

# **WEST VIRGINIA CIRCUIT JUDGE WORKLOAD STUDY**

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## **Final Report**

**September 2, 2014**

National Center for State Courts  
*Court Consulting Services*  
707 Seventeenth Street, Suite 2900  
Denver, Colorado 80202





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### West Virginia Circuit Judge Workload Study Advisory Committee

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<b>Hon. Derek Swope</b> Ninth Circuit Chair	<b>Justice Brent D. Benjamin</b> <b>Chief Justice - 2013</b>	<b>Hon. Jack Alsop</b> Fourteenth Circuit
<b>Hon. Jennifer Bailey</b> Thirteenth Circuit	<b>Hon. Russell Clawges</b> Seventeenth Circuit	<b>Hon. Thomas Evans</b> Fifth Circuit
<b>Hon. David Hummel</b> Second Circuit	<b>Hon. John Hutchison</b> Tenth Circuit	<b>Hon. James A. Matish</b> Fifteenth Circuit
<b>Hon. Alan Moats</b> Nineteenth Circuit	<b>Hon. Lawrance Miller</b> Eighteenth Circuit	<b>Hon. Rick Murensky</b> Eighth Circuit
<b>Hon. Eric O'Briant</b> Seventh Circuit	<b>Hon. Darrell Pratt</b> Twenty fourth Circuit	<b>Hon. James Rowe</b> Eleventh Circuit
<b>Hon. Christopher Wilkes</b> Twenty-third Circuit	<b>Steve Canterbury</b> Administrative Director	<b>Kathleen Gross, Esq.</b> Deputy Administrative Director
<b>Angie Saunders</b> Director of Court Services	<b>Tina Sevy Payne</b> Director of Legislative Analysis	<b>Autumn Johnson</b> Deputy Director of Court Services
	<b>Mary Greene</b> Staff, Executive Assistant	

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All of these individuals devoted time and attention to the planning and methodology of the study, and their substantial contributions are greatly appreciated. The NCSC consultants also would like to thank all of the participating Circuit Judges and their staff for their conscientious and cooperative participation in the time study.

## **Executive Summary**

West Virginia Circuit Judges face the challenging goal of managing rising caseloads as effectively and efficiently as possible while ensuring the highest quality of service to the public. Circuit Judges serve as a critical resource in achieving this goal. As such, the necessary number of Circuit Judges must be objectively evaluated. Historically, West Virginia has utilized time and motion workload analyses to assess the need for—and allocation of—Circuit Judges. The most recent study was conducted in November 2006 and is currently out of date.

To update the 2006 workload model, the West Virginia Administrative Office of the Courts received a grant from the State Justice Institute (SJI) to update its judicial weighted case weights and workload model and contracted with the National Center for State Courts (NCSC) to conduct the study. The current study is distinguished from the previous (2006) Delphi (expert opinion) study by utilizing a time and motion study whereby Circuit Judges reported their individual time spent on the designated case types, case related activities and non-case-related activities over a nine-week period. In addition, in this 2013 study, the number of data elements for which data were collected was increased.

For this study, NCSC consultants employed the workload assessment methodology to determine judge resource needs. This method has been adopted in 34 states, because assessing workload through the development of a needs assessment model is a rational, credible, and practical method for determining the need for judges.

This methodology “weights” cases based upon complexity and as such, accounts for the varying levels of attention necessary to process a case from filing to disposition. By weighting court cases by case type, a more accurate assessment can be made concerning the amount of judge time required to process the entire workload.

### ***Circuit Judge Needs Assessment: An Overview***

Cases in the West Virginia Circuit Courts vary in form and complexity. Different types of cases require different amounts of time and attention from judges. Focusing on raw case counts without allowing for differences in the amount of work associated with each case type creates an opportunity for the misperception that equal numbers of cases filed for two different case types result in an equivalent amount of work for judges. For example, a typical criminal case, such as a felony case, has a

## EXECUTIVE SUMMARY

much greater impact on the judges' time than a misdemeanor case, generally speaking, because a felony case has significantly more court appearances, preparatory readings, motions, etc. than a misdemeanor. Therefore, a method that can reliably account for the differences in the workload generated across various case types is necessary to determine accurately the number of judges needed to handle the entire court's caseload.

