

# Study of CHINS Case Processing in Vermont



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# Executive Summary

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The Vermont Judiciary contracted with the National Center for State Courts (NCSC) to study the processing and adjudication of Children in Need of Care or Supervision (CHINS) cases. The legislation allocating the funds requires that the study include recommendations that provide for “holistic reform, procedural justice, and strategies to reduce the need for intervention by DCF [Department for Children and Families] and the courts.” The study occurred in two phases. Study activities in the first phase included: a comprehensive policy and practice scan to summarize innovative practices and programs related to dependency courts, series of 13 focus groups and 7 interviews with stakeholders, and analysis of administrative data from 10 years of CHINS cases. The second phase included analysis of administrative court and Department for Children and Families (DCF) data, interviews with judges, observation of virtual CHINS hearings, and a small sample of responses to CourTools’ Access and Fairness Survey. This report summarizes findings from both phases and offers recommendations for CHINS case processing and related system improvements.

## Phase One Recommendations

### Support High-Quality Legal Representation for Parents and Children

High-quality legal representation for parents, children, and agencies in the child welfare system at all stages of case processing is critical for a well-functioning child welfare system. Explore alternative structures for parent and child representation that prioritize specialized training on topics related to the child welfare system, including trauma, child development, attachment, and substance abuse. Adopt and promote statewide standards for parent and child representation. Leverage Title-IV-E funds to support high-quality legal representation through specialized training and multidisciplinary models. Set clear expectations for the continued use of virtual hearing technology.

### Prioritize Meaningful Reasonable Efforts Findings

Seek out current opportunities supported by the Children’s Bureau to train judges on reasonable efforts. Develop mechanism to educate judges about what services are available locally and of the standards of services needed to meet reasonable efforts. Conduct joint trainings with judges, attorneys,

and DCF so that there is a common understanding of reasonable efforts. Consider convening a commission of judges and CHINS stakeholders to discuss what constitutes reasonable efforts in Vermont.

### **Support High-Quality Legal Representation for Parents through Transparency**

Provide more information to parents about the CHINS process, timelines, roles, and expectations through a class like Dependency 101. Set court dates in advance and at a minimum at the conclusion of the prior hearing and provide signed orders at the conclusion of the hearing. Work with DCF and foster care agencies to develop a structure for supporting foster parents to be supportive resources for birth parents.

### **Support High-Quality Legal Representation for Children through Meaningful Engagement and Advocacy**

Develop a clear policy supporting a child's opportunity to attend hearings and setting the expectation that substitute caregivers and child welfare agencies will work collaboratively to facilitate participation. Draft guidance and train judges on how to engage youth in hearings. Assess the extent to which current policies for GALs align with 2020 Standards for Local CASA/GAL Programs and regularly conduct Quality Assurance to assess the state and local programs' alignment. Specifically assess the conflict between the law that requires a GAL to be assigned to all children in CHINS cases and the national standard that the GAL program assigns no more than two cases at a time to a volunteer. Create a full-time statewide oversight position for the Guardian ad Litem Program.

### **Insist on Timely Hearings**

Emphasize the importance of adhering to the established time standards by incorporating automated reports and/or dashboards. Develop data governance policies for CHINS cases. Share performance measures with CHINS stakeholders, such as DCF and attorneys, to reinforce the goals of the court and to establish accountability and transparency. Continue to use virtual hearings and set recommended guidance on continuances. Consider aspiring to hold the merits and the disposition hearing on the same day.

### **Develop Consensus on Goal of CHINS Cases and Clearly Message It to All Stakeholders**

Among stakeholders, document a shared vision for CHINS cases in Vermont. Explore ways for parents to access services for themselves or their child without placing children in foster care. Consider ways to engage community resource representatives more meaningfully in the goal of CHINS cases so that they can better develop program to address the needs of families.

## Phase Two Recommendations

### Provide access to technology for virtual hearings

As the pandemic subsides and virtual hearings are no longer a safety requirement, Vermont should consider continuing the use of virtual hearings for pre-trial, status, and review hearings. With consideration of continued virtual hearings, the judiciary should prioritize the infrastructure and technology required to ensure efficient and accessible hearings, such as the Operational Assistants (OAs), technology in the courtroom to optimize hybrid hearings, and increasing access to technology required to access virtual hearings in the community.

### Ensure every hearing is meaningful

Judges and court staff should engage strategies that create an engaging and fair experience for all parties. Clearly describing the purpose and goals of the hearing at the beginning of the proceeding is a trauma-responsive strategy that helps to build trust with families and ensure that all professionals are on the same page. Confirming that the goals of the hearing have been met at the end of the hearing as well as clearly articulating next steps in the case for all parties and the purpose, date, and time of the next hearing keeps the case moving forward. As mentioned in the first report, consider ways to enhance the judges' knowledge of the importance of reasonable efforts findings and cross-training for CHINS stakeholders on the meaning of reasonable efforts.

### Hold merits and disposition on the same day

The court should consider requiring documentation of preliminary case plans earlier in the case in a way that does not require the parent to admit responsibility. The court should also alter their own policies for timing of hearings so that the merits hearing and the disposition hearing are held on the same day.

### Ensure data system supports performance measures

The Odyssey Case Management System should be configured to capture both the case closure date and the final outcome of the case (e.g., reunification, adoption, guardianship). Judges should have access to reports or, ideally, alerts when a hearing is not scheduled to occur timely. In addition, the case management system should be used to provide a regular report or dashboard for judges showing how long each case has been open as well as the date and type of next event for each case. The system should also track continuances and reasons for continuances, and this information should be reviewed regularly to identify opportunities for improving efficiency.

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# Introduction

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The Vermont Judiciary was allocated funds to study the processing and adjudication of Children in Need of Care or Supervision (CHINS) cases. The legislation allocating the funds requires that the study include recommendations that provide for “holistic reform, procedural justice, and strategies to reduce the need for intervention by DCF [Department for Children and Families] and the courts.” The Vermont Judiciary contracted with the National Center for State Courts (NCSC) to conduct the study.

The specific goals of the study are to: (1) gather effective or promising models of case processing and adjudication used in other countries, states, or cities; (2) solicit input from community members, service providers, and people involved in family court proceedings regarding their perception of current practice, their identification of strengths and opportunities for improvement, and components of the system that support change; (3) produce a budget for implementing and sustaining the effective and promising models; and (4) document an evaluation methodology for the models and specifically for the Judicial Master pilot program to begin in December 2019 at the Chittenden County (Burlington) Family Treatment Docket (FTD). To accomplish the goals, NCSC planned a mixed methods study including administrative data analysis, in-person focus groups, court observation, and two surveys.

Just two months after NCSC began work on the study of Vermont’s CHINS Court Process, courts across the country were forced to swiftly adapt operations to serve their communities within the public health and safety parameters recommended to curb COVID-19. The pandemic also impacted the initial plans for studying the existing court process. In consultation with the Vermont Judiciary, NCSC adjusted the study plan to:

- a) Broaden policy and practice scan to include practices implemented during and/or because of COVID-19.
- b) Replace on-site data collection with virtual focus groups and inquire about COVID-19 implications.
- c) Include observation of virtual hearings.

A subsequent phase of the study began in January 2021 and included virtual hearing observation and administration of the newly revised CourTools’ Access and Fairness Survey.

This report offers summaries of both phases of the study. From the first phase, it includes summaries of the effective or promising models of case processing identified from the field as well as descriptions of findings from a series of virtual focus groups and interviews facilitated in August, September, October, and November of 2020 and related recommendations. From the second phase, it includes findings and recommendations derived from analysis of administrative data from the Vermont Judiciary and the Department for Children and Families (DCF), interviews of judges, data collected during observations of virtual hearings in three counties, and findings from a small sample of respondents to an Access and Fairness survey of court users.

# Focus Group Findings & Opportunities for Innovation

This report comes at a moment of great changes in courts in general, but especially in courts that address the needs of children and families. There is a push for more research and evidence building than ever before, focused efforts on keeping families together and avoiding court involvement unless absolutely necessary, and, of course, the unprecedented COVID-19 pandemic. All three of these circumstances color the content of this report.

## Limited, but Growing Body of Research on Dependency Court Practices

Dependency courts have historically lacked in empirical research. While the field has multiple examples of best practice standards for juvenile court judges, parent representation, and child representation, robust research focused on child and family outcomes linked to court practices is constrained to a small, but growing, body of literature. The National Council of Juvenile and Family Court Judges (NCJFCJ) pointed out this deficiency in 2008 (Summers, Dobbin, & Gatowski, 2008). While there have been significant advancements in court technology, research on hearing quality, and research on quality legal representation in the decade since, the issues of limited dissemination, lack of resources, and competing priorities have continued to fuel the problem. This study of CHINS case processing includes summaries of what is currently known about effective or emerging dependency court practices. Note that the examples included within this report are not considered fully evidence-based, however, they all have been evaluated to some degree. Where applicable, budget considerations are included.

## Opportunity Presented by Family First Prevention Services Act

There is optimism that the body of literature to support dependency court practices will continue to grow and perhaps grow even faster given the focus in the Family First Prevention Services Act (FFPSA) of 2018 on a Title IV-E Prevention Services Clearinghouse to systematically review research on programs

and services intended to provide enhanced support to children and families and prevent foster care placements. The FFPSA includes several provisions aimed at the court's role in prevention. The court, through judicial leadership, has a place at the table when discussing primary prevention to support families and communities. Jerry Milner, former Associate Commissioner at the Children's Bureau, has said,

*"We believe very strongly that judges and attorneys play absolutely critical roles in prevention in and out of the courtroom and that judicial support for robust community -based prevention programs and enhanced attention to reasonable efforts will have a ripple effect across the justice system by helping children and families stay safe and healthy and avoid juvenile justice and child welfare involvement. Prevention is the work of the courts" (National Judicial Opioid Task Force, 2019).*

### Leveraging the Silver Linings of COVID-19

At the time of this report, many states still have restrictions on in-person hearings and continue to use technology to hold hearings, offer family time and visitation, and provide services. The impact of these adaptations on our courts and families is yet to be seen. This is especially concerning in abuse and neglect cases where face-to-face family time has been constrained, families may not have had access to technology to participate in hearings or communicate regularly with their attorney, and access to services required for reunification, including drug testing, is often inaccessible. Preliminary data show a decrease in filings of abuse and neglect petitions during the pandemic; however, there is a prediction that the number of filings will increase greatly once stay-at-home orders are lifted and children have more interaction with mandated reporters. Courts that hear abuse and neglect cases will then not only be dealing with a backlog of permanency, termination of parental rights, and reunification hearings, but will also likely be managing a deluge of new cases, likely driven by familial stress and economic hardship due to COVID-19. NCSC has produced a number of resources for courts for post-pandemic planning, including this one specific to [planning for potential backlog in child welfare cases](#).

We cannot assume "business as usual" will resume, nor should we let it. As Vermont's courts expand operations in accordance with public health guidelines, the opportunity exists to leverage lessons learned in courts in Vermont and across the country regarding what practices and protocols are absolutely essential, how technology can be used to better serve children and families, and how courts, agencies, and attorneys can work together in meaningful and efficient ways. This pandemic, although tragic, provides an opportunity, as stated in Vermont's [Blueprint for Expansion of Court Operations](#), "to embrace the reality that traditional ways of operating need to be revisited and in some cases revised." Chief Justice

Bridget Mary McCormack from the Michigan Supreme Court echoes this sentiment in a recent NCSC webinar, [\*Outside the Box Strategies: Administering the Courts while the COVID-19 Cure is Flattened\*](#) (May 19, 2020), “This is the disruption our industry needed.”

### Note about Sustainability

Many of the recommendations within this report reflect past or current court-led initiatives. Several court stakeholders said that the opportunities for improvement discussed in focus groups and interviews have been brought to light previously, and in some cases, improvements have not been realized or sustained. There are many possible barriers to sustaining implementation of new practices, and it is not clear whether past initiatives fell short financially, failed to cultivate and engage champions, or fell by the wayside. Many of the recommendations within this report do not require additional funding but do require an openness to innovation and change. Others require larger budgets and restructuring; however, these recommendations are presented with the hope that the commitment of the judiciary in partnership with other child welfare system stakeholders will succeed in effectuating real change for families in Vermont.

# Methods

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## Process for Collecting Policies and Practices

In recognition of the court's role and responsibility in prevention, this report includes a range of strategies, programs, and interventions, including pre-petition representation, mediation, case management models, and models for collaboration with system partners. NCSC assembled best practices and innovative strategies in multiple ways: review of academic literature and publications from national organizations, review of state plans from the 2019 National Judicial Leadership Summit, inquiry over the COSCA list serv, and direct communication with courts. Though not an exhaustive list of practices, it provides several promising examples of court-led and court-involved strategies aimed at reducing the need for court and agency involvement in the lives of children and families. Inclusion in this report does not represent a recommendation for Vermont to adopt the practice, only that there is some evidence to support the practice or program is effective in the jurisdiction where it is implemented. There are many aspects to consider when determining if an intervention is likely to be successful – for example, the ruralness of most of Vermont, the resources required for the program, and statutory requirements.

## Methods for Conducting Focus Groups

Staff from NCSC conducted 13 online focus groups and 7 interviews as part of the study. Most participants were invited to participate via emailed outreach from the Vermont Judiciary. Participation in the focus groups was voluntary, and thus the sample is not representative of all possible participants. NCSC also engaged purposive sampling strategies; for example, to increase the number of parent and child attorneys represented in the interviews, multiple opportunities for focus groups and one-on-one interviews were provided to this sub-group. NCSC was connected to the parents interviewed through the Vermont Parent Representation Center, Prevent Child Abuse Vermont, the Lund Home, and the judiciary. They were connected to the youth participants through the Youth Development Program from the Washington County Youth Service Bureau.

Focus groups were conducted virtually on Zoom, and individual interviews were conducted by phone. Focus groups and interviews lasted between 60-90 minutes. One NCSC staff member facilitated the focus group or interview, and a second NCSC staff person took notes. Focus groups were also recorded. Individual interviews were done by phone, and NCSC also received written feedback from one youth who was unable to attend the virtual focus group. Researchers from the University of Vermont also

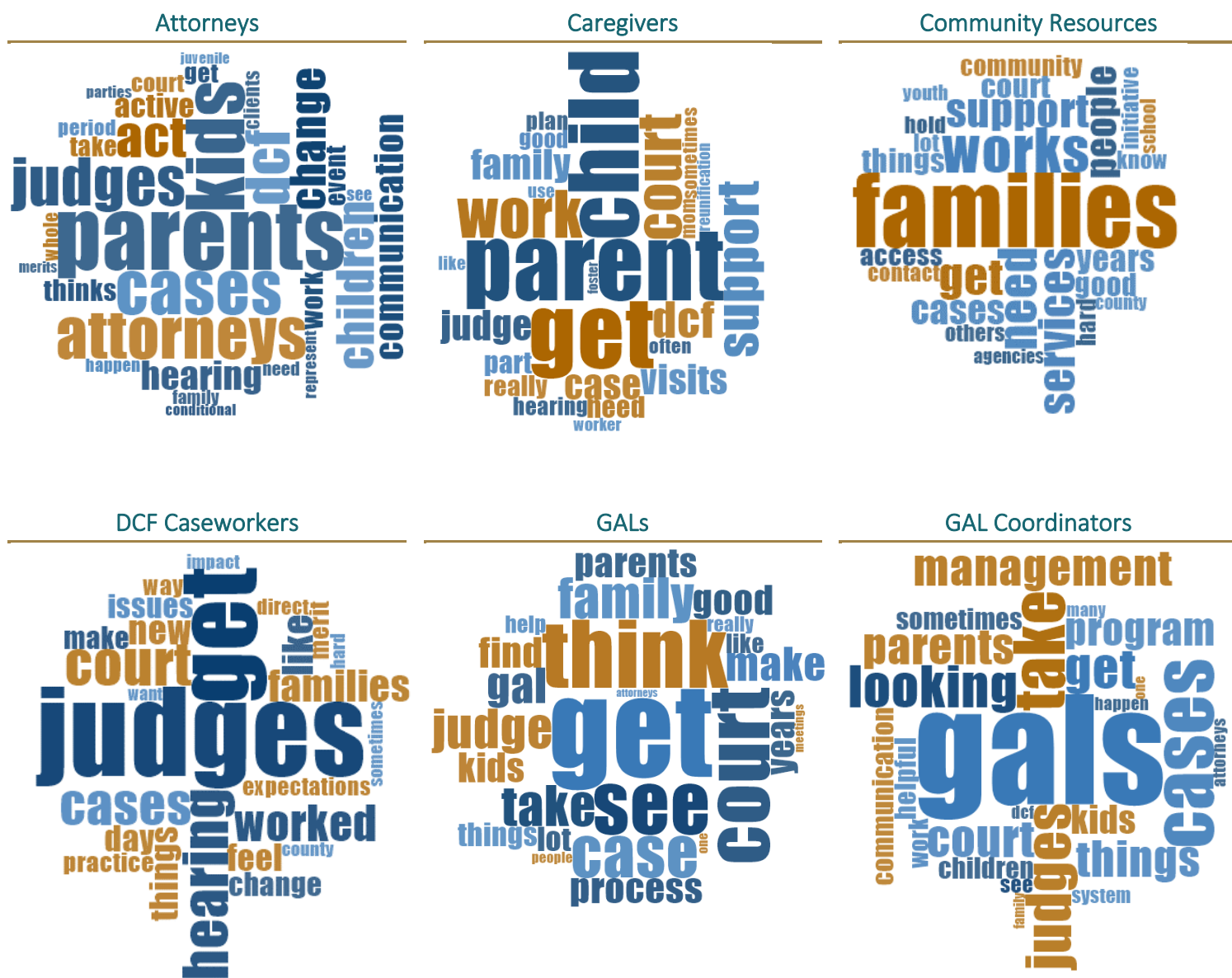
joined as observers on some of the calls, and when they did, participants gave their consent for the researchers to be present. All participants were told that their participation was voluntary, and their responses would remain confidential. The focus groups were transcribed and analyzed to identify key themes. The focus group protocols are included at page 60 of this report.

**Table 1: Participants**

<b>Stakeholder Group</b>	<b>Total # of Participants</b>	<b># of Focus Groups and Interviews</b>
Attorneys for children and/or parents (both from the Office of the Defender General and contract attorneys)	7	3 focus groups and 1 interview
Caregivers	4	1 focus group
Community Resources	4	1 focus group
DCF Caseworkers	9	1 focus group
Guardians ad Litem	6	1 focus group
Guardian ad Litem Coordinators	7	1 focus group
Judges	5	1 focus group
Juvenile Court Staff	4	1 focus group
Parents	7	1 focus group and 5 interviews
State's Attorneys	6	1 focus group
Youth	7	1 focus group and 1 interview

Word clouds are visual distillations of large amounts of textual data. The more frequently a word appears in the data – in this case, in the transcripts from the focus groups – the larger the word appears in the word cloud. For example, in the focus groups conducted for this project, representatives from Community Resources spoke frequently about “families” while DCF caseworkers spoke frequently about “judges” and judges spoke frequently about “hearings.”

### Table 2 Word Frequency Clouds by Sub-Population



## Judges



## Juvenile Court Staff



## Parents



## Youth



## Identified Strengths

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Before conducting any of the study activities, several strengths of Vermont’s CHINS system were evident. First, there are several committed stakeholders in the judiciary, legislature, and the field who recognize opportunities to improve and want desperately to make improvements for the children and families of Vermont. There are also a number of existing initiatives with great promise. For example, the judiciary has recently invested in Family Treatment Dockets, and there is emerging evidence that Family Treatment Dockets can not only lead to reunification, but also reduce a child’s time in the system, lower rearrest of the parent, and reduce costs. Additionally, some jurisdictions currently use dependency mediation informally, and there are current efforts to implement dependency mediation more broadly.

Focus group participants also identified several strengths with the current processing of CHINS cases. Some stakeholders have observed improvements with parent and child representation in the past few years.

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*“Now all parties have attorneys when a CHINS case comes to court. This did not happen previously.”*

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Some parents and youth described very positive experiences with their court appointed attorney. Parents especially expressed appreciation for attorneys attending meetings with them outside of court. They also valued when their attorneys explained the court process to them and listened to them.

The caseworkers and attorneys also believe that the emergency system works well and appreciate that the court prioritizes emergency cases and pre-trial hearings. Many stakeholders stated that most judges they have worked with prioritize family preservation.

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*“The court goes out of its way to keep them in their homes. DCF custody is a last resort.”*

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# Findings & Recommendations

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## Support High-Quality Legal Representation for Parents and Children

High quality legal representation for parents, children, and agencies in the child welfare system at all stages of case processing is critical for a well-functioning child welfare system. It contributes to efficiency, engagement, and reduced time in foster care and is central to obtaining necessary rehabilitation services. Research has shown that high-quality legal representation for parents and children is related to increased perceptions of fairness; increased engagement in case planning, services, and court hearings; increased visitation and parenting time; and less time in out-of-home care resulting in cost savings (see, ACYF-CB-IM-17-02). [Attributes of high-quality legal representation](#) include both individual attributes like out-of-court advocacy and cultural humility, and system attributes, including caseloads and compensation and timing of appointment.

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*“I don’t think they [attorneys] have the time or the money to spend on the cases and really fighting them.”*

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Some parents and youth expressed concern with their attorneys not being “proactive” enough. Parents described asking their attorney to file a motion or call a witness, and those requests being ignored. It is worth noting that some court stakeholders noticed that during the pandemic, attorneys show up for hearings more prepared and are on time. State attorneys mentioned they were better able to move cases with motions during the pandemic, and stakeholders believe some families were able to reunify sooner.

There were mixed feelings about attorneys’ ability to represent both parents and children; however, most focus group participants agreed that specialized training is needed to represent both parents and children.

### Early appointment of counsel related to permanency

The ABA’s Family Justice Initiative recommends that attorneys are appointed and have the opportunity to have a meaningful meeting with clients before any court appearance. A pilot study in [Travis County, Texas](#) showed a relationship between early appointment of counsel (within 10 days of initial hearing) and more permanent outcomes for children. To accomplish early appointment, many jurisdictions provide attorneys with notice of their appointment at the time the petition is filed.

Currently, attorneys do not formally focus their caseloads on parent or child representation in Vermont; however, some attorneys said that they informally do so in their practice or region. Focus group participants, including attorneys, expressed concern with attorneys lacking training on important aspects of CHINS cases, including legal issues such as the consequences of involuntary termination and skills such as advocating for children. One attorney raised concern that the voices of youth were not heard in the courtroom when the attorney does not have the proper training. Other participants noted that new counsel need understand that “fighting is not always the right idea” in CHINS cases.

### How to Support High Quality Legal Representation

There are a number of ways that states can support high-quality legal representation, including establishing standards of practice, providing ongoing training and oversight, and facilitating connections to supports such as social workers and parent partners. The oversight of specialized training and support of parent and child attorneys is integral to high quality legal representation. In some states, the manner of funding and contracting with attorneys can be used to implement new practices. For example, a mid-size county in Texas drew up contract agreements with local law firms to provide a flat monthly fee for no more than 50 cases per year. They found that the flat fee model allows attorneys to do more out-of-court advocacy, build rapport between attorneys and social workers, and reduce continuances (American Bar Association, 2015).

Tapping into the availability of Title IV-E funding now available to support legal representation for parents and children could be of great assistance in these reforms. The federal policy changed in 2018 to allow Title IV-E funds to be used to support legal counsel for parents and children (see [Major Policy Change](#)). More recently, the Children's Bureau expanded federal support further to allow Title IV-E funds to support non-attorney staff such as social workers and parent partners, which are core elements of the multidisciplinary representation models.

Accessing these funds requires some analysis, planning, and collaboration, as described in the Children's Bureau guidance of July 2020 (see [Technical Bulletin](#)) and in [Leveraging Federal IV-E Funding to Support Child and Parent Representation](#). Notably, however, Title IV-E are federal “entitlement funds” and therefore seizing the opportunity to draw down the funds to enhance legal representation in VT will have no effect on any other sector of the budget. California drew down \$57 Million in Title IV-E funds in FY 20-21 and expects to increase that amount considerably in the next budget cycle when expenditures for non-attorney staff are included in the plan.

**Multidisciplinary representation.** Title IV-E funds are now able to be used to support multidisciplinary representation as a model for high quality legal representation. States including Washington and Minnesota have experienced success with multidisciplinary representation for parents, including more timely permanency, increased parental engagement, more individualized case plans, more frequent and timely family visitation, and better judicial decision-making. Multidisciplinary representation involves a team including attorneys, social workers, and parent advocates working together on behalf of the parent.

