21 law enforcement agency acting on its behalf.

1 legislative committee on judicial rules under 12 V.S.A. chapter 1 ~~of Title 12~~,
2 which are consistent with the following policies:

3 (1) Proceedings involving a case shall be heard in the unit in which the
4 case was brought, subject to the following exceptions:

5 (A) when the parties have agreed otherwise;

6 (B) status conferences, minor hearings, or other nonevidentiary
7 proceedings; or

8 (C) when a change in venue is necessary to ensure access to justice
9 for the parties or required for the fair and efficient administration of justice.

10 (2) The electronic filing of cases on a statewide basis should be
11 facilitated, and the ~~court~~ Court is authorized to promulgate rules establishing
12 an electronic case-filing system.

13 (3) The use of technology to ease travel burdens on citizens and the
14 courts should be promoted. For example, venue requirements should be
15 deemed satisfied for some court proceedings when a person, including a judge,
16 makes an appearance via video technology, even if the judge is not physically
17 present in the same location as the person making the appearance.

18 (4) In proceedings involving the termination of parental rights, the
19 Supreme Court is authorized to designate a region of no more than four
20 counties in which the venue for specified types of cases in the region shall be
21 the region as a whole irrespective of the county in which the venue would lie

1 for the case under the governing statute. A designation under this subdivision
2 shall be made by rule and shall be reviewed by the Legislative Committee on
3 Judicial Rules pursuant to 12 V.S.A. § 1.

4 *** Remedies for failure to pay fines; community service ***

5 Sec. 6. 13 V.S.A. § 7180 is amended to read:

6 § 7180. REMEDIES FOR FAILURE TO PAY FINES, COSTS,
7 SURCHARGES, AND PENALTIES

8 (a) As used in this section:

9 (1) "Amount due" means all financial assessments, including penalties,
10 fines, surcharges, court costs, and any other assessments imposed by statute as
11 part of a sentence for a criminal conviction.

12 (2) "Designated collection agency" means a collection agency designated
13 by the Court Administrator pursuant to subsection 7171(b) of this title.

14 (3) "Designated credit bureau" means a credit bureau designated by the
15 Court Administrator or the Court Administrator's designee.

16 * * *

17 (c) Civil contempt proceeding.

18 * * *

19 (3) Hearing The hearing shall be conducted in a summary manner. The
20 Court shall examine the defendant and any other witnesses and may require the
21 defendant to produce documents relevant to the defendant's ability to pay the

1 amount due. Evidence is admissible if it is of a type commonly relied upon by
2 a reasonably prudent person in the conduct of his or her affairs. The Vermont
3 Rules of Evidence shall not apply except that the rules related to privilege shall
4 apply. The State shall not be a party except with the permission of the court.
5 The defendant may be represented by counsel at the defendant's own expense.

6 * * *

7 (f)(1) A defendant who is not incarcerated may file a motion to convert all
8 or part of a traffic offense fine to community service. The Court may grant the
9 motion if the defendant establishes that he or she has made a good faith effort
10 to pay the fine but is unable to do so. A fine converted to community service
11 pursuant to this subsection shall not be considered a modification of sentence
12 and shall not be subject to the time limits of Vermont Rule of Criminal
13 Procedure 35.

14 (2) Community service performed pursuant to a motion granted under
15 this subsection shall be:

16 (A) credited against outstanding fines at the then-existing rate of the
17 Vermont minimum wage;

18 (B) monitored by the Restorative Justice Program of the community
19 reparative board, or a similar entity approved by the Court, which shall report
20 on the defendant's compliance status to the Court;

21 (C) performed in the county where the offense occurred.

- 1 (3) A conversion of a fine to community service under this subsection:
2 (A) shall not apply to surcharges, court costs, or other assessments;
3 (B) shall be in addition to the contempt procedures applicable under
4 this section.

5 *** Assistant Judges ***

6 Sec. 7. 12 V.S.A. § 5540a is amended to read:

7 § 5540A. JURISDICTION OVER SMALL CLAIMS; ASSISTANT
8 JUDGES

9 (a)(1) Subject to the limitations in this section and notwithstanding any
10 provision of law to the contrary, Assistant Judges of Essex, Caledonia,
11 Rutland, and Bennington Counties sitting alone shall hear and decide small
12 claims actions filed under this chapter with the Essex, Caledonia, Rutland, and
13 Bennington Superior Courts. ~~This subdivision shall apply only to Assistant~~
14 ~~Judges holding office on July 1, 2010.~~

15 * * *

16 Sec. 8. REPORT; JURISDICTION OF ASSISTANT JUDGES

17 On or before January 15, 2016, the Vermont Association of Assistant
18 Judges and the Court Administrator shall jointly report to the Senate and
19 House Committees on Judiciary any recommendations for expansion of the
20 subject matter jurisdiction of Assistant Judges. The report shall include specific
21 types of cases in which it would be appropriate for Assistant Judges to sit alone

1 in order to maximize judicial resources and ease caseload burdens on the
2 courts.

3 *** Court Security ***

4 Sec. 9. COURT SECURITY; REPORTS

5 (a) There is established in each county a Committee on Court Security. The
6 Committee shall study issues related to security at its county court house and
7 consider measures to reduce the cost of its county court security budget while
8 maintaining the safety of staff and citizens. The study shall include whether
9 counties should provide a security function at the entrance to county-owned
10 courthouses that would be offset by restructuring of notary fees retained by the
11 counties. On or before January 15, 2016, each county Committee on Court
12 Security shall report to the Court Administrator a proposal to reduce its county
13 court security budget by at least three percent.

14 (b) The Committee on Court Security shall be composed of the following
15 members in each county:

16 (1) The presiding superior judge, who shall be co-chair of the
17 Committee.

18 (2) The senior assistant judge, who shall be co-chair of the Committee.

19 (3) The court clerk.

20 (4) The court manager.

21 (5) The Sheriff or designee.

1 (6) The State’s Attorney or designee.

2 (c) For purposes of preparing the report required by this section, the
3 Committee on Court Security in each county shall consult with the security and
4 safety program manager and the chief of finance and administration at the
5 Vermont Supreme Court.

6 Sec. 10. REPEAL

7 2011 Acts and Resolves No. 41, Sec. 9 (suspension of video arraignments)
8 is repealed.

9 Sec. 11. LEGISLATIVE INTENT; COURT FEES

10 The General Assembly intends that the new revenue generated in FY 2016
11 from increased court fees be used as a funding source to fill judicial vacancies.

12 Sec. 12. EFFECTIVE DATES

13 (a) Secs. 1, 2, and 3 shall take effect on July 1, 2015.

14 (a) Secs. 4-11 and this section shall take effect on passage.