The core of the workload assessment model is a time study whereby judges track the amount of time they spend on the various case types under investigation. When the time-study data are joined with filing data for the same time period, it is possible to construct a "case weight" for each case type. Each case weight represents the average amount of time (in minutes) required for judges to process a case from filing to disposition (including any post-disposition work). Applying the case weights to current or projected annual case filing numbers results in an objective measure of judicial workload.

### **Key Concepts**

Two fundamental pieces of information are necessary to determine the number of judges required to handle the total workload demand within the West Virginia Circuit Courts. They are:

- *Workload.* Workload is generated from two data elements (1) the case weights, which are the average time spent on case processing as determined by the time study; and (2) the annual number of cases filed. Multiplying these two values produces the workload estimate.
- *Judge Need Assessment.* The assessment of judge need is computed by dividing the expected workload by the judge year value (the number of minutes a judge is available to work in a year). This calculation results in the number of judges needed in each circuit.

The primary goal of the judge workload assessment study is to provide an accurate picture of the amount of time needed to resolve different types of cases in an *efficient* and *effective* manner.

### **Time Study**

A time study measures case complexity in terms of the average amount of judge time spent processing different types of cases, from the initial filing to final resolution, including any post-judgment activity. The essential element in a time study is collecting time data on all judge activities. For this study, judges recorded all time spent on 18 case types as well as work that cannot be directly attributed to certain case types, such as attending to personnel matters, reading professional material or attending meetings.

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Ensuring the reliability and validity of the time study data requires a high participation rate and an ample length of time in which to capture data. Data were collected for a nine-week period from September 1 through November 2, 2013. The participation rate was 100 percent for all sitting judges. This strong participation rate assures confidence in the accuracy and validity of the resulting case weights and, ultimately, in the needs model.

### ***Case Weight Calculation***

The case weights were generated by summing the time recorded for each case type category, then annualizing this time and dividing by the number of case filings during 2012 for each case type. The Circuit Judge case weights are seen in Figure ES 1.

**Figure ES 1: West Virginia Circuit Judge Case Weights by Case Type<sup>1</sup>**

<b>Case Type</b>	<b>Case Weights in Minutes</b>
Felony	248
Misdemeanor (less truancy)	65
Other Criminal/Miscellaneous Criminal	40
Criminal Appeals/Magistrate Appeals	56
Delinquency	77
Status Offenses (less truancy)	83
Child Abuse and Neglect (less truancy)	246
General Civil	107
Adoption	45
Guardianship	44
Administrative Agency Appeals	92
Magistrate Appeals	56
Other Civil	49
Domestic Matters (all family cases)	65
Overlap Cases	24
Adult Drug Courts	374
Specialty Courts (all types)	374
Weddings	11

### ***Workload Calculation***

Applying the case weights to a three-year average of annual case filings produces the overall judicial workload value. The workload value represents the total number of minutes, on an annual basis, of expected work based upon baseline data and current practices. The judge workload need for

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<sup>1</sup> Specialty Courts include Juvenile Drug Court, Mental Health Court, Veterans Court and Truancy Court. Mass Litigation Panel and Business Court case processing time was analyzed separately from the other Specialty Courts.



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West Virginia’s Circuit Courts is provided in Figure ES 2. A three-year average (2011, 2012 and 2013 calendar years) of cases filed in the circuit courts was used to compute the expected workload for judges. Using a multi-year average smoothens the fluctuations that are likely to be present when relying on single year filing figures.

When workload increases faster than the number of judges, they are forced to expend additional hours beyond the normal workday in order to stay current with incoming work. Augmenting the problem is the ever-evolving demand on judicial time and attention if the rule, as well as, the spirit of the law is to be met. As workload increases judges must work faster and longer. The challenge is to provide judges sufficient reasonable time to engage petitioners, to listen to petitioners and to explain clearly rulings and orders—features fundamental to the public perception of fairness and appropriate treatment by the court.