There was limited research support for a structure until the 2019 study of the Cornerstone Advocacy approach developed by the Center for Family Representation in New York City (Gerber et al., 2019). The study found that when parents have multidisciplinary representation, their children spend fewer days in foster care and attain permanency in less time. Many jurisdictions are implementing similar multidisciplinary parent representation programs. Three counties in New Mexico – Bernalillo, Sandoval, and Valencia – are implementing the New Mexico FAP (NMFAP). In New Mexico, the court contracts with respondent attorneys, master level social workers, and parent mentors to provide multidisciplinary representation. This model differs slightly because New Mexico does not have interdisciplinary law offices like New York City does, and they are making adaptations as necessary to accommodate rural counties with large areas and small populations as well as social distancing required by COVID-19.

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## Cornerstone Advocacy

The Cornerstone Advocacy model delivers intensive advocacy during the first 60 days of a case (Cohen & Cortese, 2009). The multidisciplinary team consists of an attorney, social worker, and parent ally. For the Cornerstone Model, New York City contracts with interdisciplinary law offices who can address parents' needs in and out of the court. The team works together to ensure visitation is as frequent and long as possible, that placement arrangements support the child's existing family connections, that services are strength-based and individualized, and that regular meetings outside of court provide the opportunities for youth and families to meaningfully participate in case planning.

Attorneys in the focus groups, in particular, were very supportive of multidisciplinary representation. They stated that they would “love a social worker in every public defender office.” Some focus group participants connected multidisciplinary representation to a current parent partner program in Vermont. Participants saw the current parent partner programs as “adversarial” and stressed that any parent partner program should be implemented at the beginning of the case, be present for all meetings, and help with collaboration. Participants liked the idea of using parents who had successfully navigated CHINS cases as parent partners.

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*“Some parents come through and are stars and it would be great to get them as parent allies.”*

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### Action Steps

1. Explore alternative structures for parent and child representation, possibly outside of the Office of the Defender General or in a specialized division of the Office of the Defender General. Given Vermont’s small size and population, for a number of attorneys, child welfare cases are only a portion of their work. CHINS cases, however, involve our most vulnerable population and require and deserve attorneys with expertise in child welfare law and the range of related topics, including trauma, child development, attachment, and substance abuse. Offices specifically dedicated to representation of parents and children offer a host of benefits, including training and support, oversight of quality, and fiscal accountability, as described [in this recent article from the ABA](#). The specialized training and mentorship a dedicated office would provide has the added bonus of developing a pipeline for future juvenile court judges. Some states combine representation for parent and children in one office, while other states have separate offices for parents and for children, usually with at least one staff member responsible for training and support for issues related to representing parents and a second for issues related to representing children. Explore both options with consideration for the limited number of attorneys available in Vermont, the current caseload, and new opportunity to conduct virtual hearings.

**Budget Considerations:** An office dedicated to parent and/or children should include:

- A Director who is responsible for office operations as well as participating in policy discussions
- A person to oversee contract attorneys
- A training and technical assistance provider who specializes in parent representation

- A training and technical assistance provider who specializes in child representation
  - Melissa Michaelis Thompson, Esq., the Executive Director of [Colorado's Office of Respondent Parents' Counsel](#), has agreed to talk through the history of their budget. She can be reached at [mthompson@coloradoorpc.org](mailto:mthompson@coloradoorpc.org).
2. Adopt and promote statewide standards for parent and child representation. The [ABA Standards of Representation for Parents in Child Welfare Proceedings](#) and [Standards of Legal Representation for Children](#) provide clear guidance and can contribute to expectations for representation in Vermont. There are several examples of state-specific standards for representation in abuse and neglect cases, including [Massachusetts](#) and [Pennsylvania](#).

**Budget Considerations:** This is a low-cost activity, as there are several existing models to review and technical assistance available from a number of organizations. This would best be done through a statewide commission that includes attorney and constituent representation.

3. Leverage Title IV-E funds to support high-quality legal representation for parent and youth through specialized training. The [National Alliance for Parent Representation](#) and the [National Association of Counsel for Children](#) (NACC) offer a variety of training topics and methods, including NACC's renown Red Book Training and Child Welfare Legal Specialist (CWLS) Certification. Note that Title IV-E funds can and should also be leveraged to support multidisciplinary representation, described later in this report.

**Note on Progress:** In review of this report, CHINS Reform Workgroup members indicated that there were efforts to pursue Title IV-E funds. The Office of the Defender General stated that they have approved an MOU and are awaiting approval from DCF. DCF stated that they are in support of these efforts but do not currently have the technological infrastructure necessary to manage drawing down these funds.

4. Leverage Title IV-E funds to support multidisciplinary representation. There are few attorneys who represent parents in CHINS cases in Vermont, and these attorneys have caseloads that prevent them from participating in many meetings outside of court with their clients or from meaningfully spending time strategizing with their client. Adding professionals from other disciplines to the case to support the parent attorney and the parent brings another trained individual to the table who is on the parents' side, at a time when parents feel as though no one is. Hire a program coordinator, Masters level social workers, and parent partners. The social worker can help the parent access services and can help the parent learn skills to address issues. Additionally, a well-trained parent partner can provide emotional support and help parents learn

how to navigate the system – an activity many parents are attempting to do on their own according to the focus groups and interviews. To be effective, parent partners need to be well trained and focus on collaborating with the agency. Focus groups indicated that existing parent support resources can be adversarial and create barriers to collaboration; whatever model for parent partners is affiliated with multidisciplinary representation, it is important that they work in collaboration with the attorney and social worker as well as with the agency. The [Center for Family Representation in New York](#) is a resource for training on multidisciplinary representation.

**Budget Considerations:** Staffing needs will depend on the scope of the model. If possible, there should at least be a coordinator who can oversee social workers and parent mentors, provide training to stakeholders, and collect performance data. New Mexico Family Advocacy Program was developed with a [5 year grant from the Children’s Bureau](#) that including funding for a coordinator, social workers, parent mentors, training and stipends for attorneys, and a full-scale evaluation. On the other end of the spectrum, New York City’s Center for Family Representation boasts a cost of \$7,100 per family served and a savings to New York City of more than \$48 million dollars since 2018. Their financial audits are available on their [website](#).

5. Many courts across the country plan to continue holding some child welfare hearings virtually, even after it is safe to do so in person. They cite benefits including reduced travel and transportation costs for court users, ability for parents and children to join without missing work or school and being able to hold hearings in multiple counties on the same day. There is work currently underway to identify best practices in procedurally fair and trauma-informed virtual child welfare hearings. Refer to [Child Welfare: Addressing Backlog and New Filings](#) for strategies for responding to CHINS filings during the pandemic. Some tips to consider to support high quality legal representation in virtual hearings include:

- Set the expectation that attorneys will communicate with their client prior to the hearing, ask whether there are barriers to appearing on video, and try to resolve those barriers ahead of time.
- Encourage attorneys to move cases with motions as much as possible to avoid stagnated cases.
- Spend a few minutes at the beginning of the hearing making sure that everyone’s audio works and that they understand how to use the technology.
- Use breakout rooms to allow for attorneys and clients to speak privately during or prior to a hearing.

### A Note about Judicial Rotation

Zealously supporting high quality legal representation for parents and children is especially important in Vermont due to the frequent rotation of juvenile court judges. The state's small legal community and rural geography result in more frequent rotation than other states. Frequent judicial rotation can cause inefficiencies in case processing, and there is evidence that every additional judicial officer on a case increases time to permanency and number of continuances (NCJFCJ, 2013). Well trained parent and child attorneys who understand family dynamics and trauma and who advocate for reasonable efforts and timeliness can offset issues related to frequent judicial rotation.

Half of the parents interviewed said they had only one judge on their case; the other half said they have seen up to six judges. One youth reported seeing more than 20 judges on her case. In the focus groups, most stakeholders did not like the frequent rotation of judges. They stated that it puts unprepared judges on the bench with no accountability and does not allow judges to see a case through to the end. Case workers expressed frustration that when they finally understand a judge's expectations, it is time to learn a new judge. There is no formal way for them to know what the new judge expects; they learn in the courtroom. Others saw rotation as a good thing, as it brings different ideas and ways of doing things.

Judges who oversee child protection cases are expected to demonstrate judicial leadership and foster collaboration. They are to steer and sustain system improvements, convene stakeholders, and be a champion for children and families in and outside of the courtroom. While some participants pointed to successful, judicially-led initiatives, lack of sustainability of innovation was a concern for many focus group participants. As they saw it, once a judge was ready to consider a new practice, it was time for them to rotate off the bench. Others saw judges start new programs, only for the program to end abruptly when the judge rotated. More than one individual described a time when the judge wanted to make a change, but the clerk was unsupportive, noting that frequent judicial rotation gives a great deal of power to the court clerks. Extending judicial rotation would help to balance that power.

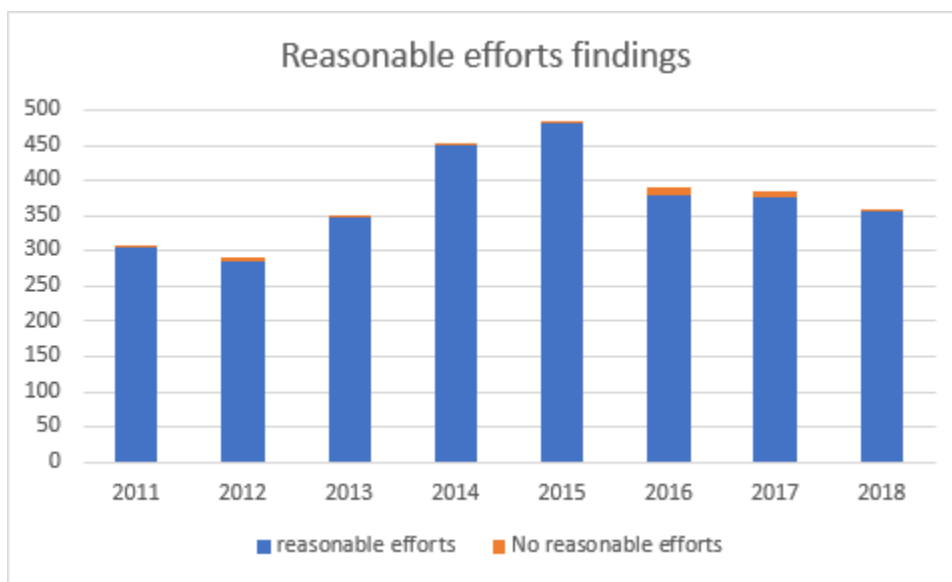
Another strategy to counter the risks of frequent rotation is the use of well trained and knowledgeable Judicial Masters. Judicial Masters who sit in one jurisdiction for an extended period of time can provide case continuity and support and sustain innovations. They also get to know the resources of their jurisdiction very well over time, which can be helpful in system collaboration and onboarding new judges, especially those who are unfamiliar with CHINS cases.

## Prioritize Meaningful Reasonable Efforts Findings

Ensuring reasonable efforts is the responsibility of every professional on a case. The agency must do everything within reason to prevent removal, to assist in reunifying families, and to achieve timely permanency. Parent and child attorneys must enforce their clients' rights to effective and timely services, and judges must make meaningful reasonable efforts findings. Judge Len Edwards (2018) famously said, "The reasonable efforts/ no reasonable efforts findings are the most powerful tools given to the courts by the federal legislation," yet, jurisdictions across the country struggle to apply reasonable efforts appropriately. There are complexities with reasonable efforts findings, as there is no standard definition and the finding is tied to federal dollars, and many court professionals do not fully embrace the significance of reasonable efforts findings. In many courts, the reasonable efforts finding becomes a "rubber stamp."

According to [Caseflow Management: The Heart of Court Management in the New Millennium](#), one of the most important techniques for managing case flow for child protection cases is for the court to routinely make full reasonable efforts findings on the record at every hearing. As shown in Chart 1, findings of "no reasonable efforts" are extraordinarily rare in Vermont courts at permanency planning hearings.

Figure 1 Reasonable Efforts Findings



This is supported by data from the focus groups where parents, caregivers, and attorneys said that judges do not or rarely question DCF. It should be noted that in a survey of DCF case workers done in 2020 by the University of Vermont, 58.9% of case workers responded that the court ruling is consistent

with their custody recommendation in neglect cases “rarely” or “sometimes (Strolin-Goltzman & Holbrook, 2020). Most case workers responded that the court ruling was consistent with their custody recommendation “most of the time” or “always” for other types of cases including physical abuse cases (56.4%), sexual abuse cases (62.3%), and risk of harm cases (84.7%). Many of the individuals in the focus groups expressed that reasonable efforts are looked at only as a funding mechanism for DCF. One even referred to the practice as “playing the funding game during reasonable efforts findings.”

There was a general consensus across focus groups that the court could take reasonable efforts findings more seriously. Parent and child attorneys expressed that one of the most important things that the court could do to support families is to enforce reasonable efforts; however, they believe that if they challenge reasonable efforts, they would be seen as “trying to take money away from DCF.” They also think that the ability to comply with the case plan should be part of reasonable efforts, adding, “The court often rubberstamps case plans as reasonable efforts,” even if the requirements and expectations of the case plan are unrealistic for the family due to housing, employment, or other barriers. They stated that all CHINS professionals – judges, attorneys, and case workers – would benefit from focused training on reasonable efforts findings.

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*“Some judges say parents don’t have ground to challenge reasonable efforts.”*

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There does appear to be unresolved legal questions among stakeholders in Vermont regarding the intention of reasonable efforts findings and the ability of parents and their counsel to raise reasonable efforts issues in court. The Vermont Supreme Court issued two opinions in 2012 related to reasonable efforts. Both opinions acknowledge that reasonable efforts determinations have been incorporated into Vermont law to implement federal requirements and that the issue of reasonable efforts is separate from whether termination of parental rights is in a child’s best interest. These opinions do not address, however, the primary intention of reasonable efforts findings, which is not limited to finances, but is to formalize the court’s responsibility to assure that states offer preventative and rehabilitative services to parents involved with the child welfare agency.

NCJFCJ's [The Courts Catalyzing Change Bench Cards](#) offer some questions for judges to ask themselves to determine reasonable efforts.

### Reasonable Efforts (to Prevent Removal)

- Were there any pre-hearing conferences or meetings that included the family? Who was present? What was the outcome?
- What services were considered and offered to allow the child to remain at home? Were these services culturally appropriate? How are these services rationally related to the safety threat?
- What was done to create a safety plan to allow the child to remain at home or in the home of another without court involvement? Have non-custodial parents, paternal and maternal relatives been identified and explored? What is the plan to do so?
- /How has the agency intervened with this family in the past? Has the agency's previous contact with the family influenced its response to this family now?

### Reasonable Efforts to Allow the Child to SAFELY Return Home

- What services can be arranged to allow the child to safely return home today?
- How are these services rationally related to the specific safety threat?
- How are the parents, extended family and children being engaged in the development and implementation of a plan for services, interventions, and supports?
- How will the agency assist the family to access the services? Does the family believe that these services, interventions and supports will meet their current needs and build upon strengths? Has the family been given the opportunity to ask for additional or alternate services? How are the services, interventions and supports specifically tailored to the culture and needs of this child and family? How do they build on family strengths? How is the agency determining that the services, interventions and supports are culturally appropriate?
- What evidence has been provided by the agency to demonstrate that the services/interventions for this family have effectively met the needs and produced positive outcomes for families with similar presenting issues and demographic characteristics?

### Action Steps

1. The Children's' Bureau's Capacity Building Center for Courts (CBCC) is currently holding virtual Reasonable Efforts Academies for judges. These Academies come highly recommended. Consider

sending some newer judges to a future Academy or requesting that the CBCC help to develop a Vermont specific Academy.

**Budget Considerations:** This training is often provided free of charge.

2. Ensure that judges are knowledgeable about what services are available locally and of the standards of services needed to meet reasonable efforts. There should be a coordinated method for providing not only names of services, but descriptions that include eligibility criteria, anticipated outcomes, and referral process so that the judge can have informed expectations.

**Budget Considerations:** Many jurisdictions find it worthwhile to invest in a part-time administrative employee to coordinate information on community services. In some places, this can be readily accomplished through a partnership with the United Way or another community serving organization. NCSC also provides technical assistance to courts to help them develop a blueprint of services, based on Sequential Intercept Mapping, at all stages of dependency case processing.

3. Emphasize the importance of meaningful reasonable efforts findings for all parties. Provide joint training opportunities for attorneys and for DCF so that there is a common understanding of reasonable efforts.
4. Like many states, Vermont law is vague on what counts as “reasonable efforts.” Further, Vermont is the only state who has in statute, “When making the reasonable efforts determination, the court may find that no services were appropriate or reasonable considering the circumstance” (33 V.S.A. § 5102). Other states list the aggravated circumstances when reasonable effort findings are not required, but do not include a general statement about appropriate or reasonable circumstances. Convene a commission of judges and CHINS stakeholders to discuss what constitutes reasonable efforts in Vermont, especially in light of limited access to services due to geography and the pandemic.

## Support High-Quality Legal Representation for Parents through Transparency

In interviews, parents used words like nerve-wracking, retaliation, unfair, insane, chaotic, and disorganized to describe their first time in court. They expressed confusion over the timeline of events, felt defeated by mysterious expectations placed on them, and helpless over their life and their family situation. One parent said that once her family was court-involved, she felt like she started treatment as soon as she could, but it was still too late. Other parents spoke about classes required on their case plan being offered so infrequently, that it was impossible for them to complete the class in the timeline

expected. Further, more than one of the parents who participated in the interviews stated that they had originally reached out to DCF to obtain behavioral health services for their children.

These frustrations are exacerbated by the pandemic. Attorneys expressed concern that parents and children were missing out on their visitation, adding that they have to “fight for visitation” because foster parents are refusing due to fears of COVID-19. On the other hand, foster parents expressed concern when their foster child was sent to an in-person visit with their family who refused to wear masks, and then returned to their home.

Parent and child attorneys stated that it seems as though DCF is quick to take things like visitation from parents, but slow to reinstate it. There is a feeling that if DCF is requesting a hearing or change of placement, they get it immediately; however, if there is a similar request on behalf of the child or parent, “they are told to wait after the pandemic.”

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*“The entire process- if there is an inconvenience, it is hoisted on the parties.”*

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Many parents described doing their own research on the CHINS process. They said that no one, neither their DCF case worker or their attorney, described the process or the timeframe to them. Several parents expressed frustration with lack of communication or misleading communication from DCF over the life of their case. They also stated that they do not have access to DCF reports to the judge and, therefore, do not know what information DCF is telling the judge. It was not clear whether they are not permitted to see the reports or if they need to request them from their attorney and either did not know to or were not able to.

There also appear to be opportunities to improve communication from the court to parents and caregivers. Many parents and foster parents expressed frustration that they do not regularly receive hearing notices. One

## Pre-Petition Representation

Some legal services agencies provide pre-petition legal representation to families. These programs offer advocacy in matters such as custody and divorce, orders of protection, housing, education, and guardianship. Models of pre-petition representation vary, but many include a multidisciplinary aspect and offer a range of legal expertise. [Pilot programs in Washington, New Jersey, and Oklahoma](#) show a relationship between pre-petition representation and entry to foster care and cost savings.

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parent said that hearings were consistently scheduled at the same time as visitations were scheduled. Some court professionals thought that they are getting hearing notices more often than they have in the past but admitted the system was not perfect. Representatives from community resource organizations also described stories of miscommunication, including situations where families get each other's truancy notice in the mail or when families are only contacted by their attorney on the day of their hearing.

Representatives from community resources who participated in the focus groups appeared to be open and willing to collaborate more with DCF and the court on CHINS cases. They identified a communication problem when cases are pending adjudication -- one of the most important times to get services established. They see it as an opportunity to improve the communication and coordination between the agency, the court, and community resources.

The lack of transparency in the CHINS process was clearly illustrated in the repeated theme of "it depends." Focus group participants from all sub-groups made comments suggesting that the case outcome depends on the individuals assigned to a case. They said things like, "Everything depends on who your DCF worker is and who your attorney is," and, "You have to get the right combination of people to succeed."

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*"If they have a judge that doesn't just rubber stamp, if you have a talented case worker, talented attorney and some resources then they could be successful. And a state attorney who is empathetic."*

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This theme also extended across county lines. Focus group participants noted that there is also variance in practices in DCF offices across the state. This variance can impact the number of families and types of issues coming to court. It can also impact the work of attorneys, many who work across county lines.

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*"In some counties, offices bring a lot of cases. Some don't bring enough cases."*

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According to youth attorneys and youth in Vermont, there is an opportunity to elevate the role of foster parents and kinship caregivers in cases to be mentors and resources to the family. Foster parents, especially seasoned foster parents, understand the CHINS process and have the knowledge to help support a parent through the process. Focus group participants also noted that it is much better for children when the parent and foster parent work together and communicate. This seems to be a different

paradigm than what currently exists in Vermont; however, there are examples of states, such as Georgia and New Jersey, shifting from foster parents being limited to temporary housing to “parent partners” who model health parenting and provide supportive opportunities for parents to continue to parent while a child is out-of-the-home and “resource parents” who are able to support reunification or adoption. Casey Family Programs writes about birth and foster parent partnerships, “The ability of foster parents and birth parent partners to share details of the case with one another is key to reunification success.” Leveraging the role of the foster parent to support the family fulfills an existing information gap for the parent, embodies a collaborative approach, and is thought to facilitate reunification.

### Parent for Parent (P4P) Program

Early engagement of parents is one of the most important contributors to positive case outcomes. There are several parent mentor or ally programs, however, few have evidence to support their approach. The Parents for Parents (P4P) Program in Washington state has been evaluated several times and is currently applying for inclusion in an evidence-based program clearinghouse. Statewide evaluations of P4P as well as locally in King County, suggest a positive relationship between P4P and parent engagement and case outcomes (Trescher & Summers, 2020).

P4P is an early engagement and education program for parents involved in the child welfare system, run by parents with lived experience in the system. The program started in Pierce County in 2005 and has expanded to 16 counties with support from WA Senate Bill 5486. The model is supported by the Children's Home Society of Washington, who provides fidelity assessments and implementation support.

The core elements of P4P are parent allies with lived experience providing regular support to parents and the Dependency 101 class. Parent allies introduce themselves to parents immediately following the shelter hearing. After that, parents can receive regular support from P4P via calls, text, or email check-ins with their parent ally, who are also available to attend court hearings if requested.

During Dependency 101, parents receive an overview of the dependency process, hear inspiring success stories, and listen to professionals speak about their roles. Evaluations show that parents who attend Dependency 101 report less anxiety about the dependency process, increased trust in child protective services, and increased understanding of the system compared to before they attended Dependency 101 (Summers, Wood, Russell, & Macgill, 2012). A 2013 evaluation found that parents who attended Dependency 101 were more likely to reunify with their children compared to parents who did not attend Dependency 101 (Bonhannan, Gonzalez, & Summers, 2016). The most recent evaluation found a positive relationship between Dependency 101 and service compliance, visitation compliance, and attendance at key hearings. There was also a relationship between parent participation in Dependency 101 and increased reunification rates and decreased TPR rates (Trescher & Summers, 2020). There is also a Dependency 201 focusing on accessing available resources in the community and a Dependency 301 focusing on challenges that the parent may experience near the end of the case, including family law, childcare, and education.

Contact: Shawn Powell, King County Superior Court, Parents for Parents Coordinator, ([spowell@kingcounty.gov](mailto:spowell@kingcounty.gov))

## Action Steps

1. Provide more information to parents about the CHINS process, timelines, roles, and expectations. Consider implementing a class for parents that educates them on these issues. Given the situation the pandemic presents, the class could be designed to be virtual. Washington state's [Parents for Parents program offers Dependency 101](#) helps parents learn to navigate the abuse and neglect system. This may be an opportunity for community resource organizations to partner with the court.

**Budget Considerations:** There are a variety of ways that this could be designed that cover a range of budgets. At a minimum, there needs to be a coordinator is responsible for the course content, delivery, and data collection.

2. Set court dates in advance and at a minimum at the conclusion of the prior hearing. According to [NCJFCJ's Enhanced Resource Guidelines \(ERGs\)](#), setting future hearing dates in open court and providing parties with written court order specifying the date and time of the next hearing helps to keep hearings on schedule and provides notice.
3. Provide signed orders at the conclusion of the hearing. The orders should, in language understandable to the parent, include the actions to be taken by each party and the date and time of the next hearing. If it is not possible to meet this standard, the courts should aim for getting signed orders to attorneys within two days of the hearings.
4. Pending a consensus on the purpose for CHINS cases (see below), work with DCF and agencies who work with foster parents to develop a structure for supporting foster parents to be supportive resources for birth parents. An adversarial arrangement, pitting the foster parent against the birth parent, opposes family preservation and can be damaging to the child. The [Children's Trust Fund Alliance's Birth and Foster Parent Partnerships: A Relationship Build Guide](#) provides excellent guidance on how to build on the strengths of parents and caregivers (foster parents and/or kinship caregivers).