**Figure ES 2: Statewide Workload: West Virginia Circuit Judges<sup>2</sup>**  
**(Based on the Average Filings in Calendar Years 2011, 2012 and 2013)**

Case Type	Case Weights in Minutes	Statewide 3- Year Average Filings	Statewide Workload per Case Type in Minutes
Felony	248	7,644	1,895,712
Misdemeanor (less truancy)	65	969	62,985
Other Criminal/Misc. Criminal	40	8,244	329,760
Criminal Appeals/Magistrate Appeals	56	406	22,736
Delinquency	77	2,804	215,908
Status Offenses (less truancy)	83	1,084	89,972
Child Abuse and Neglect (less truancy)	246	3,247	798,762
General Civil	107	15,988	1,710,716
Adoption	45	1,178	53,010
Guardianship	44	855	37,620
Administrative Agency Appeals	92	233	21,436
Magistrate Appeals	56	618	34,608
Other Civil	49	4,069	199,381
Domestic Matters (all family cases)	65	1,173	76,245
Overlap Cases	24	1,059	25,416
Adult Drug Court	374	1,386	518,364
Specialty Courts (all types)	374	2,966	1,109,284
Weddings	11	1,643	18,073
<b>Total Cases Filed</b>		<b>55,566</b>	
Mass Litigation (total annual minutes)			108,189
Business Court (total annual minutes)			73,446
Chief Judge time (52 minutes per day)			336,908
Case weights x filings + CJ time			7,738,531

<sup>2</sup> Mass Litigation Panel and Business Court case processing time was analyzed independently from the other Specialty Courts.

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### ***Determination of FTE Demand***

Determination of the full time equivalent (FTE) judge demand required to manage the judicial workload of the circuit courts first requires the definition of the judge year value, which is the amount of time in a year available for judges to work. It is calculated first by determining how many days in the year are available for work, and second, by how many hours are available in the average day. The eight-hour workday used in this study exceeds the average for studies of this type.<sup>3</sup> This is a reasonable baseline because it recognizes the constraints on time created by the availability of facilities and non-court personnel, and the need to schedule cases to facilitate the timely processing of pre- and post-hearing information by non-judicial court personnel. Based upon state-provided holidays and average leave taken, the average judge year consists of 100,320 minutes (209 days x 8 hours x 60 minutes). Multiplying the judge year value (209 days) by the number of hours in a day available for all work provides the amount of time available per year for judges in West Virginia. Finally, non-case-related time (52 minutes per judge per day for each Circuit Judge) is subtracted from the time available for all work-related activities. After subtracting all of the appropriate time including the average annual travel time per judge from the base year, the Circuit Judges in West Virginia have 88,557 minutes per year to process case-related court work.<sup>4</sup> The judge year calculation is provided in Figure ES 3.<sup>5</sup>

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<sup>3</sup> Other states who have conducted studies of this type have used an eight-hour day; however, the mean workday in the ten most recent judge weighted caseload studies conducted by the NCSC is 7.68 hours; the median workday in those studies is 7.5 hours.

<sup>4</sup> The annual average travel time per judge (895 minutes) is utilized in calculating the 88,557 case-related minutes available as an average figure of available judge time. The Circuit Judge need model is based on the actual judge travel time per circuit, which varies by circuit. See Appendix E (Circuit Judge need model) for circuit specific travel and circuit specific case-related minutes.

Travel was calculated using travel reimbursement records from the Division of Finance, specifically fiscal year 2013 yearly reimbursement paid to each Circuit Judge. Reimbursement for attending national conferences is not included in the calculations. To compute the reimbursed amount for each circuit, the miles were extracted at \$0.50 per mile. The number of minutes traveled was calculated using the number of miles traveled per circuit, applied to an average speed of 40 miles per hour. The calculations shown in Appendix E reflect the minutes per judge per day for travel (meetings and the two annual conferences). Travel associated with the statewide projects of Business Court and Mass Litigation Panel is included in the model as a statewide judge need.

<sup>5</sup> The Circuit Judge year value components were taken from the 2006 workload study. Chief Judges have an additional 52 minutes of work per day, directly related to their role as Chief Judge, which reduces their available time to process cases by 10,868 minutes annually. Note: It is mere coincidence that the non-case-related time for Chief Judges and all other Circuit Judges is both 52 minutes.

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**Figure ES 3: Average Judge Year<sup>6</sup>**

Category	Days	Minutes
Total days available	365	175,200
<i>Less</i>		
Weekends	-104	49,920
Sick leave	-10	4,800
Vacation leave	-15	7,200
Holidays	-13	6,240
Training, conference, etc.	-14	6,720
Total work days available	209	100,320
Subtract non-case-related minutes (52 per day)	22.64	10,868
Subtract annual average travel per judge	1.86	895
Case-specific time available	184.49	88,557

### **Adult Drug Court Demand**

West Virginia's first Adult Drug Court opened in 2005 under the leadership of Judge Martin J. Gaughan in Brooke, Hancock, Ohio, Marshall and Wetzel Counties. Recognizing that Adult Drug Courts have the potential to reduce repeat offenses and break the cycle of substance abuse, Supreme Court Justice Brent D. Benjamin encouraged interested judges to begin drug courts in their circuits. Mercer County opened its Adult Drug Court in 2006, and Wood and Wirt Counties opened in 2007. Also in 2007, Cabell and Wayne Counties reestablished the Juvenile Drug Court. As of March 2014, seventeen (17) Adult Drug Court programs were operational.<sup>7</sup>

Impressed with the success of the Adult Drug Court programs, the West Virginia Legislature in 2013 required all judicial circuits to participate in an Adult Drug Court either by circuit or region by July

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<sup>6</sup> The average annual travel time (895 minutes per judge) is provided to illustrate how the judge average day is constructed in the need model. The full model of need uses the actual annual travel time per judge per circuit, computed as described in footnote 4 of the Executive Summary.

<sup>7</sup> The seventeen Adult Drug Court programs serve twenty-four (24) counties, including: Hancock/Brooke/Ohio (2005), Marshall (2005), Wetzel (2005), Tyler (2009), Wood/Pleasants/Jackson/Wirt/Ritchie/Doddridge (2007), Kanawha (2009), Cabell (2009), Wayne (2011), Lincoln/Boone (2008), Logan (2008), Mercer/Summers/Monroe/Wyoming/McDowell (2006), Greenbrier/Pocahontas (2009), Randolph (2012), Pendleton/Hardy/Hampshire (2014), Preston (2009), Monongalia (2009), Marion (2013), Mason (2013) and Putnam (2013) Counties.

Also as of March 2014, fifteen (15) Juvenile Drug Court programs were operational.

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1, 2016.<sup>8</sup> All Adult Drug Court participants are required to spend at least one year under Adult Drug Court supervision; the average participation duration in West Virginia is 18 months. The impact of the mandated additional Adult Drug Courts should be considered as part of the anticipated workload of the circuits establishing new Adult Drug Courts.

Figure ES 4 shows the projected impact in minutes from the newly mandated Adult Drug Courts. This estimate is based on the ratio of the total number of criminal cases to Adult Drug Court referrals in circuits having Adult Drug Courts. The median ratio is 17.5%. The median ratio was applied to the number of criminal cases in circuits not having Adult Drug Courts in order to estimate the number of projected referrals in the new Adult Drug Courts. The Adult Drug Court case weight, calculated by the NCSC, was then applied to get the projected impact in minutes of the additional Adult Drug Courts.

**Figure ES 4: Annual Minutes Associated with Current and Projected Adult Drug Court Referrals**

Case Type	Case Weight in Minutes	Adult Drug Court Referrals (Actual and Projected)	Statewide Adult Drug Court Workload: Actual and Projected
2011-2013 average Adult Drug Court referrals	374	503	188,122
Projected Adult Drug Court referrals	374	883	330,242
Total (actual and projected) Adult Drug Court referrals	374	1,386	518,364

Figure ES 5 shows the anticipated Circuit Judge need with the mandated Adult Drug Courts based on the ratio of the total number of criminal cases to Adult Drug Court referrals in circuits having Adult Drug Courts as described above.

**Case-Related Workload Requirements**

Judges’ case-related demand is calculated by dividing the workload value (the annual number of minutes of work required given the number of cases filed and the individual case weights) by the judge year value. The non-case-related time and the judicial circuit-specific travel time is added into the

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<sup>8</sup> WV Code §62-15-4(a) states: “. . . Provided: That all judicial circuits must be participating in a drug court or regional drug court program in accordance with the provisions of this article by July 1, 2016.”

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workload requirement. The product provides the number of judges needed to manage the work of the West Virginia Circuit Courts. Figure ES 5 displays the judge need model in statewide terms.

Based upon the average 2011-2013 calendar year filings, the case-related workload for all Circuit Judges in West Virginia is 7,738,531 minutes annually (shown in Figure ES 2). When we add the judicial circuit-specific travel time and the non-case-related work requirements, a full picture of Circuit Judge need is provided. Statewide, a total of 89 judges are needed to process the work of the West Virginia Circuit Courts, based on the judge deficit need, which represents the positive need for additional judges.