## Support High Quality Legal Representation for Children through Meaningful Engagement & Advocacy

Youth should be encouraged not only to attend CHINS hearings but also to participate in court hearings related to their CHINS case. Judges should give them an opportunity to be heard outside from their attorney. In fact, [NCJFCJ's Enhanced Resource Guidelines \(ERGs\)](#) go as far as to say, "once the case enters the courtroom, the judge's initial case management responsibilities are related to family and child

engagement” (p. 68). Research has shown having children in the courtroom is related to improved timeliness (Summers & Darnell, 2015), and there are several benefits to the court, the case, and the system when youth participate in court (see Kitchel, 2008).

The youth who were part of the focus groups described not participating and not feeling welcome to participate in their hearings. Best practices suggest that youth should be present in the courtroom; however, in multiple focus groups and interviews, participants stated that some judges do not want or do not allow the child in the court room. Further, some participants expressed frustration that DCF appears to prefer to not have child in the hearings and that DCF case workers often talk with young people about their right to appear or not appear in court. The participants believe this determination should be made with their attorney.

In Vermont, guardian ad litem (GAL) are required to be appointed for all children in CHINS cases. One of the responsibilities of the GAL is to be the voice for the child in the courtroom, and some professionals may believe that this role takes the place of a young person’s active participation. In the focus groups, however, descriptions of GAL practice vary widely. Some youth had never met their GAL, while others said their GAL was the person who most helped them navigate the process.

Focus groups participants either had extremely positive views of the GAL program or very negative views. Some caregivers and youth described the GALs as being the greatest source of support in their case. Other court professionals recognized that “sometimes the only constant [in a case] is the GAL.” Other youth said that they never communicated with their GAL and that their GAL did not return their calls, and some parents stated that the GAL refused to visit their children. Parents also expressed concerns with conflicts, such as the attorney who is a GAL on the side or GALs connecting with children and family members on social media.

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*“The GAL program is seen as a stepchild by the judges.”*

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Stakeholders expressed that GALs are not taken seriously and “sometimes get dismissed as just a volunteer rather than the expert on the child they really are.” A foster parent said, “The GAL was amazing, but the kids’ lawyer didn’t listen to the GAL about the kids’ well-being.” GALs and GAL Coordinators seemed to feel as though they are not taken seriously. They pointed to examples of poor communication or court scheduling conflicts as evidence. In general, GALs feel left out of conversations about initiatives and practice changes in the court.

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*“GALs are the last to hear about things. For GALs who agree to do emergency hearings, the court schedules the cases all across the day without communication.”*

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Many court professionals described the GALs as having insufficient training. Some stakeholders believe that GALs do not have a clear understanding of their role or how to work with children and parents. One attorney said, “They don’t understand the bond between children and parents.” It also appears that there are inconsistencies in practice and training of GALs across counties. Many GALs and GAL Coordinators valued the opportunity to participate in Bench Bars in their counties; however, some GALs are not invited to Bench Bar in their county. Some GALs have monthly lunch meetings arranged by their supervisor with speakers and have found these opportunities useful for sharing and gaining knowledge. One GAL said that they had the opportunity to attend a judicial training, and it changed their understanding of the CHINS process. This example raises the issue of whether the training received by GALs is sufficient for them to understand the CHINS process.

Several youth said they were often unaware of when there were hearings on their case. One youth had two such experiences in a span of six months. Another youth said there were at least ten hearings that were held on her case without her knowledge and that she did not find out about the hearings until weeks later, adding, “It’s bad when you find out you had a hearing from your school teacher.”

When youth were present in court, they described their experience as stressful, tiring, chaotic, emotional, and anxiety producing. When youth described attending court, they said they were not asked their opinion and were not given the chance to be heard. One youth said that the judge did not even look at them. “I’ve been going to court for years and 90 percent of the time I am a fly on the wall.”

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*“I’ve been going to court for years and 90 percent of the time I am a fly on the wall.”*

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One of the biggest sources of stress related to appearing in court for youth is speaking in front of their family members. Some youth expressed feeling fearful of speaking in court when their family is there.

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*“When I went to court they made me be in the same room as everyone else which was fine with me. But, sometimes it was hard because the judge would want me to say how I felt and I had my family members glaring at me like ‘you better not say anything out of line’. That always scared me. I wanted to be honest with the judge but was too scared to be.”*

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The youth also described being confused or not understanding the CHINS process. While most youth were able to point to one professional on their case that helped them, they often described learning about the CHINS process through friends or their own research. One youth said that she learned about the process from a “little brochure that explained how everything worked” from DCF but thought DCF has since stopped producing those materials. When asked how courts could improve the CHINS process for young people, more than one youth responded that there was a need to simplify the language. They also suggested encouraging the judge to interact with the young person and providing something to soothe children, such as a therapy dog.

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*“The court uses big words that don’t allow people to understand what is going on. Simplify things for youth so they can understand what is going on.”*

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In addition to more developmentally appropriate language, participants also suggested some trauma-informed language improvements, including removing the term “unmanageable” from the CHINS C petition. “The child should not be labeled unmanageable since parents usually don’t have the skills.” They added that the word “unmanageable” is used as a label in the court’s new data system, and “it doesn’t seem right to label children that have come in with trauma unmanageable.” Notably, the Vermont statutes now use the phrase “beyond the control of parents” rather than unmanageable, but it appears that some forms and documents have not yet been altered.

## Action Steps

1. Develop a clear policy supporting a child's opportunity to attend hearings and set the expectation that substitute caregivers and child welfare agencies will work collaboratively to facilitate participation. The policy may allow for alternative means of participation, such as telephone, video, or written statements. It may be necessary to develop a memorandum of understanding with DCF underscoring the importance of having youth present at hearings and the research stating the relationship between youth engagement and permanency.
2. Draft guidance and train for juvenile court judges on how to engage youth in hearings. [Utah's Guiding Questions on Permanency](#) is a useful example of what type of questions and prompts judges can use in hearings to effectively engage young people. Encourage judges to use developmentally appropriate language so that when youth are present in court, they have a better understanding of the purpose for the hearing, the decision made, and the next steps. Plain language is also helpful for parents in a CHINS case.
3. Assess the extent to which current policies for GALs align with 2020 Standards for Local CASA/GAL Programs and regularly conduct Quality Assurance to assess the state and local programs' alignment with standards. Particularly relevant are to ensure:
  - a. Training includes a minimum of 30 hours of pre-service training and 12 hours of continuing education annually.
  - b. The volunteer meets in-person (or by Zoom or phone if it is not possible due to COVID-19) at least once every 30 days where the child lives.
  - c. The GAL program recognizes the importance of family preservation and/or reunification. Standards state that "Strengthening families, through recommendations for services, supports, visitation and communications, is in the child's best interest to achieve stability and/or reunification." When the GAL reports to the court, they should incorporate information about the family's strengths.
4. Specifically assess the conflict between the law that requires a GAL to be assigned to all children in CHINS cases and the national standard that the GAL program assigns no more than two cases at a time to a volunteer (though standards allow for up to five in some circumstances). The GAL model is based upon low caseloads in order to allow volunteers to devote sufficient time to advocacy for each child. Having more volunteers also allows for greater diversity of community voice. While not every state requires a volunteer for every child, every state struggles to recruit, train, and retain enough volunteers. Some approaches taken are:

- a. Assigning volunteers only to the most complex cases;
  - b. Assigning volunteers only to older children;
  - c. Assigning volunteers only to non-verbal or pre-verbal children; or
  - d. Creating a hybrid program with professional and volunteer GALs. North Carolina<sup>1</sup>, South Carolina, and Florida are other states where a GAL must be assigned to each case, but they accomplish this by also using paid staff members to fill in the gaps.
5. Create a full-time statewide oversight position. Currently, oversight of the GAL coordinators is one component of the multitude of responsibilities of the CIP Director. Investing in full-time state oversight will ensure that standards are maintained across counties and allow for greater volunteer recruitment efforts.

## **Insist on timely hearings**

The importance of timely hearings in CHINS cases cannot be overstated. Delayed case processing can exacerbate trauma for the family, prolong uncertainty and instability for the child, and be expensive for the court.

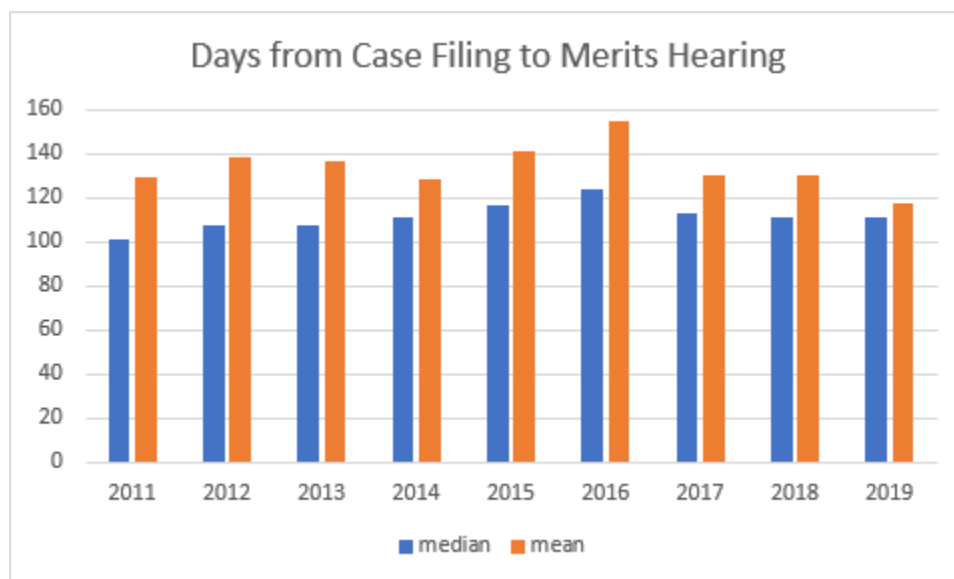
Many stakeholders expressed concern with lack of timeliness in CHINS case processing. Attorneys offered anecdotes of cases (pre-COVID-19) that took several weeks after removal to get to the temporary care hearing, adding “if it was an emergency to remove the child from their home, it should be an emergency to hear the case.” Participants also pointed to long periods of time between the temporary care hearing and the merits hearing, adding how helpful it can be during that time for the court to check how the department is getting services in place. Issues with timeliness and the contextual factors that contribute to them are described by the Supreme Court of Vermont *In re A.S.*, 202-Vt. 41 (2016).

These factors appear to be exacerbated by the pandemic. Focus group participants described variability across counties in which types of CHINS proceedings are routinely being heard during the pandemic, and there is a concern overall with how the pandemic impacts the length of cases. In one county, as stated by an attorney, “The CHINS docket has ground to a halt.” In another county, the judge said they never stopped their juvenile docket – they “just kept going.” At the time of the focus groups, attorneys said that courts had not figured out how to do contested cases or exhibits online and some thought it will be difficult to enter exhibits remotely. Participants noted that courts are “slow to set contested hearings” during the pandemic and that “everyone is getting 4-6-month extensions.” They

expressed concern with how this is affecting time to permanency. Some stakeholders expressed concern for the “impending waterfall” of hearings once all counties resume all hearing types.

According to 33 V.S.A. §5313, “a merits hearing shall be held, and merits adjudicated no later than 60 days from the date the temporary care order is issued, except for good cause shown.” The temporary care order should be issued no more than three days after removal from the home, meaning that the merits hearing should be within 63 days of removal. Chart 2 shows the number of days from the case filing date to the merits hearing. The median is the point at which half of the merits hearings had been held. In 2018 and 2019, just half of cases had a merits hearing 111 days after the case filing. When the mean is higher than the median, as is true each year, there are cases with a much longer time to the merits hearing.

Figure 2 Days from case filing to merits hearing



There is often more than one temporary hearing. Chart 3 shows the number of days from the first recorded held temporary hearing to the merits hearing. Chart 4 shows the number of days from the final recorded held temporary hearing to the merits hearing.

Figure 3 Days from the first temporary hearing to merits hearing

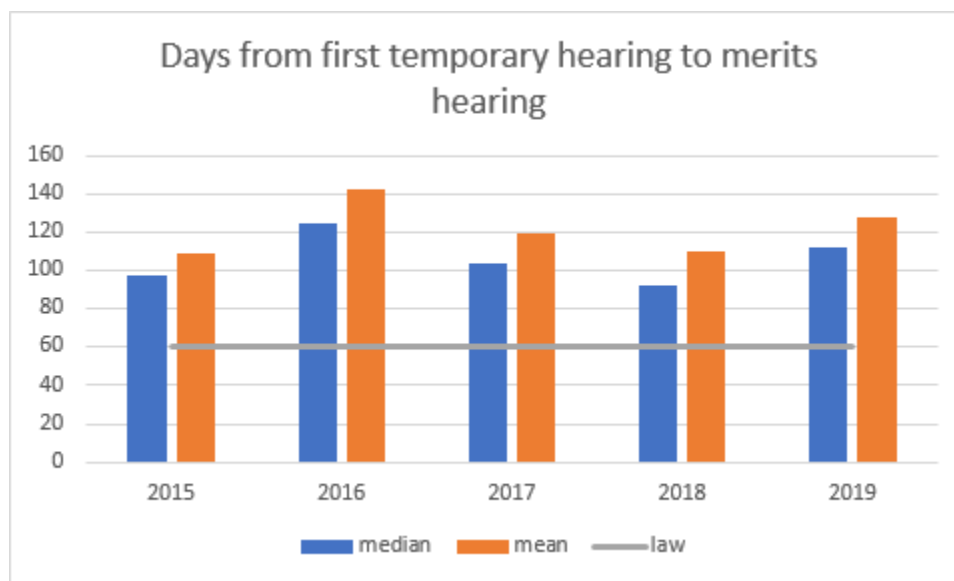
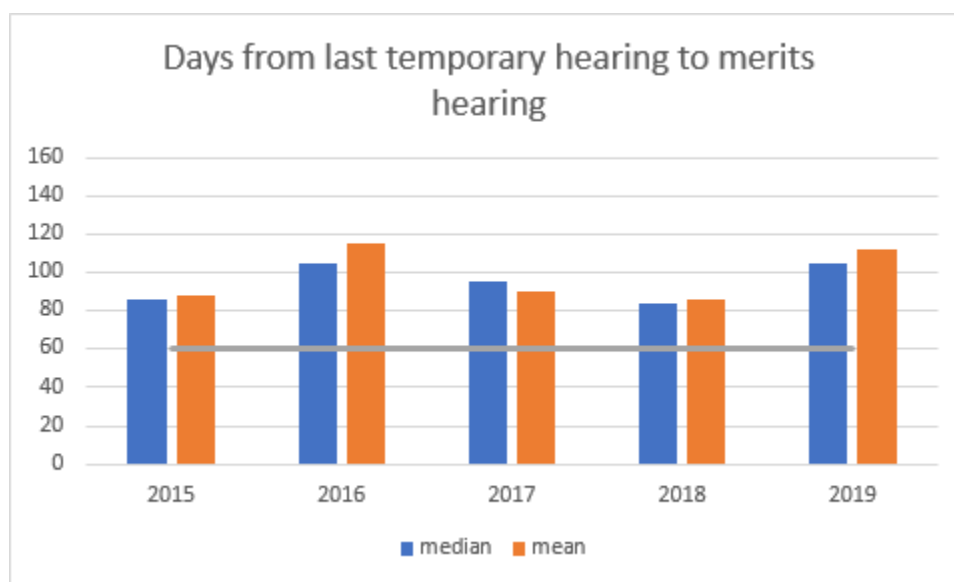


Figure 4 Days from the final temporary hearing to merits hearing



In 2009, the Vermont Supreme Court issued an amendment to the Administrative Directive 26, which establishes Milestone Standards for CHINS cases. These standards are included in the Vermont Juvenile Proceedings Bench Book, however, according to focus group participants, these are considered

to be “advisory, not mandatory.” Some attorneys expressed appreciation for judges who strictly adhere to timelines, while others were not aware of the time standards. According to the interviews, delays in cases are often caused by liberal use of continuances or holding either too many or too few status conferences.

Continuing hearings seems to be common practice. Of cases filed in 2019, more than half (51%) had at least one hearing cancelled. Of cases filed in 2018, 74% had at least one hearing cancelled. According to other professionals, judges regularly postpone contested hearings, hoping that if it is postponed, it will settle. Others stated that judges sometimes continue emergency hearings if there is not an agreement so that they “get to say they met the 72-hour window,” focusing on meeting an administrative deadline as opposed to moving the case towards resolution and permanency (as reflected by the multiple instances of emergency hearings found on many cases). Several youth expressed frustration with hearings running late and needing to be rescheduled. In one case, a youth recalled feeling hurt when the bailiff said, “We don’t have time for you today.”

Participants described a wide range of expectations for status hearings and status reports across counties and courtrooms. Some individuals thought judges used status hearings too frequently – as often as every two weeks in one courtroom – and that status hearings slow the case down. Others described having to convince a judge that a status conference is needed. Most of the judges who participated in the focus group said that they only schedule status hearings if requested or they try to limit status hearings to one. One attorney mentioned that a judge started scheduling some attorney, GAL, and DCF only pre-hearing conferences to assess what needs to occur to move towards agreements being made and stated that this practice was welcome and often successful. One individual added that DCF will no longer negotiate prior to the merits hearings, however, it was not clear if this is a new statewide policy or attributed to only one county office.

The central tenets of caseload management have been around for decades. Many of the strategies recommended 20 years ago for courts to effectively manage dependency courts hold true today:

- Establish comprehensive time standards.
- Exercise court control over case progress from case initiation through completion of all post-judgment court work.
- Implement a “family file” and consider a one judge/one family policy.
- Routinely make full “reasonable efforts” determinations.

- Provide early representation of children.
- Screen cases for differentiated case management.
- Provide early and firm dates for adjudication hearings and hearings on petitions to terminate parental rights.
- Hold timely and full permanency hearings.
- Exercise caseload management control over termination proceedings (Steelman, Goerdt, & McMillan, 2000).

The National Council of Juvenile and Family Court Judges' (NCJFCJ) Enhanced Resource Guidelines (2016) upholds some of these time-honored caseload management practices like time-certain calendaring and judicial continuity. Both NCJFCJ's [Enhanced Resource Guidelines](#) and ABA's [Judicial Excellence in Child Abuse and Neglect Proceedings](#) emphasize the responsibility of the court to collect, analyze, report, and use data to not only monitor, but to plan to improve case management efficiency. The ERGs states:

"The court's information system should be able, for example, to maintain and report statistics on the length of time from case filing to each major court event and to case closure, as well as report on process and outcomes as they related to key case demographic features. These statistics should be periodically reported and used to evaluate the effectiveness of caseload management as well as in the design of interventions to improve the case process and safety, timeliness, and permanency outcomes" (p. 38).

Standard C.9 in the ABA's Judicial Excellence in Child Abuse and Neglect Proceedings is "Court leaders should establish and implement effective caseload management to reduce court delays, taking into account problems unique to child abuse and neglect cases." It is the court's responsibility to measure timeliness, to analyze the information to diagnose delays, and to disseminate findings to establish accountability. There are several vehicles courts can use to support timeliness of hearings including employing a Judicial Master, using differentiated case management, and strengthening data capacity.

**Judicial Master.** The use of Judicial Masters is thought to be a cost-effective way to reduce delays and allow for closer monitoring of cases. Additionally, a Judicial Master who hears dependency cases exclusively and has a stable court placement can develop a level of specialization and expertise that is especially valuable to a state with frequent judicial rotation, like Vermont. The judiciary recently

hired a Judicial Master to “oversee juvenile proceedings as approved by the presiding judge, to assist in compliance with existing court orders, attendance and participation in substance abuse counseling, including the implementation of proven treatment court concepts of early intervention and judicial monitoring mental health and other court-ordered counseling; compliance with and motivation of parent-child contact; to act as the administrative body to conduct permanency hearings pursuant to V.S.A. § 5321 (g) unless a contested permanency hearing becomes necessary; and will assist in screening, identification, prioritization and overall case management of CHINS cases (from the [Judicial Master job description](#)).” Please see the proposed evaluation methodology for the Judicial Master starting on page 74 of this report.

Best practices in dependency cases state that parties are best served when the same judge or judicial officer presides over the case from start to finish ([National Council of Juvenile and Family Court Judges’ Enhanced Resource Guidelines](#)). The [American Bar Association’s Standards for Judicial Excellence in Child Abuse and Neglect Proceedings](#) (ABA Standards for Judicial Excellence), Standard B.11 extends this to Judicial Masters: “When jurisdictions use subordinate judicial officers to hear child abuse and neglect cases, the same judicial officer should hear all stages of a case until the case is dismissed.” However, the recommended judicial continuity is not possible in Vermont as 4 V.S.A. 38(a)(2) states, “the Master shall not have the authority to hear temporary care hearings, requests for juvenile protective orders, or hearings on the merits, or to conduct disposition hearings.” The [ABA Standards for Judicial Excellence](#) continues, “If it is impossible to implement a strict one judge/one family policy, a team of a judge and a subordinate judicial officer should be jointly responsible for a case from start to finish.” This team approach often looks like a subordinate judicial officer hearing certain stages of cases, such as emergency removal hearings or periodic reviews, or teaming with judges to hear routine or uncontested hearings. It may also include the subordinate judicial officer overseeing specialty dockets; as is the case in Vermont, where a component of the Judicial Master’s responsibility is the Family Treatment Docket (FTD).

**Differentiated Case Management.** Differentiated case management is another valued caseflow management technique, and it has recently resurfaced with additional support from technological advances. Differentiated case management is the process of screening cases for complexity and assigning them to various tracks with tailored judicial processes, case management, and allocation of resources based on the needs of the case to reduce delay, make courts more accessible, and improve calendar management. Core components are categorizing cases, developing multiple tracks, screening and track assignments, judicial leadership, and coordination with stakeholders. [Vermont’s Amendment](#)

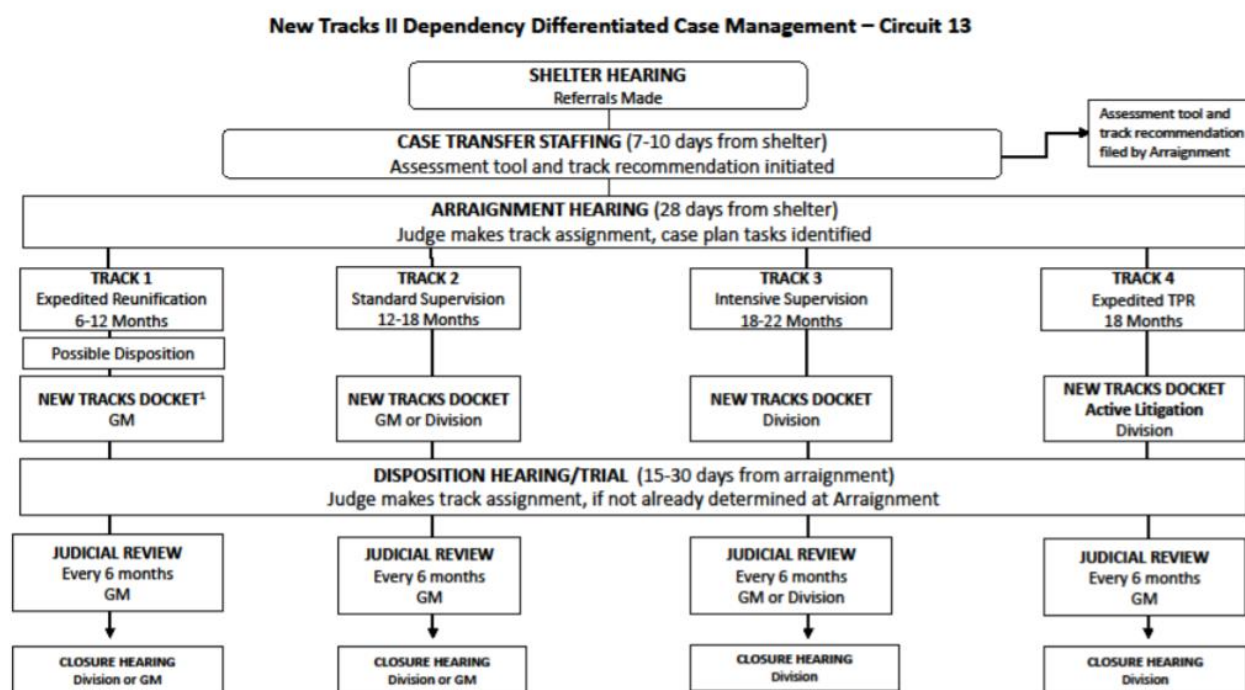
to [Administrative Directive No. 26](#) demonstrates some key components of DCM such as time standards and indicators of complexity.

The overarching purpose of implementing DCM in dependency cases is to ensure fair, just, and timely case resolution of abuse/neglect cases. There have been many pilots of DCM in dependency, however, many pilots are cut short due judicial turnover or shifting priorities. Thus, there is a lack of research on how dependency DCM impacts child and family outcomes. Some models of dependency DCM assign a track immediately after the initial hearing, while others wait for disposition.

### 13<sup>th</sup> Circuit in Florida

The 13<sup>th</sup> Circuit in Florida started a DCM pilot, but it was paused due to changes to the community-based care providers in their privatized system.

#### Florida 13<sup>th</sup> Circuit DCM Chart



## Deschutes County, OR

Deschutes County, OR also had a dependency DCM pilot. An initial process evaluation showed that there was fidelity to the intended model and most cases did not deviate from their assigned pathway (Summers & Sydow, 2019). However, they did not get to the point of validating the case factors they were using to assign a track were predictive. Deschutes County has paused the pilot due to the pandemic.

### Tracks

#### ► Pre-Permanency-Hearing Tracks

- **Track 1 - Standard Track:** Cases with one or fewer Case Assessment Factors and no Child-Focused Areas of Concern. Includes a Citizen Review Board (CRB) review four months from disposition, a limited review hearing three months later, a second CRB review 10 months after disposition, and a permanency hearing 12 months after disposition or 14 months after removal.
- **Track 2 - Intensive Track:** Cases with two Case Assessment Factors and no Child-Focused Areas of Concern, and cases with one or fewer Case Assessment Factors and at least one Child-Focused Area of Concern. Cases have reviews every two months after jurisdiction, starting with a limited review hearing. Cases alternate between limited review hearings and CRB reviews every two months until a permanency hearing is held ten months after disposition or one year after removal.
- **Track 3 - Expedited Track:** Cases with three or more Case Assessment Factors, and cases with two Case Assessment Factors and at least one Child-Focused Area of Concern. Cases have more frequent reviews, starting with limited review hearings 45 days and 90 days after Disposition, followed by a CRB review 120 days after disposition and a permanency hearing 180 days after jurisdiction.

#### ► Post-Permanency Hearing Tracks

- **Track 4 - Adoption:** Includes frequent reviews, starting two months after changing the goal and holding a hearing or CRB review every 2-3 months.
- **Track 5 - Guardianship:** Cases have a hearing or CRB review every two months until the 12-month mark when a permanency hearing is scheduled. The hearings begin with a limited review hearing and alternate between limited review hearings and CRB reviews.
- **Track 6 - PWFWR & APPLA:** Includes alternating CRB reviews and permanency hearings every six months.

Contact: Jeff Hall, Deschutes Trial Court Administrator (541-317-4780)

## Massachusetts Pathways

[Massachusetts](#) kicked off a statewide dependency DCM effort, called Pathways, in April 2019. They started with four defined pathways and remain open to adaptation and improvement as they learn from their implementation.

Early Exit (0-3 months)	Short-Term Intervention (3-6 months)	Moderate Intervention (6-12 months)	Complex Intervention (12-18 months)
Cases where children are placed with, or in the custody of a parent by the 90-day status hearing. Arguably, if a child is in the care of a parent, they do not fit the statutory definition of being a child in need of care and protection and the matter should be dismissed expeditiously. These cases should involve very little court intervention in the family.	Cases where children remain in DCF foster care after the 90-day status hearing, but the barriers to reunification are clearly identified and the parents are engaged in eliminating them such that it is reasonable to believe they will be reunified within the next 90 days. Alternatively, this path may also be appropriate in cases where parents have essentially abandoned the proceeding and are not engaged at all. If there is not significant progress toward reunification at the 6-month point, scheduling a trial may be the most appropriate path. These cases will have minimal court involvement, other than the status hearing and disposition (through dismissal, prima facie trial or agreed upon disposition like guardianship or open adoption).	Cases where children remain in DCF foster care or court-ordered custody of kin after the status hearing and are not able to be returned to the parents care and custody within the first year. There should be a dual focus on identifying needs and services as well as confirming trial readiness and scheduling trial. An adjudicatory hearing could help to clarify live issues and barriers to reunification, as well as set the stage for a review and redetermination if needed. If children are with kin, permanent custody, guardianship, or adoption by agreement should be considered carefully. These cases may have moderate court involvement through pre-trial motions and an adjudicatory hearing or trial.	Cases with complex clinical and/or legal issues which demand additional time, attention, and litigation. These cases should still be monitored by the court to make sure that progress is being made in clarifying the complex clinical and/or legal issues to narrow the focus of litigation as quickly as possible. These cases may have moderate to significant court involvement to accomplish those goals. Once the complexity is clarified, it may move to a different path.

**Strengthen Data Capacity.** NCSC obtained an administrative data file from the previous court data system to analyze for this project, and through the analysis, identified several data quality and data governance issues. As the Vermont Judiciary implements the Odyssey case management system, it is an excellent opportunity to focus on data governance, data quality specifically, and data visualization. NCSC provides a [data governance policy guide](#) for reference. Simply bringing past practices into a new case management system is tempting, but also means bringing past bad practices into a new case management system.

Collecting data that no one uses is a waste of valuable resources and is almost certain to lead to poor quality data. The focus should be on data collection that is necessary for case management, for required reports, and to inform judicial decision-making.

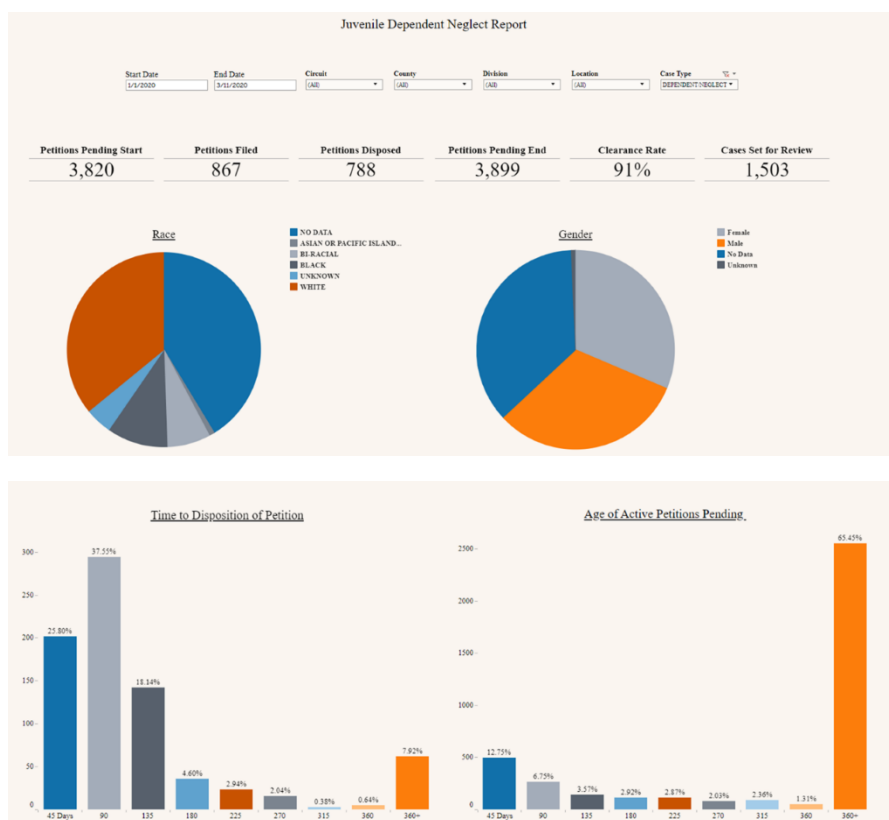
With the implementation of Odyssey, now is a good time to consider the following questions:

- a. What data is necessary for clerks and other court staff?
- b. What performance measures are actionable for judges?
- c. What information do judges need to better manage their caseloads?
- d. What data need to be available in real time and what information is useful as a weekly or monthly report?
- e. What historic data is needed?

It is also a good time to consider which reports would be useful to inform policy and judicial decision-making. For example, in reviewing past data, nearly half of termination of parental rights (TPR) hearings are cancelled, and in cases where a hearing is cancelled the time to disposition of the TPR is 289 days. Where there is no cancelled TPR hearing, the time from petition to disposition of the TPR is only 178 days. Showing all motions, petitions, or requests pending along with status and time since filing is actionable information for judges. Judges might find it useful to also show whether a case plan has been filed in the court. In Vermont, it is an average of 124 days from the date the petition is filed until the first case plan is filed.

This is an example from another state that provides dashboard information to judges. Judges can click on any part of a graph to see the cases that make up that portion. This report can be pulled by county or by judge. This uses the [CourTool](#) measure 2: clearance rate as well as distinguishing between cases with an outstanding petition and those that are set for review.

Figure 5 Example of Judicial Report



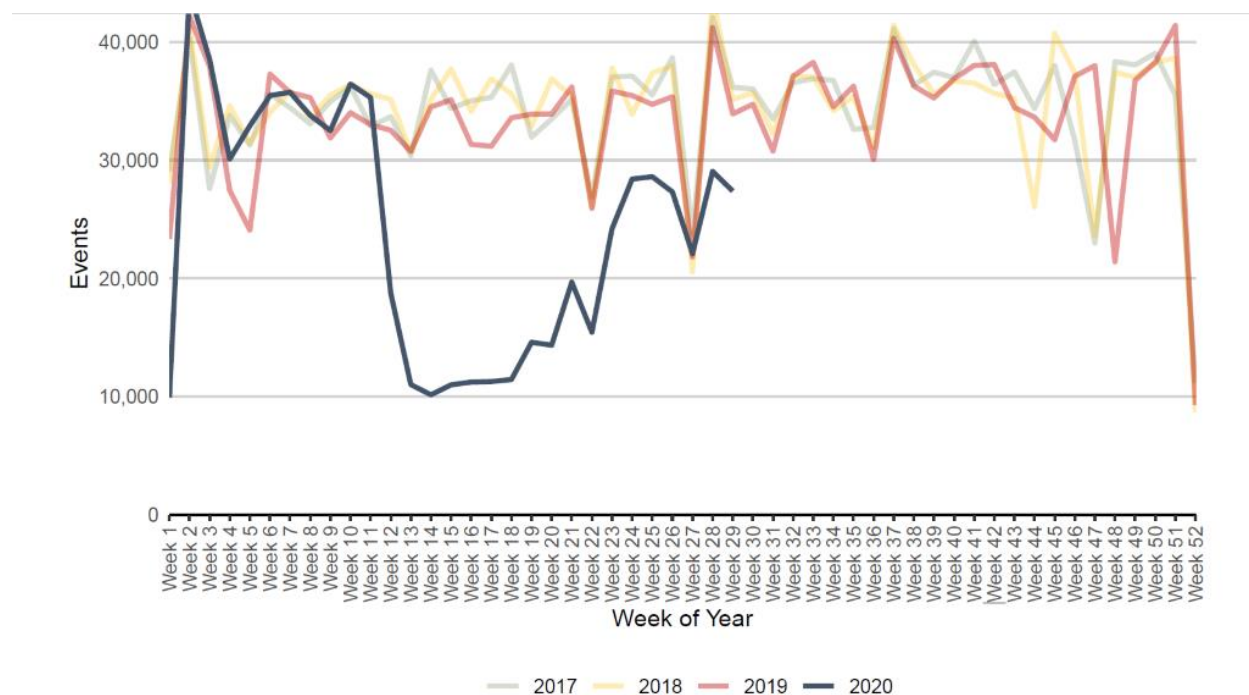
Measures 2A and 4A refer to the [Toolkit for Court Performance Measures in Child Abuse and Neglect Cases](#).



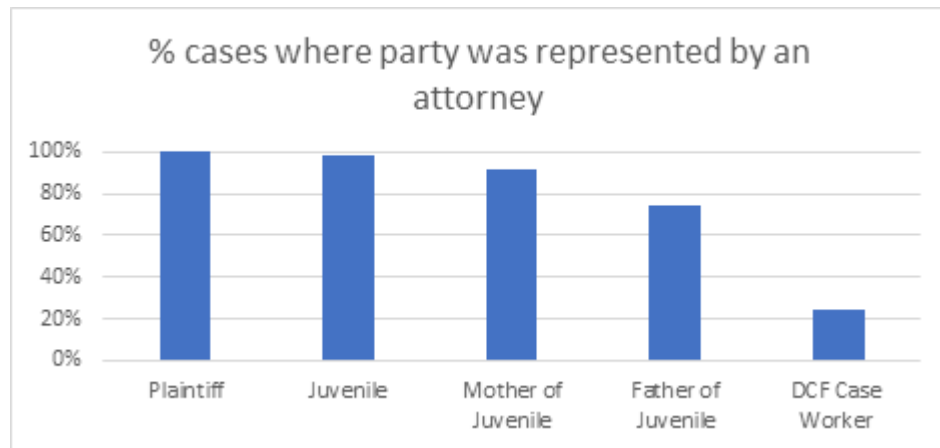


This is an example from the Wisconsin AOC, showing the number of held court events. Judges use this report to monitor for backlog.

**Figure 6 Example Number of Court Events**



Data visualization can also be helpful in monitoring other items important to the court. This is very simple graph showing legal representation in Vermont.



Clerks will also benefit from data quality reports for clerks. Below is an example of a data quality report for use by clerks. This report highlights likely data errors so that clerks can easily identify and correct them.



## Action Steps

1. Emphasize the importance of adhering to the established time standards from petition through the TPR hearing and decision. As part of this, establish a routine data exchange with DCF.

Within the new data system, incorporate automated reports and/or dashboards so that local courts can review their data routinely, at least monthly. Lead efforts from the state court by providing opportunities for judges and court staff to learn how to understand the reports and encourage practitioners to discuss identified opportunities for improvement.

**Budget Considerations:** Ideally there should be at least one data analyst at the judiciary responsible for monitoring quality of court data for CHINS cases, developing reports, and helping stakeholders understand the data.

2. Develop data governance policies for CHINS cases. This should include experts in juvenile court as well as representatives from IT. As part of that process, document business processes and create a consistent data dictionary and values for all child welfare cases across the state. For some recommended data elements, see [www.ncsc.org/nods](http://www.ncsc.org/nods). Business processes should include how cases are initiated in Odyssey, what needs to be entered, how names are entered, how court actions are recorded, and how cases are closed. Where possible, Odyssey should be set up to make it difficult to enter “wrong” data (such as a hearing type that is not appropriate for dependency court). Create a process to report data errors, evaluate the cause of the errors, and correct them.
3. Share performance measures with CHINS stakeholders, such as DCF and attorneys, to reinforce the goals of the court and to establish accountability and transparency. Additionally, DCF and attorneys likely have useful information that can be used for diagnosing delays. For example, in the focus groups, attorneys mentioned that paternity could be established earlier; perhaps this is a solution worth considering locally with DCF, attorneys, and the judge.
4. Continue to use virtual hearings – even after it is safe to hold in-person hearings – as needed for quick status conferences or review hearings. They allow for more flexibility in scheduling and circumvent common barriers to coming to court, including transportation and employment obligations.
5. Set recommended guidance on continuances, including requirements for written agreements or communication prior to a hearing. Judges should make their strict position on continuances clear to all parties. The Benchbook states that the use of continuances should be strictly limited in CHINS cases and offers some practices to reduce continuances, however, it can go further to

spell out the limited situations where continuances will be allowed. Further, the [ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases](#) states that, “The parent’s attorney should avoid continuances (or reduce empty adjournments) and work to reduce delays in court proceedings unless there is a strategic benefit for the client.”

6. Consider a rule that a hearing only “counts” as complete when an order is issued. This would both reinforce the purpose for the time standards and encourage parties to communicate and be prepared for a hearing.
7. Consider holding the merits hearing and the disposition hearing on the same day. According to the established timeframe, adjudication should be within 60 days of DCF custody, and the initial case plan should be filed by DCF within 60 days of child’s removal from home. Several states, like Pennsylvania, Arizona, and Tennessee, opt to schedule the adjudication and disposition hearings at the same time for reasons of timeliness and convenience. [Pennsylvania’s Dependency Benchbook](#) states several reasons for holding these hearings at the same time: many, if not all, of the parties are the same at both hearings, much of the evidence presented is similar, it helps to expedite the process, and many times the outcomes overlap.
8. Although beyond the scope of this study, the length of time between TPR and adoption needs to be explored. Participants described children waiting six months to a year after TPR to be adopted, even if there was already an adoptive family.

## **Develop Consensus on Goal of CHINS Cases and Clearly Message It to All Stakeholders**

Overseeing child protection cases requires a different mindset than most other hearing types. The [NCJFCJ’s Enhance Resource Guidelines](#) state, “The role of the juvenile and family court judge is unique, as it combines judicial administrative, collaborative, and systemic advocacy roles” (p. 16). Judges in child protection cases must have broad and deep knowledge on a host of legal and non-legal issues, including child development, attachment, trauma, and federal requirements. They also must be knowledgeable about what services and supports are available in their community.

According to the Vermont Juvenile Proceedings Benchbook (updated through the 2016 legislative session), the primary purpose of Vermont’s Juvenile Proceedings Act as it relates to CHINS includes: to preserve constitutional principles of due process and family preservation consistent with a child’s safety and well-being; preservation of family and family relationships important to the child; and clear

delineation of standards for removal from the home. Vermont law also states that during permanency review and petition or request to terminate parental rights, courts should consider “the best interests of the child” 33 V.S.A. § 5114(a).

While the Benchbook clearly favors family preservation, it seems as though there is not a shared vision for the goals of CHINS cases or for what makes a home safe for children. While everyone may be focused on the child well-being, permanency, and safety, it seems as though those concepts are interpreted differently by different professionals. Participants were inconsistent as to whether the goal of CHINS is best interest of the child, the parent, or the family. CHINS stakeholders stated that the court aims to keep families together, however, some expressed concern with the balance between family preservation and safety. This stark difference in mission and values plays out in the roles that professionals assume in the CHINS process.

Most professionals expressed a generally negative attitude towards parents. Many seemed frustrated or impatient with parents, sometimes blaming the parent for case delays. This posture can get in the way of building working relationships and setting reasonable expectations for parents. Further, it may inhibit parents from being engaged in court hearings, and research shows that parental engagement in hearings facilitates reunification.

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*“The thing that delays cases is the response of the family. That’s what drags out the case being closed.”*

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This attitude was clearly felt by parents in and outside of the courtroom. Nearly every parent we spoke to described feeling like they were stigmatized. Parents reported feeling looked down upon because they were single mothers or of low income. Many parents commented things like, “Once you are known to DCF, they think of you like that forever.” Many parents and attorneys noted that DCF often includes old information in the affidavit that is not relevant to the current case. This makes parents feel like the deck is stacked against them due to the “long laundry list” of things, not always relevant to removal, in the affidavit.

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*“As a parent, you have nobody on your side.”*

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Attorneys would like the court to be firm with DCF and require affidavits that directly support why the child should be removed now, not the parents' complete history. Some say that attorneys and judges should know how to pick out the important information from the report; however, extraneous information in the file can waste the court's time and resources and cloud the reasons for removal.

Parent attorneys perceive DCF to have a negative attitude towards parents. Parent attorneys advocate for consistent visitation even when a parent is not progressing on their case plan and described instances where DCF limited visitation as a punishment for parents not progressing on their case plan. One attorney added, "If the process favors reunification, DCF will fight it."

According to the [Children's Bureau](#), "safe, meaningful, and high frequency family time ... strengthens the family, expedites reunification, and improves parent and child well-being outcomes." It continues, "Research shows ending or reducing family time due to a parent's non-compliance with a case plan is problematic and can negatively impact parental engagement and well-being." The brief recommends that judges consider family time a critical reasonable or active effort that the agency must make to finalize permanency goals of reunification, set clear expectations that agencies tailor family time plans to meet the needs and circumstances of each child and family, and order unsupervised family time unless specifically contraindicated by safety threats. One attorney added, "If the process favors reunification, DCF will fight it."

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*"[DCF] Social workers are not social workers; they are child advocates in their minds."*

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Nationally, there is an emphasis on supporting services to prevent removal. As mentioned, the Family First Prevention Services Act (FFPSA) provides opportunities and encouragement for courts to be active partners in efforts to prevent unnecessary removal. This emphasis on the

## Changing the Paradigm

The [Alia Unsystem Innovation Cohort](#) is trying to accomplish broad culture change in child welfare by changing mindsets. After one year, the four states in the cohort had a [12% reduction in youth in foster care and 37% reduction of youth in congregate care](#).

An example of a simple shift is that before removing a child, judges ask these four questions:

1. What can we do to remove the danger instead of the child?
2. Can someone the child or family knows move into the home to remove the danger?
3. Can the caregiver and the child go live with a relative or fictive kin?
4. Could the child move temporarily to live with a relative or fictive kin?

front-end of the court process is akin to the public health model of child welfare adopted in Nordic countries. The child welfare systems in Denmark, Finland, Norway, and Sweden are family service-oriented and based on a therapeutic view of rehabilitation (Hestbaek et al., 2020). A basic principle of a family service-oriented system is providing services that prevent harm and prevent out-of-home placement. The Nordic countries have three types of removals, and most of their removals are voluntary where the parent can change their mind at any time.

In the focus groups, however, many stakeholders were concerned with DCF's reluctance to provide families with services to prevent removal. Attorneys stated that some DCF workers are reluctant to refer youth who are not in custody for services, but judges will say they cannot force DCF to provide services, and this puts attorneys in a tough situation. They want their client to remain at home, but they also want their client to be able to access services. Parents also expressed concern with this stance. Many described first coming to DCF to request help for children who living with mental health needs or exhibiting challenging behaviors.

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*"This is supposed to be an agency you can trust."*

*"I was begging for help and no one had anything to help me. Instead, they punished me for not being able to get the services I needed."*

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Further, focus group respondents said family members were often excluded as placement options, contrary to the perceived emphasis on family preservation. Judges in the focus groups acknowledged that placement with a family member makes a difference and can reduce time to permanency. Some of the parents stated that they were never asked about possible family placements, and others said that they were not allowed to make safety plans with family members who lived nearby. Both attorneys and parents reported the court does not always consider the non-offending parent as a potential caretaker, adding "the burden is on the non-offending parent to prove they should have the kid in their care and custody."

Only foster parents, caregivers, and State Attorneys talked about trauma. They spoke about both the trauma of removal and the trauma of reunification. These individuals stated that one of the best things that courts can do to support families is to not take children out of their home because it traumatizes them and their family. Focus group participants also pointed to the trauma of sudden reunification

without support, noting that several children in custody have been in custody previously. They observed that when families are reunified, the supports and services vanish, and parents are not prepared.

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*“It’s very rare that a child-centered transition plan can be made in the courtroom.*

*People are stressed in the courtroom and it doesn’t work as well.”*

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## Action Steps

1. Among stakeholders, document a shared vision for CHINS cases in Vermont. While these discussions may have occurred at the top levels of the organizations, it is critical for them to trickle down to the case workers and others who interface with court professionals regularly. Utah’s recently developed “Core Principles and Guiding Practices for a Fully Integrated Child-Welfare System,” and it offers a stellar example of multiple systems coming together under a shared mission and in a shared direction. A shared vision should include:
  - a. Knowledge about the role of trauma and how to provide trauma-informed services for children and parents
  - b. Focus on visitation as a necessary service for the child, not a reward for the parent.
  - c. Strategies to reserve placement in foster care for when there are no other alternatives to protect the child.
  - d. Graduated reunification, moving from supervised visits to unsupervised visits to overnight visits.
  - e. Aftercare for families when children are returned to the home.
2. Explore ways for parents to access services for themselves or their child without placing children in foster care. The Families First Prevention Services Act allows for use of Title IV-E funds to provide in home services.
3. Consider ways to engage representatives more meaningfully from community resources in describing the purpose for CHINS cases so that they can better develop programs to address the needs of families working towards reunification or recently reunified. Community resources representatives are familiar with Bench Bar but stated that they are not invited. This might be an opportunity to improve coordination, educate them on the needs, and educate attorneys on the services that are available in the community.