There are currently 70 Circuit Judges allocated within the state's 31 judicial circuits. The model indicates 89 Circuit Judges (FTE) are needed to complete the work presented in West Virginia Circuit Courts. The model therefore shows a deficit need of 19 FTE additional Circuit Judges.

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**Figure ES 5: Current Statewide Circuit Judge Need with Statewide Implementation of Adult Drug Court<sup>9</sup>**

Case Type	Case Weights in Minutes	Statewide 3-Year Average Filings	Statewide Workload per Case Type in Minutes & Statewide Judge Deficit Need
Felony	248	7,644	1,895,712
Misdemeanor (less truancy)	65	969	62,985
Other Criminal/Miscellaneous Criminal	40	8,244	329,760
Criminal Appeals/Magistrate Appeals	56	406	22,736
Delinquency	77	2,804	215,908
Status Offenses (less truancy)	83	1,084	89,972
Child Abuse and Neglect (less truancy)	246	3,247	798,762
General Civil	107	15,988	1,710,716
Adoption	45	1,178	53,010
Guardianship	44	855	37,620
Administrative Agency Appeals	92	233	21,436
Magistrate Appeals	56	618	34,608
Other Civil	49	4,069	199,381
Domestic Matters (all family cases)	65	1,173	76,245
Overlap Cases	24	1,059	25,416
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Specialty Courts (all types)	374	2,966	1,109,284
Weddings	11	1,643	18,073
<b>Total Cases Filed</b>		<b>55,566</b>	
Specialty Courts – Mass Litigation Board (annual minutes)			108,189
Specialty Courts – Business Court (annual minutes)			73,446
Chief Judge time (52 minutes per day x 31 judges)			336,908
Annual Workload: Case weights x filings + CJ time			7,738,531
Judge Annual Availability			100,320
- Annual non-case-related time (52 minutes per day)			10,868
- Average annual travel time per judge (minutes)			895
= Availability for case-related work			88,557
Current Circuit Judge Allocation			70.00
Judge Deficit Need			19.38

## Determination of FTE Need

The final phase in the generation of a needs assessment model involves the calculation of the Circuit Judge need for each judicial circuit. During this phase, the Circuit Judge demand value is

<sup>9</sup> The statewide annual travel time is presented in Figure ES 5 only to illustrate the consideration of travel time in the judge need calculation. The statewide judge need is calculated from the sum of each circuit's judge need, which is calculated individually using circuit-specific travel time (see Appendix E). Therefore, the statewide annual average travel time cannot be used to calculate the statewide judge need.

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compared to the current number of Circuit Judges in each judicial circuit; the need shown represents only the positive need for Circuit Judges (referred to as "Judge Deficit Need"). Figure ES 6 presents the Circuit Judge deficit need by judicial circuit.

To determine the level at which judges in under-staffed circuits are overworked, the *workload per judge* was calculated. This value represents the level at which judges in each circuit are currently working, based on the expected workload produced in the need model. For example, in the 10<sup>th</sup> Circuit, there are currently three judges allocated, and the model indicates a need for 5.21 Circuit Judges. Given the current staffing and the projected need, each judge in this circuit is working at the rate of 1.74 judges. This figure can be used to determine the most urgent staffing needs across circuits. Figure ES 7 presents the Circuit Judge deficit need by judicial circuit rank ordered by workload per judge.

Note that the need models presented in this report are based solely on the weighted caseload methodology and do *not* take into account the local policies or practices regarding access to justice issues or other qualitative factors that could impact staffing need levels.

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**Figure ES 6: Circuit Judge Deficit Need by Circuit<sup>10</sup>**

Circuit	Allocated Judges per Circuit	Judge Deficit Need	Current Workload per Judge
1	4	0.00	0.94
2	2	0.30	1.15
3	1	0.12	1.12
4	3	0.01	1.00
5	2	1.52	1.76
6	4	0.64	1.16
7	2	0.31	1.15
8	2	0.00	0.84
9	3	1.30	1.43
10	3	2.21	1.74
11	2	0.40	1.20
12	2	0.00	0.97
13	7	2.36	1.34
14	2	0.31	1.15
15	3	0.00	0.95
16	2	0.40	1.20
17	3	0.56	1.19
18	1	0.08	1.08
19	1	0.59	1.59
20	1	0.17	1.17
21	2	0.00	0.90
22	2	0.21	1.11
23	5	2.36	1.47
24	2	0.38	1.19
25	2	0.69	1.35
26	1	0.81	1.81
27	1	0.22	1.22
28	1	0.17	1.17
29	2	0.00	0.96
30	1	0.46	1.46
31	1	0.45	1.45
Mass Lit/ Bus. Ct.	0	2.35	NA
Total	70	19.38	NA

<sup>10</sup> The judge deficit need represents only the positive Circuit Judge need for each judicial circuit.