## Other Innovative Practices

During the focus groups, participants heard about five court-related practices in child welfare cases that are showing positive outcomes through emerging evidence bases. They were asked to vote on which practice they thought would be most beneficial in CHINS cases in Vermont. Dependency mediation and multidisciplinary representation received the greatest number of votes.

Focus group participants were aware of efforts to implement dependency mediation across Vermont and pointed to examples of some jurisdictions using dependency mediation informally. Some were aware of judges who would suggest dependency mediation but not formally order it. Those who did not vote for dependency mediation expressed concerns of too few trained mediators and possibly increased time to permanency. Some focus group participants spoke of the existing program through Easter Seals for “Family Safety Planning Meeting” and thought that dependency mediation might be like that program. Dependency mediation and safety planning are complementary practices; however, dependency mediation has been shown to improve timeliness of adjudication and reduce judicial workload.

**Table 3 Votes for Court Programs with Emerging Evidence**

<i>Stakeholder Group</i>	<b>Dependency Alternative Program</b>	<b>Dependency Mediation</b>	<b>Multi- disciplinary Representation</b>	<b>Triage</b>	<b>Pre-Petition Representation</b>
<i>Attorneys</i>	0	5	22	3	4
<i>Caregivers</i>	0	9	0	0	6
<i>Community Resources</i>	1	4	6	3	5
<i>GAL Coordinators/GALs</i>	3	24	2	1	10
<i>Judges</i>	1	4	6	1	3
<i>Juvenile Court Staff</i>	5	7	5	2	1
<i>State’s Attorneys</i>	6	20	2	5	0

Not all of the programs and practices compiled for this study easily fit within the body of the focus group findings. Summaries of additional promising programs and practices are included here as supplemental information.

## Dependency Alternative Program

Pima County (Tucson), Arizona is home to the [Dependency Alternative Program \(DAP\)](#). DAP is a voluntary differentiated case management approach that guides families who meet defined criteria through alternative legal arrangements. The goals of the DAP are (1) to prevent dependency cases when an alternative legal arrangement can provide safety and stability for the child and (2) to keep families that reach resolution via DAP out of the dependency system (i.e., no dependency filed and no substantiated report) for at least one year.

The program meets these goals through holding a DAP conference where a trained mediator and attorney help the family agree on living arrangements and conditions. The DAP prides itself on happening quickly; the family is typically walking away with orders in about four hours when the same outcome may have taken months through traditional case processing. The Arizona Administrative Office of the Courts is supporting the expansion of DAP in other counties with the understanding that differences in local population and resources may require the model to be adapted.

**Target population.** Pima County developed the DAP in response to cases that were dismissed before adjudication. This caused them at first to focus the DAP on private dependency petitions, but now the team sees an opportunity to expand to families who have an open case with DCS. Pima County has a screening process when a petition is filed and if the petition seems to be appropriate for DAP, they do not assign attorneys and ask DCS to withdraw.

**Structure of the program.** When the court becomes aware of a case that is appropriate for the DAP, the [DAP Coordinator](#) communicates with the petitioner and family to confirm that everyone agrees to the process and to schedule the DAP. Within seven days of a family's referral to DAP, a [DAP conference](#) is held where all case stakeholders work together to reach full agreement upon the best legal arrangement for the child's custody and parenting time – that is, a safe and stable environment that addresses the family's needs, is in the best interest of the child, and is approved by all stakeholders. During the DAP conference, an *advisory attorney* assists the family in understanding legal rights, options, and court procedures. It is important that they know that the attorney is not representing them, only providing legal information. Most cases engage in a confidential mediation with a *professional mediator*. Then, there is a hearing the *judge* to enter a temporary or final custody order.

**Guardianship statutes.** The DAP tends to use two different guardianship titles, Title 14 and Title 8. In a Title 14 guardianship, the parent can revoke their consent at any time. A Title 8 guardianship is in place until the child is 18

**Key stakeholders.** The committed team of primary stakeholders is a core element of DAP. This team includes the juvenile court judge, a family court judge (because guardianships are typically handled by the family court in Arizona), advisory attorneys, representatives from the Department of Child Safety, the assistant attorney general, mediators, representatives from the clerk's office, and a coordinator. The entire team must be on the same page and supportive of the goals of the program for it to be successful. Of particular importance is the support of the Department of Child Safety – they must understand and respect the outcome of the DAP. A second key stakeholders is the clerk's office. Private dependency petitions had previously been filed in Family Court rather than Juvenile Court. The clerks were expected to stretch since they were not previously familiar with Family Court.

**Results.** DAP staff ask parents, guardians, and Department of Child Safety caseworkers to complete a survey following each DAP. Per the surveys, parents and guardians are almost always satisfied with the process. Once DCS has been involved in a DAP case, they are more likely to refer another case. The program also boasts a cost and time saving. A DAP from referral to closing is typically three weeks compared to the months that a family might be involved in the court system.

*Contact: Stacey Brady, Director, Court, Children, and Family Services Division, Pima County Juvenile Court Center ([sbrady@sc.pima.gov](mailto:sbrady@sc.pima.gov))*

## Dependency Mediation

Research has demonstrated that mediation can be effective in dependency cases at multiple case processing points. Dependency mediation can help parties reach agreement regarding allegations, recommended services, placement, visitation, and general case planning in a non-confrontational and supportive environment. Dependency mediation has been shown to improve timeliness of adjudication and reduce judicial workload.

### King County, Washington

The pre-adjudication mediation program in King County (Seattle), Washington has been well studied. Its [most recent evaluation](#) found that parents feel they have a voice and are respected during mediation;

that parents and stakeholders have overall satisfaction with the process and outcomes of mediation; and that mediated cases are more likely to result in reunification.

Contact: Jorene Reiber, Director of Family Court Operations, ([Jorene.Reiber@kingcounty.gov](mailto:Jorene.Reiber@kingcounty.gov))

### Maricopa County, Arizona

Maricopa County prides itself in its team of highly skilled mediators. In 2015, Maricopa County started focusing on enhancing the mediation available in dependency cases and has since helped thousands of families reach positive outcomes. During the enhancement, they made some critical decisions:

1) Judges may order mediation anytime throughout a case – pre-petition, pre-adjudication, and even post-placement. The court agrees that mediation can be a useful tool at any point when a case plan might change or for specific issues within the case. All parties should agree to the mediation, as mandatory participation in mediation is rarely successful.

2) Parties can schedule *Mediation on Demand* when ALL parties want one. Conciliation staff can schedule those which saves court time.

Maricopa County emphasizes the important components of a successful mediation program: judicial leadership, well trained and neutral mediators, timing, and access to meet the needs, protocols for disclosure and communication, data and evaluation, and continuous quality improvement.

Maricopa County also values data collection and use. Per program data, in 2019 two of every three issues presented at a dependency mediation were resolved. Mediations in Maricopa that discussed parent services, parenting time, conditions for return, or placement were resolved more than 60% of the time. Mediations that discussed the issue of dependency were rarely resolved. The team will use this information to continuously improve services.

Contact: Amy Steemke, Conciliation Services Supervisor, Superior Court of Arizona in Maricopa County, ([amy.steemke@jbazmc.maricopa.gov](mailto:amy.steemke@jbazmc.maricopa.gov))

### Statewide Dependency Mediation in Nevada

Some counties in Nevada have operated dependency mediation programs for years; however, the statewide approach is relatively new to Nevada. The program, coordinated at the state level, assigns trained, neutral mediators to dependency and termination of parental rights cases to help resolve

contested issues outside of the formal court hearing process. In Nevada, mediation is available at all stages of a dependency or TPR case once a petition has been filed.

**Structure of the program.** Prior to the mediation, mediators contact the social worker, attorneys, and other participants to gather information and prepare for the mediation. On the day of mediation, the mediator provides each parent a brief overview of the mediation process and all parties sign a [confidentiality statement](#).

Mediations last around about 2 hours and most often result in a mediation agreement that is reviewed and signed by all parties. The judge then enters a court order formalizing the agreement in the case. In some counties, the court convenes, and the mediation participants place the terms of the agreement on the record.

**Training mediators.** Highly trained mediators are essential for an effective dependency mediation program. In Nevada, new mediators go through a [40 hour class](#), while those who already had mediation training and experience joined the 40 hours class for the last 20 hours.

**Results.** [An evaluation of Nevada's statewide dependency mediation](#) showed that most program participants (85%) and stakeholders (98%) expressed overall satisfaction with the mediation. Most cases (84%) were able to reach agreement. There were no differences between the stage in the case when mediation was held and stakeholder satisfaction.

# Focus Group & Interview Protocols

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## VT CHINS Focus Group Protocol

### Introduction (5 min)

#### 1. Welcome

- a. Thank you for participating! My name is (host) and I am from the National Center for State Courts. The State of Vermont has contracted with us to conduct a study of the court process in CHINS cases. We also have with us (Miguel and Hannah) who will be taking notes for us today.
- b. You were invited today because you have been involved in CHINS cases in Vermont. We will be asking you about your experiences, strengths, and opportunities for improvement that you've observed, and we're also going to be asking you for your opinion about some practices that are used in other states.
- c. I want to remind you that your participation in this focus group is voluntary. You can exit the meeting at any time, and you do not have to answer questions if you don't want to. Your responses will be confidential – that means that your name will not be connected to anything that you say in this group and it will not show up in our report. I ask that you also respect the privacy of your colleagues in the group and do not share with anyone outside of our group what is said during the focus group. Also, we will be recording our time together, but this is just for making sure we are capturing everything we need to in our notes, and the recording will be deleted when we are finished.
- d. (Zoom instructions) We had originally planned for these groups to be in person but are now for obvious reasons doing them online. Some of you may have differing levels of experience with zoom, so I want to point out a few features. There is a bar that appears on your screen that shows a microphone – if you click on that microphone it will mute and unmute you. If you have background noise, you may want to mute yourself when you are not talking. Likewise, there is a video camera that turns your camera on and off. Finally, there is a chat box. Here you can chat us messages if you are having technical difficulties or want to agree or add to something someone is saying. Here you can chat

the entire group or select someone from the drop down to chat to them privately. We'll also ask you to type in this box during our time together today.

- e. We'll have the following ground rules for our meeting today:
  - i. This is not a support group or a counseling session. If you need those services, we will be happy to connect you to them.
  - ii. Everyone's ideas will be respected. Do not make judgments about what someone else says and do not offer advice. You may have a different point of view – please share your point of view even if it's different from others.
  - iii. One person speaks at a time.
  - iv. Everyone has a right to talk. I may ask someone who is talking a lot to step back and give others a chance to talk. I may also ask a person who isn't talking if he or she has anything to share. You can say no!
  - v. There are no right or wrong answers to my questions today. Please speak from your own experience.
  - vi. Can I have three questions?

### **General (3 min)**

- 1. Let's start by going around and letting us know your role and how long you've been in it.

### **Impact of COVID (7min)**

- 1. We are doing this focus group remotely because of the pandemic. How has your work been impacted by the pandemic?
  - a. What adaptations have worked well?
  - b. What has been difficult?

### **Approach, Strengths, and Opportunities (15 min)**

- 1. As you know, our study is focused on CHINS cases, particularly the period after a petition has been filed in court until the point where the case has been adjudicated. In your experience, what works well in the court's approach to CHINS cases?
- 2. [[[OPTIONAL]]] If you could change one thing about CHINS cases to improve outcomes for children and families, what would it be?
  - a. Follow-up prompt: What would need to happen for that change to occur?

3. In your experience, what are the inefficiencies and annoyances about the court process that make your job difficult?
4. How might the courts more effectively support children to remain in their homes and communities?
5. How might courts support children to reunify more often/more quickly?

**Readiness to Change (10 min)**

1. Now we're going to ask you to think about your impression of how frequently and to what extent the court takes on new practices and initiatives. Please indicate your opinion on the poll:

a. Poll questions:

We have multiple initiatives happening at the same time and priorities are not clear

We have multiple initiatives and priorities are clear

We work intensely on one or two projects, but it seems as though we shift gears before completion

We work intensely on one or two projects until completion

We tend to do keep business as usual and do not attempt change

**b. (Identify the option with the most votes) Someone who clicked X, do you want to tell us more about what made you choose that selection?**

2. There are four essential elements to support sustained changes in court practice: Judicial leadership, organizational climate, collaboration, and communication. It may help to think about past initiatives to answer the next few questions.

a. (NOT FOR JUDGES)

- i. In past initiatives or changes to court practice, who has taken the lead?
- ii. How does the court involve you in new initiatives or in making changes to practices?
- iii. How do you usually learn about the court's new initiatives or priorities?
- iv. If you have an idea to improve the court process, what do you do with it?

b. (FOR JUDGES ONLY)

- i. Tell me about a time that you led change in your court prior to the pandemic – what went well, what did you find challenging?

- ii. What has been your experience with including community partners in efforts to change practices in the court?
- iii. If you have an idea to improve the court process, what do you do with it?

**Perceptions of Promising Models (15 min)**

1. (Show slide) Now we're going to tell you a little bit about a few promising court practices from around the country. As I very briefly describe the practice, please think about your general reaction to the idea, whether you think it would work in your court, and why or why not.
  - a. Pre-petition representation: Some legal services agencies have started to provide pre-petition legal representation to families in an attempt to prevent the families from entering the court. These programs offer advocacy in matters such as custody and divorce, orders of protection, safe and affordable housing, education, and guardianship. Some studies of pre-petition representation show decrease in entry to foster care and cost savings.
  - b. Dependency Alternative Program: In some jurisdictions, when petitions are filed, clerks review them to determine if they are appropriate for a faster alternative court process that includes a mediator and an advisory attorney and often results in an alternative legal living arrangement for the youth.
  - c. Multidisciplinary Representation: Multidisciplinary Representation is when there is a team to support a parent in a CHINS case, and the team includes an attorney, a social worker, and a parent ally. The team members work together to advocate for the parent. Studies of multidisciplinary representation have shown reduced time to permanency, increased family engagement, and more frequent visitation.
  - d. Triage at petition: When courts triage cases, they assign them to a different track based on the complexity of the case. Different tracks have different levels of interaction with the court and timelines to permanency. For example, a case with complex characteristics (family violence, for example) may have more frequent reviews than a case that does not have complex characteristics.
  - e. Dependency mediation: Some courts use mediation at different points in CHINS cases to come to agreement in a non-confrontational environment on topics like placement, services, and visitation. Research shows that dependency mediation can reduce time to adjudication and reduce judicial workload.

2. Does anyone have a strong feeling (positive or negatively) about any one of these practices? (Ask two or three times)
3. Now we're going to ask you to think about all five models we described. Imagine you had five votes to distribute across the practices. If we were in person, we'd give you five stickers and ask you to give stickers to the practices that you thought would be most valuable to Vermont. You can give all five stickers to one option, or you can give one to each. In the chat box, please tell us in the chat box how you would dole out your stickers. For example, if I was a big fan of pre-petition representation, and also kind of liked triage, I might type, "3 votes for pre-petition representation and 2 votes for triage." Please privately chat your votes to Miguel.

(Miguel posts the models with their total number of points into the chat)

**Wrap-up (5 min)**

1. Those are all of the questions we have for you today. Before we sign off, is there anything that I didn't ask you about that I should have?
2. Thank you so much for your participation. We know your time is valuable, and we appreciate you spending this hour with us. If any thoughts or questions come up after this focus group, please feel free to reach out to us.

## **Kinship / Foster Care Caregivers**

### **General (3 min)**

1. Let's start by going around and letting us know your role and how long you've been in it.
  - a. Have you been involved in the CHINS system for a single case, a sibling group, or multiple children?

### **Impact of COVID (7 min)**

2. We are doing this focus group remotely because of the pandemic. How has your case been impacted by the pandemic?
  - a. What adaptations have worked well?
  - b. What has been difficult?

### **Approach, Strengths, and Opportunities (15 min)**

6. As you know, our study is focused on CHINS cases, particularly the period after a petition has been filed in court until the point where the case has been adjudicated. In your experience, what works well in the court's approach to CHINS cases?
7. If you could change one thing about CHINS cases to improve outcomes for children and families, what would it be?
  - a. Follow-up prompt: What would need to happen for that change to occur?
8. In your experience, what are the inefficiencies and annoyances about the court process that make your role as a caregiver difficult?
9. How might the courts more effectively support children to remain in their homes and communities?
10. How might courts support children to reunify more often/more quickly?
11. \*\*\*if anyone has been involved in multiple cases\*\*\*: what changes have you seen in the court process that have been helpful?

### **Perceptions of Promising Models (15 min)**

4. (Show slide) Now we're going to tell you a little bit about a few promising court practices from around the country. As I very briefly describe the practice, please think about your general reaction to the idea, whether you think it would work in your court, and why or why not.

- a. Pre-petition representation: Some legal services agencies have started to provide pre-petition legal representation to families in an attempt to prevent the families from entering the court. These programs offer advocacy in matters such as custody and divorce, orders of protection, safe and affordable housing, education, and guardianship. Some studies of pre-petition representation show decrease in entry to foster care and cost savings.
  - b. Dependency Alternative Program: In some jurisdictions, when petitions are filed, clerks review them to determine if they are appropriate for a faster alternative court process that includes a mediator and an advisory attorney and often results in an alternative legal living arrangement for the youth.
  - c. Multidisciplinary Representation: Multidisciplinary Representation is when there is a team to support a parent in a CHINS case, and the team includes an attorney, a social worker, and a parent ally. The team members work together to advocate for the parent. Studies of multidisciplinary representation have shown reduced time to permanency, increased family engagement, and more frequent visitation.
  - d. Triage at petition: When courts triage cases, they assign them to a different track based on the complexity of the case. Different tracks have different levels of interaction with the court and timelines to permanency. For example, a case with complex characteristics (family violence, for example) may have more frequent reviews than a case that does not have complex characteristics.
  - e. Dependency mediation: Some courts use mediation at different points in CHINS cases to come to agreement in a non-confrontational environment on topics like placement, services, and visitation. Research shows that dependency mediation can reduce time to adjudication and reduce judicial workload.
5. Does anyone have a strong feeling (positive or negatively) about any one of these practices? (Ask two or three times)
  6. Now we're going to ask you to think about all five models we described. Imagine you had five votes to distribute across the practices. If we were in person, we'd give you five stickers and ask you to give stickers to the practices that you thought would be most valuable to Vermont. You can give all five stickers to one option, or you can give one to each. In the chat box, please tell us in the chat box how you would dole out your stickers. For example, if I was a big fan of pre-petition

representation, and also kind of liked triage, I might type, “3 votes for pre-petition representation and 2 votes for triage.” Please privately chat your votes to Miguel.

(Miguel posts the models with their total number of points into the chat)

**Wrap-up (5 min)**

3. Those are all of the questions we have for you today. Before we sign off, is there anything that I didn't ask you about that I should have?
4. Thank you so much for your participation. We know your time is valuable, and we appreciate you spending this hour with us. If any thoughts or questions come up after this focus group, please feel free to reach out to us.

## **Youth and Parents with Lived Experience**

### **Introduction (5 min)**

#### **1. Welcome**

- a. Thank you for participating! My name is (host) and I am from the National Center for State Courts. The National Center for State Courts is an organization that helps all different types of courts do a better job administering justice. The State of Vermont has asked us to study the way that courts in Vermont handle child welfare cases. We also have with us (X) who will be taking notes for us today.
- b. You were invited today because you have been involved in child welfare case in Vermont. We will be asking you about your experiences and observations and we're going to be asking you for your ideas on how the court process could be improved.
- c. I want to remind you that your participation in this focus group is voluntary. That means, you can exit the meeting at any time, and you do not have to answer questions if you don't want to. Your responses will be confidential – that means that your name will not be connected to anything that you say in this group and it will not show up in our report. Nothing that you say here today will be used in a court case. I ask that you also respect the privacy of others in the group and do not share with anyone outside of our group what is said during the focus group. Also, we will be recording our time together, but this is just for making sure we are capturing everything we need to in our notes, and the recording will be deleted when we are finished.
- d. (Zoom instructions) We had originally planned for these groups to be in person but are now for obvious reasons doing them online. Some of you may have differing levels of experience with zoom, so I want to point out a few features. There is a bar that appears on your screen that shows a microphone – if you click on that microphone it will mute and unmute you. If you have background noise, you may want to mute yourself when you are not talking. Likewise, there is a video camera that turns your camera on and off. Finally, there is a chat box. Here you can chat us messages if you are having technical difficulties or want to agree or add to something someone is saying. Here you can chat the entire group or select someone from the drop down to chat to them privately. We'll also ask you to type in this box during our time together today.
- e. We'll have the following ground rules for our meeting today:

- i. This is not a support group or a counseling session. If you need those services, we will be happy to connect you to them.
- ii. Everyone's ideas will be respected. Do not make judgments about what someone else says and do not offer advice. You may have a different point of view – please share your point of view even if it's different from others.
- iii. One person speaks at a time.
- iv. Everyone has a right to talk. I may ask someone who is talking a lot to step back and give others a chance to talk. I may also ask a person who isn't talking if he or she has anything to share. You can say no!
- v. There are no right or wrong answers to my questions today. Please speak from your own experience.
- vi. Can I have three questions?

**General (3 min)**

- 2. Let's start by going around and having you introduce yourself. Just tell us your name and if there is anything else you want us to know about you before we get started.

**Impact of COVID (7 min)**

- 3. We are doing this focus group remotely because of the pandemic. How has your life changed because of the pandemic?

**Approach, Strengths, and Opportunities (30 min)**

- 4. As you know, our study is focused on how the court handles child welfare cases, particularly the beginning part of the case. Please think back to the beginning of your case. What is the first word that pops into your head to describe going to court at the beginning of your case? (Chat your response into the chat box)
- 5. There are many different professionals involved in child welfare cases. Who helped you most in your case? How did they help you?
- 6. How many different judges did you see in court? What was your impression of the judge on your case?
  - a. In your opinion, is there anything that the judge(s) should have done differently or better?
- 7. How many different attorneys did you have on your case? What was your impression of your attorney?

- a. In your opinion, is there anything that your attorney should have done differently or better?
- 8. Did anyone have a GAL? (If so) What was your impression of your GAL?
  - a. In your opinion, is there anything that your attorney should have done differently or better?
- 9. How many case workers did you have? What was your impression of your caseworker?
  - a. In your opinion, is there anything that your case worker should have done differently or better?
  - b. Do you have sense of services or resources that could have been provided to your family that might have led to (a) your child remaining in your home and community or (b) led to a quicker reunification?
  - c. Were any of those services available in your community?
- 10. What do you think kids and families who are in court need the most?
- 11. If you could change one thing about how the court handles child welfare cases that you think would make it better for children and families, what would it be?
  - a. Follow-up prompt: Do you think that could happen in Vermont? Why or why not?

**Wrap-up (5 min)**

- 12. Those are all of the questions we have for you today. Before we sign off, is there anything that I didn't ask you about that I should have?
- 13. Thank you so much for your participation. We know your time is valuable, and we appreciate you spending this hour with us. If any thoughts or questions come up after this focus group, please feel free to reach out to us.

## **VT CHINS Parent Interviews**

### **Introduction (5 min)**

#### **1. Welcome**

- a. Thank you for participating! My name is (host) and I am from the National Center for State Courts. The National Center for State Courts is an organization that helps all different types of courts do a better job administering justice. The State of Vermont has asked us to study the way that courts in Vermont handle child welfare cases. We also have with us (X) who will be taking notes for us today and (X) from the University of Vermont.
- b. You were invited today because you have been involved in child welfare case in Vermont. We will be asking you about your experiences and observations and we're going to be asking you for your ideas on how the court process could be improved.
- c. I want to remind you that your participation in this focus group is voluntary. That means, you can exit the meeting at any time, and you do not have to answer questions if you don't want to. Your responses will be confidential – that means that your name will not be connected to anything that you say in this interview and it will not show up in our report. Nothing that you say here today will be used in a court case. Also, we will be recording our time together, but this is just for making sure we are capturing everything we need to in our notes, and the recording will be deleted when we are finished.
- d. The University of Vermont is also conducting a study. Their study is focused on the Department for Children and Families (DCF). (Representative from UVM) is also interested in hearing about your experience. Are you OK with her joining us today?
- e. (If yes, continue. If no, ask UVM to leave.) Great – thank you. (Representative from UVM) would also like to take notes on this interview for use in her reports. Like I said about our study, your name will not be connected to anything you say in UVM's report. Are you OK with her taking notes for use in UVM's research? (If yes, continue. If no, clarify if they are OK with them listening but not taking notes?)
- f. (Zoom instructions) We had originally planned for these interviews in person, but are now for obvious reasons doing them by phone/online
- g. (If using Zoom) How familiar are you with Zoom? (If necessary) I can point out a few features. There is a bar that appears on your screen that shows a microphone – if you click on that microphone it will mute and unmute you. If you have background noise, you

may want to mute yourself when you are not talking. Likewise, there is a video camera that turns your camera on and off. Finally, there is a chat box. Here you can chat us messages if you are having technical difficulties or want to add.

- h. There are no right or wrong answers to my questions today. Please speak from your own experience.
- i. Do you have any questions?

**General (3 min)**

- 1. Let's start by having you introduce yourself. Please tell us if there is anything you want us to know about you before we get started.

**Impact of COVID (7 min)**

- 2. We are doing this interview remotely because of the pandemic. How has your life changed because of the pandemic?

**Approach, Strengths, and Opportunities (30 min)**

- 3. As you know, our study is focused on how the court handles child welfare cases, particularly the beginning part of the case. Please think back to the beginning of your case. What is the first word that pops into your head to describe going to court at the beginning of your case?
- 4. There are many different professionals involved in child welfare cases. Who helped you most in your case? How did they help you?
- 5. How many different judges did you see in court? What was your impression of the judge on your case?
  - a. In your opinion, is there anything that the judge(s) should have done differently or better?
- 6. How many different attorneys did you have on your case? What was your impression of your attorney?
  - b. In your opinion, is there anything that your attorney should have done differently or better?
- 7. Did your children have a GAL? (If so) What was your impression of your GAL?
  - c. In your opinion, is there anything that your attorney should have done differently or better?
- 8. How many case workers did you have? What was your impression of your caseworker?

- d. In your opinion, is there anything that your case worker should have done differently or better?
  - e. Do you have sense of services or resources that could have been provided to your family that might have led to (a) your child remaining in your home and community or (b) led to a quicker reunification?
  - f. Were any of those services available in your community?
9. What do you think kids and families who are in court need the most?
10. If you could change one thing about how the court handles child welfare cases that you think would make it better for children and families, what would it be?
- g. Follow-up prompt: Do you think that could happen in Vermont? Why or why not?

**Wrap-up (5 min)**

11. Those are all of the questions we have for you today. Before we sign off, is there anything that I didn't ask you about that I should have?
12. Thank you so much for your participation. We know your time is valuable, and we appreciate you spending this hour with us. If any thoughts or questions come up after this interview, please feel free to reach out to us.

# Proposed Evaluation Methodology for Judicial Master

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## Introduction

The Vermont Judiciary has been allocated \$125,000 to fund a study relating to the processing and adjudication of child welfare cases. The legislation allocating the funds for the study requires that it include recommendations that provide for “holistic reform, procedural justice, and strategies to reduce the need for intervention by DCF [Department of Children and Families] and the courts.” This proposed evaluation methodology is in response to the study’s goal to document an evaluation methodology specifically for the Judicial Master pilot program.

The judiciary hired a Judicial Master to “oversee Juvenile proceedings as approved by the presiding judge, to assist in compliance with existing court orders, attendance and participation in substance abuse counseling, including the implementation of proven treatment court concepts of early intervention and judicial monitoring mental health and other court-ordered counseling; compliance with and motivation of parent-child contact; to act as the administrative body to conduct permanency hearings pursuant to V.S.A. § 5321 (g) unless a contested permanency hearing becomes necessary; and will assist in screening, identification, prioritization and overall case management of CHINS cases (from the [Judicial Master job description](#)).”

The use of judicial masters is thought to be a cost-effective way to reduce delays and allow for closer monitoring of cases. Additionally, a judicial master who hears dependency cases exclusively and has a stable court placement can develop a level of specialization and expertise that is especially valuable to a state with frequent judicial rotation, like Vermont.

Best practices in dependency cases state that parties are best served when the same judge or judicial officer presides over the case from start to finish ([National Council of Juvenile and Family Court Judges’ Enhanced Resource Guidelines](#)). The [American Bar Association’s Standards for Judicial Excellence in Child Abuse and Neglect Proceedings](#) (ABA Standards for Judicial Excellence), Standard B.11 extends this to judicial masters: “When jurisdictions use subordinate judicial officers to hear child abuse and neglect cases, the same judicial officer should hear all stages of a case until the case is dismissed.” However, the recommended judicial continuity is not possible in Vermont as 4 V.S.A. 38(a)(2) states, “the

Master shall not have the authority to hear temporary care hearings, requests for juvenile protective orders, or hearings on the merits, or to conduct disposition hearings.” The [ABA Standards for Judicial Excellence](#) continues, “If it is impossible to implement a strict one judge/one family policy, a team of a judge and a subordinate judicial officer should be jointly responsible for a case from start to finish.” This team approach often looks like a subordinate judicial officer hearing certain stages of cases, such as emergency removal hearings or periodic reviews, or teaming with judges to hear routine or uncontested hearings. It may also include the subordinate judicial officer overseeing specialty dockets; as is the case in Vermont, where a component of the Judicial Master’s responsibility is the Family Treatment Docket (FTD).

Currently, the Judicial Master is used when judges are unavailable for hearings. While this role may reduce delays, it does not take full advantage of the judicial officer resource. Vermont law limits the types of proceedings that a Judicial Master can hear; however, there are several matters that a Judicial Master can hear that contribute to case efficiency, including pre-trial hearings and TPR status hearings. The NCSC encourages the judiciary to clarify a specific, intentional role for the Judicial Master so that specific hearing types or court occurrences are heard by the Judicial Master. This may look different across counties, depending on the specific needs of the county.

This proposed methodology is intended to guide the Vermont Judiciary in evaluating the role of the Judicial Master holistically, rather than focused on the FTD. The FTD is currently in development and will have its own performance measures and evaluation plan. FTD cases will be considered as part of the overall evaluation of the Judicial Master, but measures specific to FTDs, such as service referrals, assessments, and progression on case plans, are not included here.

Overall, the use of a Judicial Master is expected to improve the efficiency of the entire court, not just those cases or hearings referred to the Judicial Master. When a Judicial Master oversees hearings previously seen by a judge, time is freed on the judge’s calendar for contested hearings and trials. Therefore, the proposed evaluation design focuses on overall court trends. The evaluation methodology does not compare the performance of the Judicial Master to the presiding judge, but rather looks at the timeliness of cases across time periods. It does not include a cost-benefit analysis because there is not a control group; all cases in the court – whether seen by the Judicial Master or not – stand to benefit from increased timeliness and case processing efficiency.

Finally, the proposed design is intended to be done at regular intervals (e.g., annually) for continuous quality purposes rather than limited to one point-in-time. The data elements required for the evaluation are included below, and most -- except for the survey -- should be accessible from Odyssey.

This document outlines the proposed evaluation design, including output and outcome measures, as well as guidance on data collection and analysis.

## Evaluation Methodology

### Design

The proposed evaluation methodology is a longitudinal cohort study. In a longitudinal cohort study, cohorts of cases sharing a defining characteristic are compared over time. In the proposed evaluation design, cohorts are comprised of cases that either opened, closed, or had hearings in the specified time period, for example, CHINS cases opened in 2019. Different research questions require different cohorts, and the required cohort will be described for each hypothesis.

[Court Performance Measures for Child Abuse and Neglect are used as the basis for this design.](#)

These include measures of safety, permanency, due process, timeliness, and wellbeing. While all of the measures provide important information regarding child abuse and neglect cases, the following measures are most critical for this evaluation: time to adjudication (4B & 4C), time to disposition (4D & 4E), and time to first permanency hearing (4G).

The [Technical Guide](#) provides a useful framework for examining these measures and serves as a guide for this evaluation plan. Each measure should be looked at as the percentage of cases that occurred within a specific time period (e.g., 60 days) as well as the average (mean and median) number of days across all cases. When a decision has been made and documented as to how the judicial master will be used aside from the FTD, the judiciary is encouraged to develop a logic model or theory of change to describe the connection between the chosen practice and intended outcomes.

### Overall Hypotheses

Anticipated benefits of a Judicial Master include a reduction of delays and increase efficiencies while not sacrificing procedural fairness. To that end, the proposed research design includes two hypotheses.

**Hypothesis 1.** With a judicial master it is more likely that the county meets time standards for a) temporary care hearings; b) merits hearings; c) disposition hearings; and d) permanency planning hearings in all cases in that county.

**Hypothesis 2.** Use of the judicial master will not alter perceptions of access and fairness

## Process Measures

Process measures are the steps a court takes to achieve certain outcomes. Process measures are important reflections of the efforts to incorporate and institutionalize change.

**Output A.** Number of proceedings heard by the judicial master in a specified time period, by hearing type.

**Output B.** Percentage of proceedings heard by the judicial master in a specified time period out of all hearings heard in the time period.

**Output C.** The number of proceedings per case in a specified time period, for CHINS court cases that have since closed.

For these process measures, only completed (held) proceedings should be continued, excluding those continued or cancelled. The specific judicial officer who oversees the proceeding must also be entered into Odyssey for each hearing. There must be a way to distinguish which judicial officer (the presiding judge or the judicial master) heard the proceeding.

**Measures of Fidelity.** If a specific role is determined for the judicial master, it will also be important to measure the degree to which the judicial master's resources are being used as anticipated. For example, if the judicial master's role is to oversee pre-trial hearings, it would be important to count the number of pre-trial hearings the judicial master heard out of all pre-trial hearings in a specified time period. Similarly, if the role of the judicial master is to oversee TPR status hearings prior to the TPR hearing, it would be important to count the number of TPR hearings where the judicial master oversaw a TPR status hearing or settlement conference out of all TPR hearings in the specified timeframe. To calculate these measures, it is necessary for each hearing date and type to be entered in Odyssey, along with the judicial office and the outcome (e.g., held, continued, cancelled).

## Outcome Measures

**Hypothesis 1.** With a judicial master it is more likely that the county meets time standards for a) temporary care hearings; b) merits hearings; c) disposition hearings; and d) permanency planning hearings in all cases in that county.

The cohort recommended for this measure is all CHINS cases opened (i.e., petition filed) in the county during a specified time period. A suitable baseline cohort for initial comparison purposes would be all cases opened in the county in 2019. The year 2020 is avoided for the baseline cohort due to the abnormalities caused by the pandemic. Moving forward, cohorts can consist of cases opened in a three-

month period when the Judicial Master has a caseload; this will require more analysis resources because data analysis is happening more frequently, but quarterly cohorts will also provide information on timeliness faster.

When evaluating timeliness in child welfare hearings, enough time must pass to allow a case to move through its stages. A cohort of cases opened in the first quarter of 2021, for example, can be examined for time from petition to temporary care hearing, from temporary care hearing to merits, and from merits to disposition as of September 30, 2021; however, disposition to permanency planning hearing may not be able to be analyzed until early 2022.

**Data needed.** The data elements needed to calculate timeliness are listed below. All data elements, with the exclusion of date of removal, should be available in Odyssey. While it is recommended that the date of removal be collected in Odyssey, in lieu of that data element, the case filing date can be used as a proxy. Extracting the data elements should require minimal efforts, and it is possible that a report could be generated that calculates the time between the dates.

- Date of removal
- Date case filed
- Hearing type
- Hearing date
- Hearing outcome (held, continued, cancelled)
- Date of birth of each child
- County

**Data analysis.** It is recommended that courts examine their overall performance in two ways: a) compare to established time standards and b) compare cohorts to examine trends over time. See the Appendix 2 of this evaluation plan for Vermont-specific, federally issued, and model time standards and resources for calculating key measures of timeliness.

Each timeliness measure can be represented by more than one calculation. Broadly, use the two dates for each time period to calculate the total number of days between each event (e.g., days between merit hearing and disposition hearing). Across the cohort, look at:

- the percentage of cases that fall within the time standard (e.g., percent of cases that have merits hearing within 60 days)

- the median number of days it takes all cases in the cohort to reach the targeted stage (the median is the point at which half of the cases have reached the targeted stage, and is not affected by outliers)
- the average number (mean) of days it takes all cases in the cohort to reach the targeted stage (the mean is susceptible to outliers)

Example tables for timeliness measures are provided in Appendix 1. These tables serve as a guide and can be modified to best fit the court's needs. Further, the tables only display data from one timeframe. For analysis of future cohorts, data can be compiled into one table and visualized in a graph to examine outcomes across multiple cohorts.

**Hypothesis 2.** Use of the judicial master will not alter perceptions of access and fairness.

An important consideration of using a judicial master is that parties' perceptions of access and fairness do not decrease. To measure perceptions of access and fairness, disseminate CourTools 1 ([Access and Fairness Survey](#)) to individuals who all individuals who participated in CHINS hearings in a given time period. Many courts choose to survey court users for one month each year. This should be done at a regular interval (i.e., annually) and compared overtime.

**Data needed:** The data needed is the results of Access and Fairness Survey for individuals at court on a CHINS matter. NCSC's [CourTools](#) provide useful technical, data collection, and analysis guidance.

## Conclusion

The proposed evaluation methodology was designed so that court professionals could implement the evaluation without the need for an external evaluator. This is important so that the court can consistently track its own performance and troubleshoot areas in need of improvement. The new data system should support the reports required to analyze the measures suggested in the evaluation plan. Publicly available tools from the Office of Juvenile Justice and Delinquency Prevention and NCSC, linked within this document, offer step-by-step guidance on the recommendations for data collection and analysis in this proposed evaluation methodology.

**Figure 7 Summary of Outcome Evaluation**

Hypothesis	Data Collection Activities	Timeframe
<b>Hypothesis 1.</b> With a Judicial Master it is more likely that the county meets time standards for a) temporary care hearings; b) merits hearings; c) disposition hearings; and d) permanency planning hearings in all cases in that county.	Administrative data to assess timeliness of a) temporary care hearings; b) merits hearings; c) disposition hearings; and d) permanency planning hearings	Baseline: Data from cases opened in 2019 can be analyzed now  Cohort: Cases opened in a three-month period once the Judicial Master has a caseload. Those cases can be analyzed six months later except for permanency planning, which can be analyzed one year later.
<b>Hypothesis 2.</b> Use of the Judicial Master will not decrease perceptions of access and fairness.	CourTool 1: Access and Fairness Survey	Baseline: NCSC will survey virtual court users in early 2021  Cohort 1: Court users in a specified month in 2022.

## Sample Data Tables

### Time to Merits Hearing

The time between the petition and merit hearing demonstrates how many cases are adjudicated in a timely manner following the original petition. Timeliness to merits hearing affects how quickly parents can be referred to services which ultimately affects the overall timing of the case.

Data elements needed:

- Date original petition was filed
- Date the merit hearing was completed

Subtract the date of petition from the date of the merit hearing to get a total number of days between the petition and merit hearing. This can likely be automated through a case management system report. Use that information to calculate:

- The percentage of cases that had a merit hearing within 60 days ( $\frac{\text{\# of cases that had a merit hearing within 60 days or less}}{\text{total \# of cases in the sample}}$ )
- The percentage of cases that had a merit hearing within 90 days ( $\frac{\text{\# of cases that had a merit hearing within 90 days or less}}{\text{total \# of cases in the sample}}$ ; this will include all of the cases that also had a merit hearing in 60 days)
- The percentage of cases that were not adjudicated within 90 days ( $\frac{\text{\# of cases that had merit hearing in 91 or more days}}{\text{total number of cases in sample}}$ )
- Calculate the median number of days all cases have until the merit hearing

**Figure 8 Example Data Table for Time to Merits Hearing**

	Current Year Performance	Meet Time Standard?	Baseline	Improvement shown?
% of cases with merits hearing within 60 days	___%	(Yes or No)	___%	(Yes or No)
% of cases with merits hearing in 90 days	___%	(Yes or No)	___%	(Yes or No)
% of cases with merits hearings in 91+ days	___%	(Yes or No)	___%	(Yes or No)
Median days until merit hearing		(Yes or No)		(Yes or No)
Average (mean) days until merit hearing		(Yes or No)		(Yes or No)

## Established Standards

[Federal guidelines](#) mandate certain case milestones happen within a specific period of time. For example, a permanency planning hearing should occur within 12 months of the original petition, and the department should file a TPR petition of a child has been in care 15 of the past 22 months. Vermont also issued state-specific standards ([Amendment to Administrative Directive No. 26](#)), and NCSC issued [model time standards](#). These standards are described in the table below and should be used to determine the percentage of cases meeting the time standards for measuring timeliness (Hypothesis 1).

Figure 9 Time Standards

	Temporary Care Hearing (Child in custody)	Merits Hearing	Disposition Hearing	Permanency Review Hearing	Permanency Achieved or Goal Change	TPR
<b>Vermont Standard</b>	w/in 3 days	TCO to Merits = 60/90 days	Merits to Disposition = 35/65 days	Removal to IPRH = 12 months or 6 months if child is under 6		Removal to TPR = 12 month
<b>Federal Guidelines and Model Time Standards</b>				12 months 75% within 270 days of removal 98% within 360 days of removal	15 months from removal	When child is in care 15 of 22 months 90% within 120 days after filing TPR petition 98% within 180 days after filing termination petition

# Addendum: Considerations for Budget for Judicial Master

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## Context

Many courts use Judicial Masters to support timely hearings in abuse and neglect proceedings. Judicial Masters, when leveraged to their full capacity, are a cost-effective way to free up judicial resources for evidentiary hearings that tend to be more time intensive. Judicial Masters have the additional benefit of stable court placement and can be depended on to lead and sustain court improvement and community engagement initiatives, like a Family Treatment Docket.

Vermont statute 4 V.S.A. 38(a)(2) prohibits Judicial Masters from hearing “temporary care hearings, requests for juvenile protective orders, or hearings on the merits, or to conduct disposition hearings.” Judicial Masters can contribute to case efficiency by hearing pre-trial proceedings, status conferences, and review hearings and thereby freeing up time on the judge’s calendar for longer hearings.

Assuming that a Judicial Master reserves one day per week for community collaborations, meetings, training, and other duties as assigned, there is an opportunity for the JM to hear 48 pre-trial, status, or review hearings per week. Each of these hearing types is typically scheduled for 30 minutes. This has the potential to free 24 hours of valuable judge time per week for other hearings. It is rare that this number of CHINS hearings is scheduled in one week in one county in Vermont, so it follows that the Judicial Master can potentially support more than one county.

The current budget for the Judicial Master pilot includes a Court Officer and a Docket Clerk to offset additional workload for local court administration. Given the investment that Vermont has recently made in technology to support virtual hearings and emerging guidance regarding continued use of virtual hearings for certain abuse and neglect hearings post-pandemic, it may be practical to consider how the value of the Judicial Master can be more fully realized using virtual hearings. The types of proceedings that Judicial Masters are permitted to hear in Vermont are appropriate and efficient in the virtual hearing environment. The virtual courtroom allows the Judicial Master to hear cases and the limited supply of attorneys to participate in cases in different counties on the same day, without the

requirement of travel time. If the Judicial Master’s caseload is heard primarily online, an Operations Assistant may be a valuable asset to the team.

### Cost of Judicial Master

#### Judicial Master

Salary	\$90,001
Fringe	\$49,798
<b>Total</b>	<b>\$139,799</b>

#### Court Officer

Salary	\$37,211
Fringe	\$34,241
<b>Total</b>	<b>\$71,452</b>

#### Docket Clerk

Salary	\$37,211
Fringe	\$34,241
<b>Total</b>	<b>\$71,452</b>

**Total Staffing Investment      \$282,703**

Additional overhead costs, including office space rental, devices, internet access, and printing will be incurred but are not included here.

### Potential Time Savings

It is useful to consider the value of the resources of the Judicial Master in the context of the amount of judicial calendar time reclaimed. Ideally, this analysis would focus narrowly on types of proceedings that the Judicial Master is statutorily eligible to hear. Unfortunately, the great deal of variability in how counties label hearing types in the court’s historical administrative data limits the ability to do this. To estimate the number of **eligible Judicial Master hearings**, hearings with the following labels were excluded: Hearing on the Merits, Juvenile Disposition, Juvenile Merits, Juvenile Protective, Juvenile Temporary, and Merits Hearing. Some general categories, like “Juvenile Hearing” and “Juvenile Hearings,” are included, though it is undeterminable which hearing type they describe.

The table below shows the number of eligible Judicial Master hearings in 2019 by established region and the percentage of hearings that could potentially be assumed by a Judicial Master based on

full capacity of 48 30-min hearings per week (i.e, 2400 hearings per year, assuming 50 working weeks). Please take caution when interpreting this estimate, as hearing types vary in length. Note also that if Judicial Masters continue virtual hearings, the need to geographically limit jurisdiction is reduced.

Certainly, the same data for 2020, and likely 2021, will look very different as abuse and neglect filings are reportedly low across the country during the pandemic, and some courts may be experiencing a backlog due to delays in launching virtual hearings or reduced court time. Additionally, as the court community implements strategies to prevent families' involvement with the court and reduce inefficiencies such as continuances, the numbers of hearings per case are expected to decrease.

	# of JM Eligible Hearings in 2019	% of JM Eligible Hearings Out of Total Hearings in 2019
<b>Region 1</b>	<b>2700</b>	<b>75.8%</b>
Addison	644	73.3%
Bennington	894	73.9%
Rutland	1162	78.8%
<b>Region 2</b>	<b>2180</b>	<b>73.9%</b>
Franklin	1194	78.6%
Grand Isle	139	79.4%
Lamoille	406	77.5%
Orleans	441	60.5%
<b>Region 3</b>	<b>1600</b>	<b>83.0%</b>
Caledonia	510	83.5%
Essex	68	76.4%
Washington	1022	83.2%
<b>Region 4</b>	<b>2412</b>	<b>81.5%</b>
Orange	277	85.2%
Windham	1270	80.0%
Windsor	865	82.6%
<b>Region 5</b>		
Chittenden	2221	71.3%

# Analysis of Administrative Data, Observations of Virtual Court Hearings, & Access & Fairness Survey

## Issues Related to the Pandemic

The COVID-19 pandemic dramatically changed court operations as hearings transitioned to online platforms. While this transition allowed NCSC staff to observe several more hearings than they would have otherwise been able to do, the transition also directly impacted families involved in CHINS cases. On one hand, some parents were better able to appear in online hearings; on the other hand, services were limited, and visitation became more complicated.

In the virtual hearings that NCSC observed, it was relatively common to hear mention of how COVID had extended the timeline for reunification. Sometimes this was due to barriers obtaining in-home services or unanticipated longer stays in residential placements, and for others, it was due to a lag in court scheduling. Often these barriers were accepted in court; only once did a parent attorney question DCF to clarify why COVID was a barrier to reunification.

The pandemic also came into play in discussions of safety plans. For one family moving towards reunification, the case worker expressed concerns with the parents' ability to care for multiple children if the schools were closed. In another family, the grandparents serve an important role on the safety plan, but their ability to assist with childcare has been limited due to COVID.

Finally, visitation has been a constant challenge in the face of COVID. Several families were having virtual visits, and not always due to agency policies. There were examples of foster parents refusing in-person visits during COVID or recovery centers with strict visitation rules. During one hearing, a case worker stated, "With COVID, it's hard to set a goal of increasing visits." Visitation was a particular

challenge with younger children. While older children can participate in (and may prefer) virtual visits, one foster parent described running after a toddler with a cell phone for a virtual visit with a parent.

These examples set the context in which the following information was gathered and analyzed. The administrative data analyzed for this report is from 2019 to mitigate the influence of COVID on measures; however, that means that the administrative data analyzed here is two years old. All of the hearings we observed were online, so the novelty of the new technology may be a contributing factor to our findings. This context should be considered when reviewing the following findings and recommendations.

## Analysis of Administrative Data

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On April 9, 2020, NCSC obtained an extract from VTADS, the court's legacy data system, which included case level information such as the child demographics, file date, case status history, hearing information, attorneys assigned, motions and petitions, and the permanency plan set by the court. Please note that the state started migrating data to Odyssey in mid-2019, and data may have been impacted by this migration. On March 17, 2021 NCSC received a data extract from DCF via the Vermont Judiciary. This data set included, for each child, the docket number, county, discharge reason, discharge date, and age at exit. The intent was to match the administrative court data to the DCF data by docket number.