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Figure ES 7: Circuit Judge Deficit Need by Circuit in Rank Order of Workload per Judge<sup>11</sup>

Circuit	Judges per Circuit	Judge Deficit Need	Current Workload per Judge
26	1	0.81	1.81
5	2	1.52	1.76
10	3	2.21	1.74
19	1	0.59	1.59
23	5	2.36	1.47
30	1	0.46	1.46
31	1	0.45	1.45
9	3	1.30	1.43
25	2	0.69	1.35
13	7	2.36	1.34
27	1	0.22	1.22
11	2	0.40	1.20
16	2	0.40	1.20
17	3	0.56	1.19
24	2	0.38	1.19
20	1	0.17	1.17
28	1	0.17	1.17
6	4	0.64	1.16
2	2	0.30	1.15
7	2	0.31	1.15
14	2	0.31	1.15
3	1	0.12	1.12
22	2	0.21	1.11
18	1	0.08	1.08
4	3	0.01	1.00
12	2	0.00	0.97
29	2	0.00	0.96
15	3	0.00	0.95
1	4	0.00	0.94
21	2	0.00	0.90
8	2	0.00	0.84

**Conclusion**

The Circuit Judge Workload Study for West Virginia shows a judge deficit need of 19 Circuit Judges; beyond the current allocation, when including the addition of any new mandated Adult Drug

<sup>11</sup> The judge deficit need represents only the positive Circuit Judge need for each judicial circuit.

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Courts. The need model based on the weighted caseload methodology does **not** take into account any local policies or practices that might impact judge need beyond this objective measurement.

These case weights are grounded in current practice, as measured by the time study. Although the case weights developed during the course of this study take into account new case processing procedures and should be accurate for several years, periodic updating is necessary to ensure that the standards continue to represent accurately the West Virginia Circuit Judge workload.

FINAL REPORT

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## Introduction

For West Virginia Circuit Courts to carry out their responsibilities, they must have adequate resources to accept, process, and resolve all court cases and manage important court business without unnecessary delay.

To determine appropriate judicial staffing levels for West Virginia's Circuit Courts, it is necessary to have an accurate measure of the court's workload. A clear and objective assessment of court workload and the number of judges required to handle effectively that workload are essential to the state's ability to evaluate whether judicial staffing levels are appropriate, and whether they are being allocated and used prudently.

Historically, West Virginia has utilized time and motion workload analyses to assess the need for - and allocation of - judges. The most recent study was conducted in 2006 and is currently out of date.

For this study, NCSC consultants employed the workload assessment methodology to determine judge need. This method has been adopted by 34 states, because assessing workload through the development of an empirically-based needs assessment model is a rational, credible, and practical method for determining the need for judges.

This methodology "weights" cases based upon complexity and, as such, accounts for the varying levels of attention necessary to process a case from filing to disposition. By weighting court cases by case type, an accurate assessment can be made concerning the amount of judge time required to process a judge's entire workload. Moreover, judge workload models have the advantage of providing an objective and standardized evaluation of judicial resource needs across circuits that vary in size and caseload composition. Specifically, this West Virginia Circuit Judge Workload model is based on a full-fledged time and motion data collection approach, which establishes weighted caseload standards to reflect the court case processing environment.

As previously noted, West Virginia has a history of assessing judge need through the use of the weighted caseload methodology. The West Virginia Administrative Office of the Courts, which received a grant through the State Justice Institute (SJI) and contracted with the NCSC to conduct the present study, recognizes the need to update workload studies on a regular basis. Such studies should be updated every five to seven years to account for changes in case types, case processing, the use of technology and changes in personnel structures and job classifications.