### Data Limitations

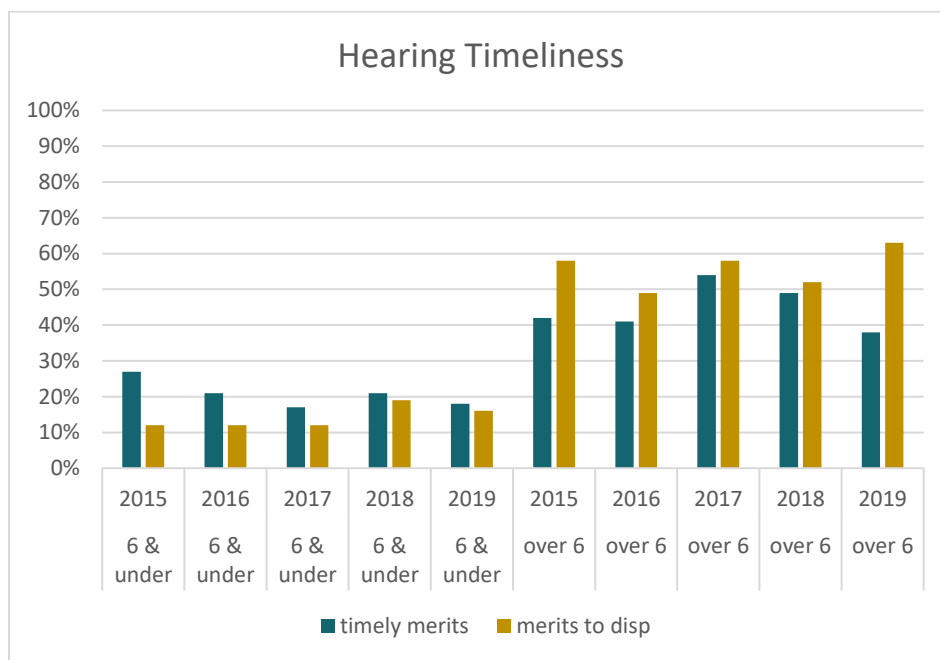
NCSC previously received a file of administrative data from the court management system dating back 10 years; however, some questions were unanswered due to data limitations. For example, varying data entry practices across counties made it difficult to analyze by hearing type. One of the major limitations of the court data was that it did not include case outcome. It was not possible to determine if family court cases were closed to reunification, termination of parental rights, or other case outcomes. This information is, however, captured by DCF, so the court requested a data file to match the court data with the DCF data by docket number. Matching data with DCF was only marginally successful: about 46% of cases could be matched. If the courts and DCF develop a data exchange, issues to address will include different formatting of docket numbers.

## Compliance with Timelines

The Vermont Supreme Court’s Administrative Directive 26 establishes Milestone Standards for CHINS cases. According to Administrative Directive 26, merits hearings shall be held within 60 days of the temporary care hearing for children six and under and within 90 days for older children. When calculating performance measures, the hearing should not be considered held until the finding is made. In this analysis, the date of the final merits hearing was used to determine timeliness.

For those cases for which both a temporary care hearing date and a merits hearing date were available, only 25% of cases met this timeline in 2019. This included only 18% for children six and under, but 38% for those over age six. Administrative Directive 26 states that a disposition hearing shall be held within 35 days of the merits hearing for children six and under and within 65 days for children over six. Just over one quarter (26%) of disposition hearings met this standard in 2019. Figure 1 shows timeliness by year and age. This included 16% of children six and under and 63% of those over age six.

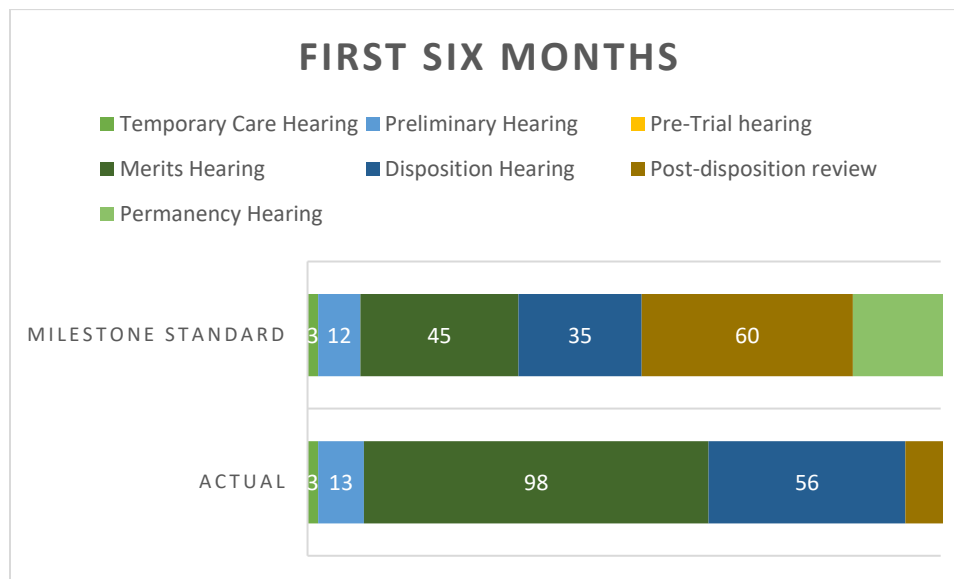
Figure 4: Hearing timeliness



When examined over the course of the first year, the time to merits and disposition hearings are consistently longer than the standards. Setting goals and timelines and getting services in place quickly are best practices in child welfare cases. The milestone standards reflect this best practice, and cases are to be front-loaded with the temporary care or preliminary hearing, merits and disposition hearing all in

the first hundred days of the case. In reality, it takes the median case nearly a year and a half (170 days) to get to that point.

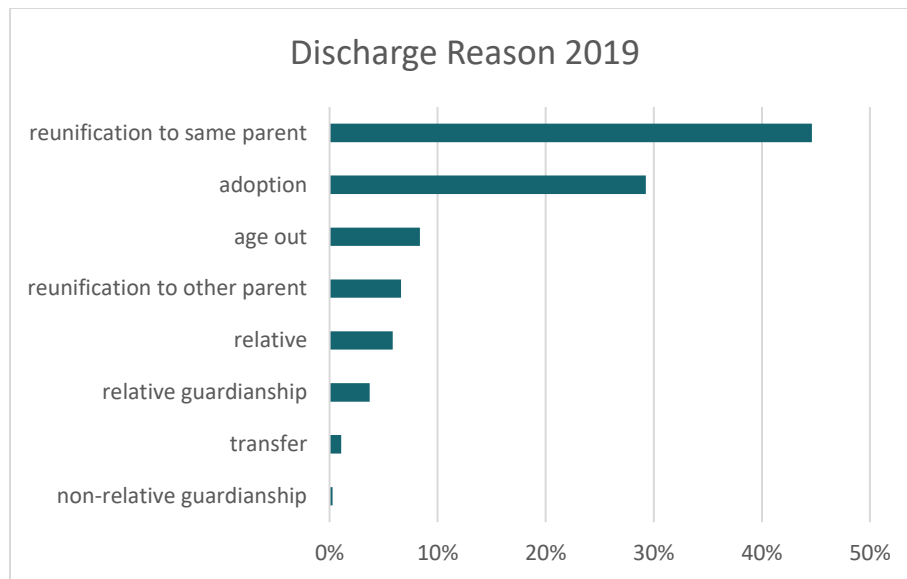
Figure 2: First six months



### Case Outcomes

Using Vermont DCF data, it was possible to see the case outcomes for children discharged from DCF. The discharge date refers to the date the child was discharged from DCF custody. Table 1 shows the outcomes for children discharged in 2019. Just over half of children (52%) were discharged to a parent. An additional 29% were discharged to adoption, 10% to guardianship or relative placement, and 8% aged out. These numbers varied by county.

Figure 3: Discharge reason 2019



Discharge reasons varied by county, as shown in Table 1.

Table 1: Discharge reasons by county in 2019

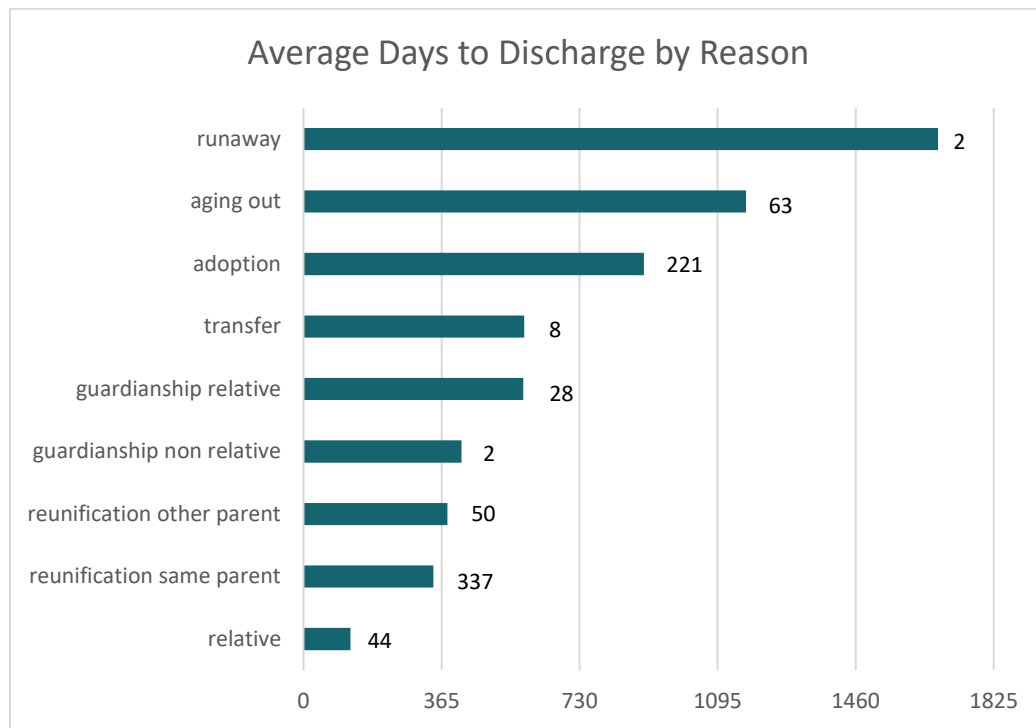
	#	reun. with same parent	reun. with other parent	adoption	relative guardian	non- relative guardian	relative	age out	runaway	transfer
Addison	49	43%	6%	31%	6%	0%	0%	12%	2%	0%
Bennington	60	57%	8%	27%	2%	0%	2%	3%	0%	2%
Caledonia	35	37%	6%	29%	6%	3%	14%	6%	0%	0%
Chittenden	106	52%	6%	19%	2%	0%	8%	11%	1%	1%
Essex	6	50%	50%	0%	0%	0%	0%	0%	0%	0%
Franklin	114	37%	8%	38%	2%	0%	5%	8%	0%	3%
Grand Isle	4	50%	0%	25%	0%	0%	0%	25%	0%	0%
Lamoille	22	73%	0%	14%	5%	0%	5%	5%	0%	0%
Orange	14	21%	7%	57%	0%	0%	0%	7%	0%	7%
Orleans	39	77%	0%	10%	0%	0%	5%	8%	0%	0%
Rutland	70	44%	4%	26%	3%	0%	11%	10%	0%	1%
Windham	110	45%	12%	31%	4%	0%	1%	7%	0%	1%
Washington	62	34%	3%	37%	10%	0%	6%	10%	0%	0%
Windsor	64	27%	5%	41%	8%	2%	11%	8%	0%	0%
Total	755	45%	7%	29%	4%	0%	6%	8%	0%	1%

## Time to Discharge

The average length of time in DCF care was 580 days. Children who aged out of the system were in care on average over three years (1,170 days). The shortest length of time in care were for those

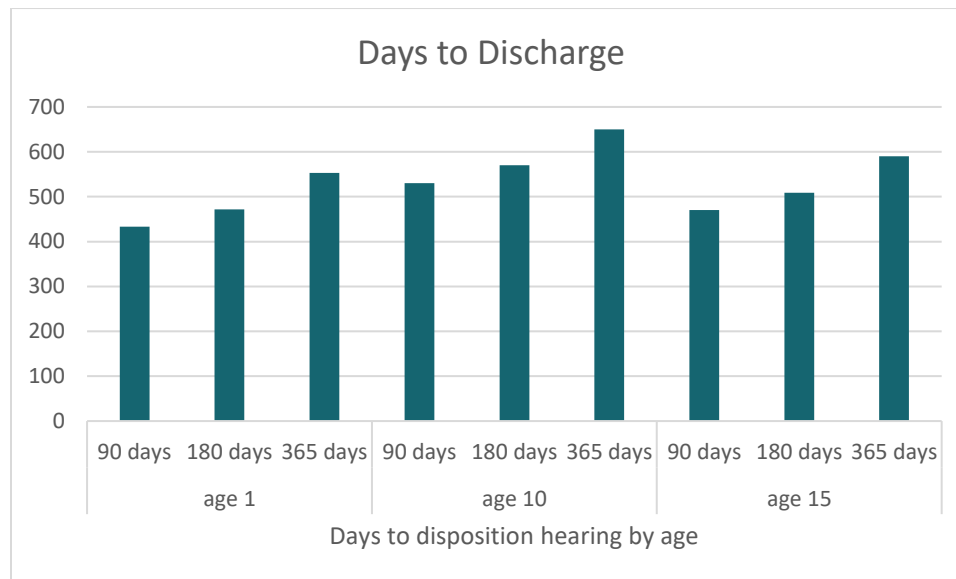
placed with a relative, with an average time of just over four months (124 days). Children who were adopted were in care for nearly two and a half years (900 days), on average. Figure 3 shows the days to charge by reason along with the number of children with that discharge reason.

**Figure 4: Average days to discharge by reason in 2019**



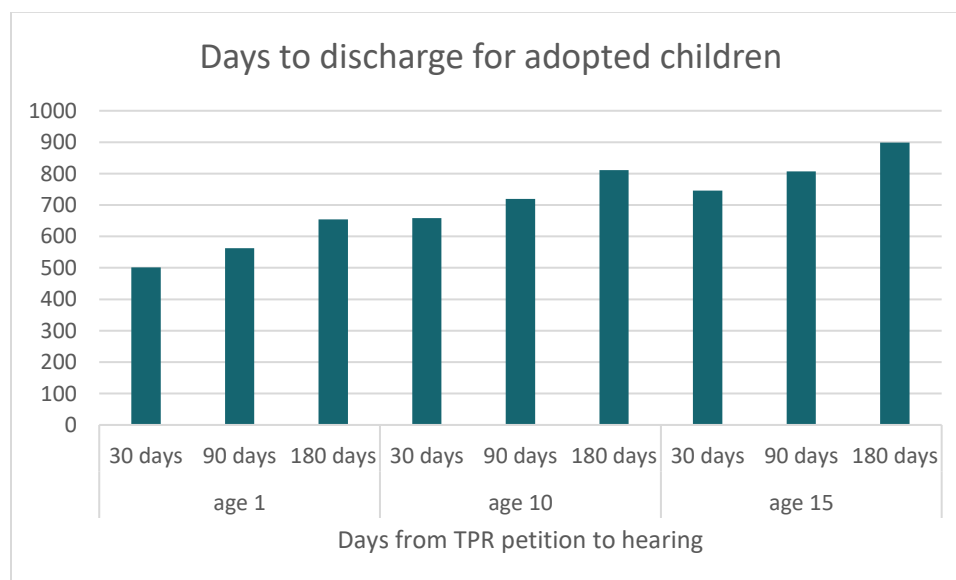
A regression analysis was performed using the days to discharge (a DCF timeline) as the variable of interest. Regression analyses identify which variables have the most impact on the topic of interest. Independent variables included length of time to the disposition hearing, the age of the child, and the gender of the child. Gender was not statistically significant, though the length of time to the disposition hearing and the age of the child were significant. The number of days to the disposition hearing is correlated to the number of days to DCF discharge: longer times to disposition align with longer time in care.

**Figure 5: Days to discharge by days to disposition**



A second regression analysis was performed using the days to discharge as the variable of interest for children who were adopted. The variable of interest was the number of days between the termination of parental rights (TPR) petition and the TPR hearing. The number of days between the filing of the TPR petition and the disposition of that petition are correlated with longer times to adoption.

**Figure 6: Days to discharge by days for adopted children by days from TPR petition to TPR hearing**



## Judicial Interviews about Virtual Hearings

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Prior to observing the virtual hearings, NCSC staff spoke with the three judges and one judicial master in the three counties where virtual hearing observations would occur. The interviews took between 45-60 minutes each. NCSC staff recorded notes during the interviews and analyzed the data for themes.

In general, judges reported that the virtual hearings have worked pretty well, particularly for non-evidentiary hearings. Judges identified a number of benefits to virtual hearings including more frequently starting on time, easier time scheduling hearings quickly, and increased parent participation.

All of the judges who had been seeing CHINS cases for more than a year mentioned that they were seeing fewer cases per day during the pandemic than they did previously. More than one judge mentioned that this shift could be due to the Vermont Supreme Court's Emergency Order 49 which limited people from physically coming to the courts and limited hearing time to 5.5 hours, rather than 7 hours of hearings before COVID. The reduction of hearing hours makes it challenging to schedule all day hearings like some merits, termination of parental rights (TPR), and contested hearings. Finding multiple days on a schedule for a TPR, for example, causes everything else to grind to a halt.

### Participation of Parents

All of the judges interviewed noted that they've seen more parents appearing in hearings. They estimated between 33% and 50% of parents who participate in hearings, participate by video. They noted specific benefits to the parent, including not having to travel to the courthouse, being able to participate from another state, and not having to take time off of work. Some judges questioned whether parents took the proceedings as seriously as they do in person, but one judge noted that parents do not see it as any different than in person hearings. Judges liked to be able to see parents in their own environment and see the parent actively engage with children on camera.

### Participation of Children

There were different observations of children in the virtual hearing; some judges have noticed slightly higher participation by older kids, and other have noticed a decline. Many mentioned how convenient it was for older youth to participate in a hearing from office at school or residential program.

Judges noted that young people are more comfortable interacting with people on the screen and may feel safer participating online.

### **Client Communication with Attorneys**

Judges noted that it took some time to get the technology and processes off of the ground, but now attorneys are connecting with clients in the days leading up to the court hearing rather than immediately before the hearing, as they did in the courthouse. This not only saves time on the day of the hearing, but also helps attorneys to make sure that they are prepared. Unfortunately, it is still "clunky" at times for attorneys to communicate with their client during the hearing. Some judges use breakout rooms if both the attorney and the client join the hearing by WebEx; however, if one party is by telephone only, that functionality is not available.

### **Evidentiary Hearings**

Most judges mentioned the most difficult aspect of virtual hearings is evidentiary hearings. Some of the judges have established a script to ask witnesses if they are alone and if they understand that their testimony is confidential. These judges said that this practice was not foolproof and can be time consuming. They also mentioned that current practices for sharing exhibits can be cumbersome. Attorneys can pre-file their exhibits, but that requires them to do it ahead of time. They often rely on email to share exhibits. Depending upon the email systems used, this may present a risk if confidential information is being shared.

### **Technology and Access to Hearings**

Judges said that while adjusting to the technology has been challenging, there have been very few problems or glitches. Most noted that virtual hearings seem to take longer than in person hearings, and most issues were with poor bandwidth and individuals talking while muted. There are times that the hearing seems to take longer. Two of the counties had Operations Assistants and believed that this role was a great help in facilitating the WebEx.

The judges indicated that issues with parties having access to the technology required to join hearings comes up with some frequency. They observed that parents are appearing by phone only (i.e., no video) most of the time, and acknowledged that parents may not have a smart phone or data plan that allows for participation by video and may not have access to a laptop or tablet. Prior to the Administrative Order, if an attorney believed that their client could not participate virtually, they could

ask for permission to appear in person in the courthouse. A few of the judges acknowledged that their current set up did not accommodate hybrid hearings well.

When parties join by audio only, judges mentioned that it can be difficult to tell if the person is listening and expressed concern as to whether a party who joins a hearing by phone only gets as meaningful an experience. One judge noted that when parties join by phone, they often cannot hear, do not know when it is their turn to talk, and cannot tell who is talking. Even if a parent is on video, it can be difficult to tell if they are understanding what is happening in the hearing or if they have questions.

### Future of Virtual Hearings

The judges pointed out that a juvenile court judges have a different role than in other case types, and it is important to them to establish a connection with parents and children. One judge said, “When we have parents whose only connection is through the screen – I’m wearing a mask – and there’s a lot of stuff that gets in the way.”

All of the judges acknowledged that virtual cases will likely continue into the future – especially in cases where parents live in another state, youth are in residential placement across the state, or when parties have other barriers to coming to the courthouse. It may also prevent delays when attorneys are unavailable. The judges agreed that it is better to have parties in person for evidentiary hearings, but anything non-evidentiary could be done virtually.

## Virtual Hearing Observation

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Courts in Vermont used WebEx to hold virtual hearings during the pandemic. For several months during the pandemic, all CHINS cases were heard virtually pursuant to Administrative Order 49. In January, February, and March 2021, NCSC staff observed 63 virtual hearings in three counties: 31 in Chittenden, 21 in Franklin, and 12 in Bennington. Due to the confidentiality requirements of CHINS cases in Vermont, NCSC staff signed a confidentiality waiver with the court stating that they would not record or report identifying information.

To gain access to CHINS hearings, NCSC viewed the court calendar on the Vermont Judiciary’s website to identify hearings to observe, and then communicated with the court staff to obtain the relevant links to access the hearings. Observers entered the hearings muted, with their cameras off, and

with their name reading “National Center for State Courts” or “NCSC.” If parties objected to observers being present during the hearing, NCSC staff would exit the hearing immediately. This happened eight times during the period of observations.

### Description of Hearings Observed

For this analysis, NCSC observed 63 hearings. The most frequently observed hearing types were dispositions (20.6%) and pre-trials (20.6%), followed by review hearings (17.5%). NCSC was only able to observe one TPR hearing, likely because these hearing types are often scheduled for several hours and have been difficult to schedule given the restrictions on court hours. Most hearings started within 9 minutes of their scheduled start time, and the longest delay to start the hearing was 36 minutes, which was due to the mother experiencing technical issues. The average length of hearings was 24 minutes, with the longest hearing several hours in length and the shortest hearing 5 minutes in length. On average, merits hearings were the longest (30.8 minutes) and pre-trials were the shortest (17.3 minutes). Eight of the hearings had a recess, and the average recess length was 6 minutes.

**Table 2: Description of virtual hearings observed**

Hearing Type	Number of hearings observed	Percent of total observations	Average length in minutes
Disposition	13	20.6%	28.5
Pre-trial	13	20.6%	17.3
Review	11	17.5%	26.7
Merits	10	15.9%	30.8
Other	6	9.5%	28.0
Permanency	6	9.5%	20.8
Status	3	4.8%	28.3
TPR	1	1.6%	*
Total	63	100%	24.0

\* Hearing was only observed for the first two and a half hours, which included 40 minutes of recess

### Participants Present

The judge was present and on camera in all hearings. At least one parent was present in 76.2% of the hearings. Of the hearings where at least one parent was present, they were present by audio only 70.8% of the time. The mother in the case was present in 71.4% of cases. When present, mothers participated by video 24.4% of the time. Fathers appeared in less than half of hearings (41.3%), but they

participated by video in the hearings at a slightly higher rate (30.8%). Children rarely attended hearings, appearing only in 14.3% of hearings, but when children appeared, they were more likely to appear by video (77.8%). There was at least one parent attorney present at all hearings, except for one.

**Table 3: Description of participants present in hearings observed**

Hearing Participant	% of hearings present	Of hearings present, %	
		on video	audio only
Mother	71.4%	24.4%	75.6%
Father	41.3%	30.8%	69.2%
Children	14.3%	77.8%	22.2%
State’s Attorney	100%	92.1%	7.9%
DCF Caseworker	90.5%	82.5%	17.5%
GAL	82.5%	82.7%	17.3%
Parent Attorneys	98.4%	91.3%	8.7%
Child Attorneys	96.8%	88.5%	11.5%
Relative	19.0%	41.7%	58.3%
Foster Parent	19.0%	75.0%	25.0%
Interpreter	4.7%	66.6%	33.3%

### Technology in Virtual Hearings

Overall, there were very few technological issues in the hearings observed. Most of the time, judges used the camera on their computer, so their face was clearly visible to hearing participants. There were a couple of hearings where the overall courtroom camera was used, so the judge was at a distance and it was difficult to see their face clearly. This is a potential challenge for hybrid hearings in the future.

As mentioned previously, in the courts with Operations Assistants, that role was extremely helpful in keeping the waiting room and hearings organized. There were also instances when the OA or other courtroom staff would contact a parent by telephone if they were expected to be in attendance but were not. The waiting room and breakout room functions of WebEx were used often; however, the chat function of WebEx was rarely used. During one hearing, a caseworker entered relevant information in the chat box, and the information was never mentioned by the judge or attorneys, so it is not clear if anyone saw it. Additionally, individuals participating by phone only do not have access to the chat box. Information from the chat box should be shared with them verbally.

Parents experienced technological issues in nine of the hearings observed. Mothers experienced technological issues in 11.1% of hearings when they were present, and fathers experienced technological issues in 15.4% of hearings when they were present. One hearing was delayed 36 minutes for a mother to reboot her computer after her speakers were not working; however, most technological issues were solved within minutes. Sometimes, technological issues, especially issues related to not being able to hear, were successfully addressed by having the party log out of WebEx and log back into WebEx.

**Table 4: Technological issues experienced by parents**

<b>Technological Issues Experienced by Parents</b>	<b># of hearings</b>
Could not hear or could not hear well	2
Poor Connection (frozen or dropped call)	2
Difficulty connecting to video	2
Issue with Device (could not turn camera around)	1
Feedback (unable to mute on jail phone)	1

The judges in the hearings observed had very few technological issues. In one hearing, the judge could not log in from the laptop and instead used an overhead camera. There were three other hearings where the overhead camera was used, though the reason was not clear to observers. When the overhead camera is used, the judge's face is not visible. In most cases, the judge acknowledged that it was not ideal.

Attorneys had technological issues in three hearings. Most were internet connectivity issues and solved by asking the attorney to repeat him or herself or logging out and back into WebEx. Guardian ad Litem (GALs) also had issues in three hearings, and the issues were related to difficulty with microphones (speaking) or speakers (hearing). Often the hearing continued while the issues were addressed by the professional.

One of the biggest challenges of virtual hearings is the difficulty for attorneys to communicate privately with their clients. In the physical courtroom, attorneys can communicate before and after the hearing and immediately upon need during the hearing. These options are not as easily accessible in the virtual courtroom. In the observed hearings, attorneys and clients communicated in a way evident to reviewers six times (9.5%). This communication happened in a breakout rooms coordinated by court staff (2), on a phone call during recess (2), or during a recess after all other participants had been moved

to the waiting room (1). There was one example of the attorney and client being together in the attorney's office during the hearing.

### Access Issues

A common concern with virtual hearings is that parents do not have the resources necessary to access virtual hearings. This issue is difficult to measure because it is not evident if people are missing hearings because they don't have the hardware and/or connectivity to join or if there are other reasons. In the hearings observed, there were a few mentions of access limitations. In three hearings, parents said that they did not have video capabilities or could not connect by video on their phone. Occasionally, two parties – mother and father or parent and child – were using the same device. This became somewhat problematic when one party needed to speak to their attorney in private.

### Trauma-Informed Courtroom

During virtual court observation, NCSC staff considered aspects of trauma-informed courtrooms. The physical aspects of courtrooms that are often considered in trauma assessments, such as signage, seating, and lighting, present differently in virtual courtrooms, and there is not yet guidance on those technical aspects of virtual hearings – although there are current efforts to establish such guidance.

One of the primary principles of trauma-informed practices is safety. In general, virtual courtrooms can be trauma-informed because people may feel more physically and psychologically safe separated by a screen. Appearing virtually also gives parties an easy way to leave when the hearing is not going their way. In one hearing, NCSC staff observed a mother appearing by video, stand up and walk out of the frame after getting upset and return a couple of minutes later. In a different hearing, the father who appeared by phone, simply hung up the phone when he was upset. In person, it would have been more difficult for both of these parents to remove themselves from the uncomfortable situation. On one hand, this ability to remove oneself and take a break during a stressful hearing is beneficial to the parents; on the other hand, the snap second, emotional decision to hang up or leave a stressful hearing can negatively impact the parent's ability to meaningfully engage in their case. Part of stating the differences between virtual hearings and in-person hearings is clarifying that all hearings can be stressful, and if during a virtual hearing, a parent needs to take a break or needs to communicate with their attorney, how they can let the court know.

Respect and trustworthiness are two of the other key principles of trauma-informed care. "Trauma-informed judicial interactions begin with good judicial practice, treating individuals who come

before the court with dignity and respect” (Substance Abuse and Mental Health Services Administration, 2013). The Vermont judges that NCSC had the opportunity to observe were stellar examples of how to treat all parties respectfully and compassionately.

When mothers were present, judges spoke directly to them 64.4% of the time and called them by name 66.7% of the time. Similarly, when fathers were present, judges spoke directly to them 65.4% of the time and called them by name 73.1% of the time. Children were only present in six of the hearings observed, and when they were present, judges spoke directly to them and called them by name most of the time (83.3%).

### Trustworthiness

One strategy to enhance trustworthiness is to provide clear and consistent information to parents and children about how to access the hearing and what they can expect to occur during the hearing. Clearly provide scheduling information ahead of time and repeated the morning of the hearing so participants know what will be expected of them and when. This includes instructions on how to join the hearing by phone and by video. There were a handful of occasions during the observations when a parent stated that they did not know how to access the hearing by video.

In a virtual hearing, part of clarifying expectations and proceedings is for the judge to openly acknowledge that the virtual courtroom looks and feels different than an in-person hearing. The judge can also take role to describe who is in the virtual courtroom and their role; this is especially useful when parties are participating by phone only. During our observations, there were four instances where the judge acknowledged the virtual courtroom environment.

Part of creating a safe and trustworthy environment is being compassionate to individuals who may not be as technologically savvy as court professionals who use the platform regularly. Prior to the hearing, it might be useful to review the WebEx platform functionalities, like mute, with parents and other hearing attendees who do not regularly attend virtual hearings. The court can also work with court personnel and other members of the team to help parties feel safe and supported in virtual hearings. A major difference in the presentation of an online hearing is that a user can see the faces of every other party using video. This means that when professionals feel frustrated and impatient with a court user, it is imperative that they control their outward reaction. This is also true for parties who are appearing by phone, only. For example, in one case, an attorney repeatedly asked a relative to mute due to background noise, and the relative repeatedly said she did not know how. When the attorney tried to

instruct the relative on how to mute her phone, another attorney said, "By the time you explain it, it will be too late," in a very disrespectful way. The relative was the only participant not on camera, and there was a potential for that type of exchange to exacerbate the power differential.

## Voice and Choice

The phrase "voice and choice" is often used in reference to trauma-informed care. It means that everyone, including parents and children, have the opportunity to be heard and the information needed to meaningfully participate in decision making. This starts by describing the purpose, process, and goals at the outset of the hearing. This description will vary depending on the hearing type. It can also be useful to share the purpose and goals of hearings in the hearing notice that goes out to parties. In 60.9% of the hearings we observed, the judge described the purpose and the process for the hearing at the beginning.

Another way to give hearing participants "voice and choice" during the proceedings is to allow parents and children to be heard and to check for their understanding. When mothers were present for a hearing, the judge asked them if they would like to say anything 40% of the time. Fathers were invited to speak in 46% of the hearings where they were present, and children were asked if they would like to say anything in 66.7% of hearings when they were present. When mothers were present, judges asked if they had questions or if they understood 57.8% of the time, and when fathers were present, they asked if they had questions or if they understood 50% of the time. Children were asked if they had questions or understood less frequently, in only 33.3% of hearings where they appeared.

## Substantive and Meaningful Hearings

The [National Council of Juvenile and Family Court Judges' Enhanced Resource Guidelines](#) (ERGs) state that the judge should set the stage early on that "a child's well-being will be focused on with the same urgency as the court focuses on safety and permanency, and that all children and youth in care should have the ability to engage in healthy and developmentally appropriate activities that promote their sense of normalcy and well-being (p. 144)." The ERGs encourage courts to distribute their "Every Hearing Update" to the agency, lawyers, and GALs to ensure that all parties understand the courts' expectations of what information should be provided at each hearing. Issues to be covered include the child's current placement, educational needs, physical health, and mental health and development.

**Table 5: Discussion in hearings**

<b>Topic</b>	<b>No Mention</b>	<b>Brief Mention</b>	<b>Moderate to Substantial Detail</b>
Placement of the child	18.8%	32.8%	48.4%
Educational Needs	53.1%*	32.8%	31.3%
Physical Health	79.7%	32.8%	9.4%
Mental Health/ Development	56.3%	32.8%	28.1%

\* Could be due to the age of the children

### Reasonable efforts

Reasonable efforts findings are considered the most powerful tool a juvenile court judge has to ensure that the child welfare system is doing everything possible to prevent removal and promote reunification. The earlier report for this study of CHINS case processing describes how infrequently there are findings of “no reasonable efforts.” Similarly, reasonable efforts were only mentioned in 6 of the 63 hearings observed (9.5%), including 4 of 13 permanency hearings (31%).

Part of determining reasonable efforts is examining the case plan for services, interventions, and supports to allow the children to safely return home. The court administrative data set has a variable for case plan date and indication whether the case plan is an initial case plan or a dispositional case plan; however, it is possible that the counties vary in how this data is captured. On average, a case plan is first entered into evidence 102 days after the case file date.

Part of determining reasonable efforts is examining the case plan for services, interventions, and supports to allow the children to safely return home. Although not specifically tracked on the structured data collection tool, observers noted several statements indicating that the DCF case plan was not timely, not current, or not distributed to all parties. In more than one hearing, the child attorney noted that they did not have the case plan in time to review it prior to the hearing. In another case, DCF stated they would be recommending reunification at the next hearing – the disposition hearing – and that the family did not yet have a case plan, seven months after removal. Certainly, the context of the pandemic may have been a factor in the case plans being delayed; however, there was no explanation as to the reason why there was not a case plan or questioning about why the case plans were filed late. It seemed as though this practice was commonplace.

## Access & Fairness Survey

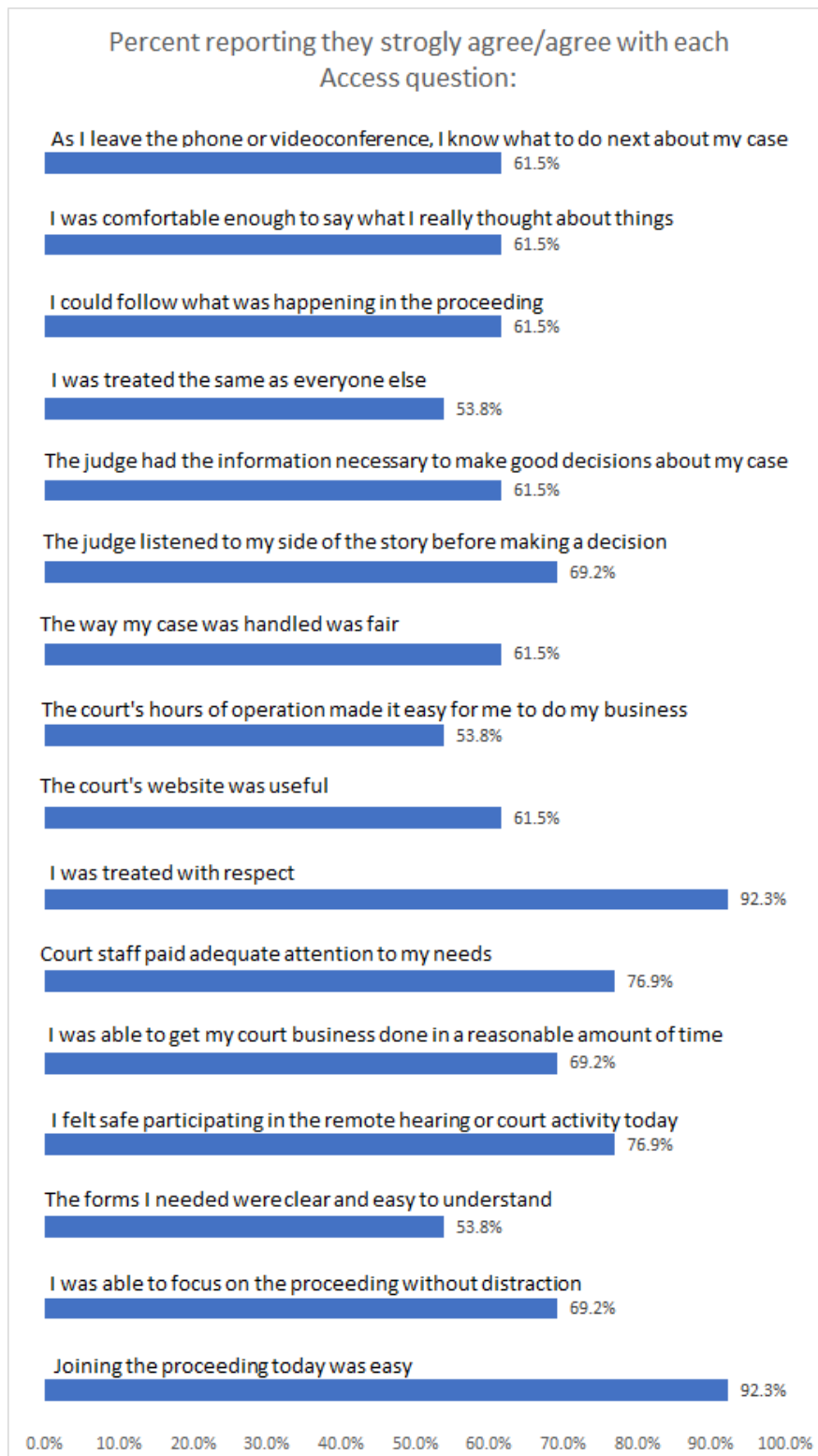
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As part of the study, Vermont was a pilot site for the newly redesigned [Access and Fairness Survey](#) for virtual hearings. The Access and Fairness Survey asks court users to rate the court's accessibility and its treatment of customers in terms of fairness, equality, and respect. Court users are asked to rate their level of agreement with each item, using a 1-5 scale.

The project team explored pasting a link to the electronic survey in the chat box during CHINS virtual hearings, and ultimately decided against that method due to the number of parents joining the hearing by phone only and therefore not having access to the chat box. The survey was disseminated via email to parent and child attorneys in CHINS cases first in Bennington, Chittenden, and Franklin counties. Attorneys were asked and later reminded to complete the survey themselves and also send it to their clients. There was also an opportunity for individuals to have the survey read to them or to be supported by an interpreter if needed. A few weeks later, to address the low response rate, the survey was sent to all attorneys who represent parents and children in CHINS cases across the state.

Unfortunately, this effort produced a limited response. Only 13 respondents completed more than 30% of the survey by March 26, 2021, and all respondents were attorneys. While this response rate is not ideal, there are some salient points to take away. Most respondents agreed or strongly agreed that joining the proceeding was easy and that they were treated with respect.

Figure 6: Days to discharge by days for adopted children by days from TPR petition to TPR hearing



It is notable that even among attorneys, one third did not agree with the statement that they know the next steps in the case. Most of the respondents reported that they prefer in-person hearings, although two respondents prefer remote hearings. Again, this small sample is not representative; however, the survey provided an opportunity to leave open text opportunities for improvement. Three of the attorneys wrote that their clients did not benefit from virtual hearings and thought the court should do more to provide access to internet and technology to parents. One attorney wrote about her client's experience joining a virtual hearing by phone, "She was unable to see who else was on the call which was confusing to her. She does not feel as respected as she would if she was face to face with the Judge." Further, "They are at a disadvantage in their participation because they cannot afford the technology to participate virtually further disenfranchising them."

Other open text responses focused on improving communication prior and during the hearing. One attorney did not receive the information necessary to join the hearing in a timely fashion. Another attorney suggested that court staff should communicate with hearing participants when there is a delay, especially if there are witnesses waiting. NCSC hearing observers experienced court staff alerting parties when there was a delay, so this issue may be local.

## Recommendations

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### Provide Access to Technology for Virtual Hearings

As evident from the judicial interview summaries, court observations, and the limited Access and Fairness Survey results, there are benefits and drawbacks to the use of virtual hearings for CHINS cases. There were very few technological issues during the hearing observation, and parents attended more than half of the time. As the pandemic subsides and virtual hearings are no longer a safety requirement, Vermont should consider continuing the use of virtual hearings for pre-trial, status, and review hearings. There is not yet evidence on the effectiveness of virtual hearings in child welfare cases, but research is currently underway. Currently, there is an assumption that evidentiary and contested hearings may be better executed in person, when possible. As courts across the country are opening their physical doors, many are transitioning to hybrid hearings where some parties are in person and some parties are virtual. When executed well, hybrid hearings can retain some of the benefits of virtual

hearings (i.e., no need for transportation, ability for attorneys to attend hearings in multiple counties in one day) while allowing individuals to appear in person if necessary.

With consideration of continued virtual hearings, the judiciary should prioritize the infrastructure and technology required to ensure efficient and accessible hearings. The OAs were essential to efficient virtual hearings in the counties that had the position. A similar position, or specialized training to other court staff, could replicate this role in other counties and increase communication with parties. The importance of this role would grow with evolution to hybrid hearings. Courts will also need to ensure that the technology available in the courtrooms works for hybrid hearings – that all parties, online or in-person, can see and hear everyone who is participating in the hearing. Finally, the court should consider models for increasing access to virtual hearings in the community. Several jurisdictions are exploring how community centers or libraries could be used to bring internet access and devices to individuals who experience barriers to coming to court, including lack of transportation or medical issues.

## Ensure Every Hearing is Meaningful

Every hearing on the CHINS case should meaningfully move the case forward towards permanency. The hearing observation identified opportunities to enhance the topics and depth of discussion in hearings. For example, during virtual hearings, the judge should acknowledge that the virtual courtroom is different than being in person and ensure that all parties can hear what is happening before starting the hearing. A roll call at the beginning of the hearing can be useful for two reasons; first, it confirms that all parties can hear and their audio works, and secondly, it lets any telephone attendees know who is present in the hearing and what their voice sounds like.

To hold a meaningful hearing, the court must engage families and children and have the information needed to make informed decisions. Judges can engage families and children by creating the conditions that make them feel safe and respected. Clearly describing the purpose and goals of the hearing at the beginning of the proceeding is a trauma-responsive strategy that helps to build trust with families and ensure that all professionals are on the same page. Confirming that the goals of the hearing have been met at the end of the hearing as well as clearly articulating next steps in the case for all parties and the purpose, date, and time of the next hearing keeps the case moving forward. Another way to engage families and children in hearings is by asking them if they have questions or if they would

like to speak during the hearing. The judges in our observations did this more than half of the time; however, the practice should be done every time that a parent or child appears in a hearing. The National Council of Juvenile and Family Court Judges has a number of Bench Cards available in their Enhanced Resource Guidelines that are useful tools for judges to ensure that there are meaningful discussions in hearings.

Finally, the recommendation from the first report in this study, to prioritize reasonable efforts findings, bears repeating. Reasonable efforts were only mentioned in six of the hearings observed. According to [Caseflow Management: The Heart of Court Management in the New Millennium](#), one of the most important techniques for managing case flow for child protection cases is for the court to routinely make full reasonable efforts findings on the record at every hearing. Consider ways to enhance the judges' knowledge of the importance of reasonable efforts findings and cross-training for CHINS stakeholders on the meaning of reasonable efforts. The Action Steps included in the first report include:

- Consider sending some newer judges to a future Children's Bureau's Capacity Building Center for Courts (CBCC) Reasonable Efforts Academy or requesting that the CBCC help to develop a Vermont specific Academy.
- Emphasize the importance of meaningful reasonable efforts findings for all parties. Provide joint training opportunities for attorneys and for DCF so that there is a common understanding of reasonable efforts.
- Convene a commission of judges and CHINS stakeholders to discuss what constitutes reasonable efforts in Vermont, especially in light of limited access to services due to geography and the pandemic.

## Hold Merits and Disposition on the Same Day

Analysis of the administrative data from 2019 show that three out of four cases take longer than the Vermont's Supreme Court's predetermined standard number of days to get from merits to disposition. That often means that families are in limbo without documentation or a clear understanding of what they must do to move their case forward. There were several examples in the hearings observed of parties not receiving case plans in a timely fashion and families not having case plans until months after removal. This is not acceptable; however, the court cannot control the DCF's policies. The court can, though, require documentation of preliminary case plans earlier in the case in a way that does not

require the parent to admit responsibility. The court can also consider altering their own policies for timing of hearings.

As described in the first report in this study, many states hold the adjudication (merits) hearing and disposition hearing on the same day. The necessary parties are already together, much of the evidence presented is similar, and it helps to expedite the process. Once the court has made a finding on the merits, evidence and discussion shifts to the disposition and case plan. Courts would need to require a preliminary case plan to be available for the disposition portion of the hearing. Any GAL report or testimony would pertain only to the disposition portion of the hearing. Making this somewhat drastic change to the expected timeline for CHINS cases will be difficult, but it will pay off by ensuring that families are aware of their case plan earlier, avoiding lost time between merits and disposition, and improving court efficiency.

## Ensure Data System Supports Performance Measures

The data analysis presented in this report reinforces several recommendations made in the first report in this study:

- Establish at least one data analyst at the judiciary responsible for monitoring quality of court data for CHINS cases, developing reports, and helping stakeholders understand the data.
- Provide guidance on continuances.
- Set a rule that a hearing only “counts” as complete when findings are made.

The introduction of the Odyssey Case Management System provides opportunities to ensure that the courts are collecting the data needed to effectively track CHINS cases. The system should be configured to capture both the case closure date and the final outcome of the case (e.g., reunification, adoption, guardianship). Judges should have access to reports or, ideally, alerts when a hearing is not scheduled to occur timely. In addition, the case management system should track continuances and reasons for continuances, and this information should be reviewed regularly to identify opportunities for improving efficiency. When calculating performance measures, the hearing should not be considered held until the finding is made. Judges need ready access to a dashboard or report that shows them how long each CHINS case has been open, the type and date of the next event in each case, and the current goal of each case. Cases with no future events scheduled should be highlighted. Additionally, the courts

should examine using a CIP data grant to set up a data interface with the DCF data system. This would necessarily be a long-term project but could reduce the need for duplicate data collection.

# Addendum: Comments from CHINS Reform Workgroup Members

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Consistent with the requirements of the legislation, the judiciary consulted with the members of the CHINS Reform Workgroup in finalizing this report. A draft of this report was circulated to the members of the CHINS Reform Workgroup in April 2021. Their comments were incorporated into the body of the report or included here in the addendum. This report was developed in a dynamic environment, and some of the CHINS Reform Workgroup members' comments reflect progress in some of the areas identified for improvement.

## Comments from Marshall Pahl, Esq., Supervising Attorney/Deputy Defender General Office of the Juvenile Defender

In response to the focus group participants expressing concern with attorneys lacking training on important aspects of CHINS cases, including legal issues such as the consequences of involuntary termination and skills such as advocating for children:

"NCSC never requested any information about our trainings. We require all juvenile court attorneys to attend two trainings per year – one is a four-day training with a two-or-three day juvenile track during the summer, one is a one-day juvenile training in the fall. Our trainings are conducted with a combination of resources from within our system and experts from outside our state. We have had trainings specifically on skills for representing children and on the legal issues associated with involuntary termination in the past couple of years.

We also have less formal trainings on an infrequent schedule throughout the year. In the past these were local "brown bag lunch" trainings with smaller groups, but during the pandemic we've moved to zoom and larger groups.

Additionally, we send attorneys to specialized trainings every year unless we have an out-of-state travel ban – generally to the ABA Parents' Attorney Conference, the ABA Children's and Agency Attorney Conference, and the NACC Conference though also to smaller conferences that are more specific in focus including conferences and talks on childhood trauma, substance use disorders, and working with

child witnesses. The attorneys we send to outside conferences are then expected to do some local training either at our all-system trainings in the summer and fall or in local “brown bag” lunch hour trainings.”

In response to recommendation to use Title IV-E funds to support multidisciplinary representation:

“NCSC did not ask us about this – multidisciplinary representation is one of the identified goals for our request for Title IV-E money. But we also have a small multidisciplinary representation program that we run using our operating budget. We have a number of identified Family Support Workers and will let any attorney (representing parents or children, whether staff or contract) access those resources on request.”

In response to recommendation to prioritize meaningful reasonable efforts findings:

“The problem that NCSC is not mentioning is that the VT Supreme Court has repeatedly ruled that the reasonable efforts requirement IS just to get money to DCF (In re DC/In re CP). Since the VT Supreme Court ruled that the reasonable efforts requirement is just about funding and is not a prerequisite to any substantive ruling, trial courts have been ruling that parents don’t even have standing to challenge reasonable efforts. So this is not as simple as giving judges bench cards, this requires getting precedent overruled.”

In response to parents in the focus groups stating that they do not have access to DCF reports about them to the judge:

“33 VSA 5117 does not allow attorneys to disseminate court records to their clients. We have a joint proposal (our office and DCF) to amend 5117 to allow records to be given to clients. Hopefully it will be added to the Office of the Child Advocate bill.”

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