The new study is distinguished from the previous (2006) study by utilizing a time and motion study rather than a Delphi "expert opinion"

approach. Circuit Judges reported their individual time spent on the designated case types, case-related activities and non-case-related activities over a nine-week period. In addition, the number of case types and events for which data were collected was increased for the current study.

***Specific Objectives for the West Virginia Circuit Courts Judge Needs Assessment Study***

*To conduct a quantitative evaluation of Circuit Judge resources for the West Virginia Circuit Courts.*

*To provide accurate, easily understandable criteria to assess the need for Circuit Judges.*

*To provide a valid method for determining the future need for additional Circuit Judge resources in the state's Circuit Courts.*

This report details the methodology employed for the West Virginia Circuit Judge Workload Study and presents needs assessment models that differentiate case processing time standards for each major case category examined in the study.

## **Overview of West Virginia's Circuit Courts**

The circuit courts in West Virginia are the trial courts of record. They have jurisdiction over all civil cases in which more than \$2,500 is at issue<sup>12</sup>, all cases in equity, proceedings in *habeas corpus*,

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<sup>12</sup> WV Code §50-4-8, states: "At any time before trial in a civil action involving less than two thousand five hundred dollars the action may be removed to circuit court upon the concurrence of all parties...."

*mandamus, quo warranto, prohibition and certiorari*, and all felonies and misdemeanors.

The circuit court receives appeals from family courts, magistrate courts, municipal courts and all administrative agencies except from the Division of Workers' Compensation. Circuit Judges may also receive recommended orders from judicial officers who hear mental hygiene matters.

In addition to their regular caseloads, Circuit Judges also serve on specialized panels such as the Mass Litigation Panel, Business Court, the Court Improvement Board, the Compliance Committee on Prisons and Jails, Judicial Investigation Commission, Judicial Hearing Board, and other special committees of the Supreme Court.<sup>13</sup> The state is divided into 31 judicial circuits, currently staffed by 70 Circuit Judges.

## **Circuit Judge Needs Assessment: An Overview**

### **Theory and National Context of a Judicial Needs Assessment**

Cases in the West Virginia Circuit Courts vary in form and complexity. Different types of cases require different amounts of time and attention from Circuit Judges. Focusing on raw case counts without allowing for differences in the amount of work associated with each case type

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<sup>13</sup> The West Virginia Court System 2013 Annual Report, Administrative Office of the Supreme Court of Appeals of West Virginia, page 71.

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creates an opportunity for the misperception that equal numbers of cases filed for two *different* case categories result in an equivalent amount of work for judges. For example, a typical criminal case, such as a felony, has a much greater impact on a judge's time than a misdemeanor case because the more complex cases have significantly more court appearances, more motions and more in-depth research. Therefore, a method that can reliably account for the differences in the workload generated across various case type categories is necessary to determine accurately the number of judges needed to handle the entire court caseload.

The NCSC has been conducting workload assessment studies for over two decades. These assessments provide court systems with meaningful and easily understandable criteria for determining overall staffing requirements, taking into consideration both case-related and non-case-related functions performed by Circuit Judges. Workload assessment is a resource evaluation methodology that has been adopted by 34 states to determine the need for court staff and judges.<sup>14</sup> The methodology “weights” cases to account for the varying complexity among court case categories. By weighting the case type categories, an accurate assessment can be made of the amount

of judge work time required to process the court’s caseload from filing to case closure. Moreover, workload models have the advantage of providing objective and standardized evaluations of judicial resource needs among courts that vary in size and caseload mix.

The core of the workload assessment model is a time study whereby Circuit Judges track the amount of time they spend on the various case categories under investigation. When the annualized time-study data are joined with filing data for the same time period, in this case 2012 calendar year case filings, it is possible to construct a “case weight” for each case category. Each case weight represents the average amount of time (in minutes) required for judges to process a case from filing to case closure. Applying the case weights to current (or projected) case filing numbers results in an expected measure of judicial workload. An estimate of Circuit Judge resource requirements can be generated by dividing the workload requirement by the amount of annual work-time available per judge. This approach, which involves few complicated procedures, is sufficiently rigorous to measure Circuit Judge needs and evaluate resource allocations.

It is important to remember that even the most widely used and accepted resource assessment techniques, including the judicial workload model, will not objectively determine the *exact* number of judges needed to stay current with

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<sup>14</sup> During the past 20 years, the NCSC has conducted weighted workload assessment studies for judges and/or clerks offices in 34 states. The NCSC has also conducted weighted workload studies for probation departments, parole departments and public defenders’ offices.

caseloads. No quantitative resource assessment model by itself can accomplish that goal. It is important to consider the quantitative results of this study with qualitative factors such as the need to provide access to justice in remote court locations.

## Key Concepts

Two fundamental pieces of information are necessary to determine the Circuit Judge need for West Virginia's Circuit Courts. They are as follows:

- *Workload.* Workload is generated from two data elements: (1) the case weights, which are the average time spent on case processing as determined by the time study; and (2) the three-year average number of case filings. Multiplying these two values produces the workload estimate.
- *Circuit Judge Need Assessment.* The assessment of judicial resource needs is computed by dividing the expected workload in each circuit by the judge year value (the number of minutes available to a judge to work in a year). This calculation results in the number of Circuit Judges needed in each judicial circuit.

There are three phases to the study, and each phase builds upon the product of the previous phase. Figure 1 presents the calculations for the three phases. First, the data collected during the time study are analyzed to produce a workload value (defined above). Phase two applies the judge annual availability value to the workload value to determine the full time equivalent (FTE) demand for each Circuit Court location. Finally, in phase three, the Circuit Judge deficit need (or judge demand)

value is compared to the current Circuit Judge availability to generate the judge need for each judicial circuit. Each phase of the study is discussed in more detail as follows.

### Figure 1: Three Phases of Workload Assessment Studies

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**Phase I:** Case weights x Case filings = Workload

**Phase II:** Workload/Annual Availability = Judge Demand

**Phase III:** Judge Availability – Judge Demand = Judge Need

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## Phase I: Calculation of Judicial Workload

Phase I of the study involves the time study data collection, generation of case weights, and workload calculations. Each of these steps is discussed in detail.

## Time Study

A time study literally captures the amount of time judges spend on each case type category under investigation. The resulting case weights provide a measure of case complexity in terms of the average amount of judge time spent processing different types of cases, from the initial filing to case closure. The essential element in a time study is collecting time data on all judicial activities. For this study, judges and senior judges recorded all time spent on various case categories—over a nine-week period of time—on a daily time log and then entered their time into an internet-based data entry site. Judicial activities include time spent processing cases as well as non-case-related work. Non-case-related work is a category that included activities

that cannot be attributed to a specific case, such as personnel matters, professional reading and required administrative duties.

The reliability and validity of the data depends on both accurate data and a strong participation rate. To ensure that all participants had a clear understanding of the time-and-motion study and the data elements, NCSC consultants provided training to participants on how to record their time using the internet-based data entry site.<sup>15</sup> All Circuit Judges and senior judges were asked to participate in the time study. Data were collected during the nine-week period of September 1 through November 2, 2013. The participation rate for the time study was 100 percent for all sitting judges. This strong participation rate assures confidence in the accuracy and validity of the resulting case weights.

### **Data Elements**

NCSC consultants met with the Judges Weighted Caseload Study Advisory Committee on February 20, 2013 to determine the case type categories, case-related, and non-case-related activities to be included in the study. Selecting the number of case types and case events to be used in a weighted caseload study involves a trade-off

between having enough information to ensure the accuracy of the workload standards and minimizing the data collection burden on the participating judges. The more case types and events that are included in a weighted caseload study, the larger the data samples and the longer the data collection period ensure statistical reliability. More importantly, determining the appropriate types of cases to be weighted is particularly important because the case weights must eventually be attached to case filing data which is readily available. There were 25 original case type categories for which data were collected in this study, which are presented in Figure 2. The availability of uniform data and the nature and similarity of case processing procedures required collapsing some case type categories resulting in 18 final case types. (Discussion of how the final weights were developed is provided under the *Committee Decisions* heading later in this report; a detailed description of the case type categories is provided in Appendix A).

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<sup>15</sup> Training for judges was conducted during the annual Circuit Judges' Conference in Bridgeport in May 2013. Additionally, judges' secretaries were trained during a conference in June 2013. These sessions provided an overview of the time study, as well as instructions on how to record manually and to enter electronically all work-related time.



**Figure 2: Original Case Type Categories**

- Felony
- Misdemeanor
- Other Criminal / Miscellaneous Criminal
- Criminal Appeals Magistrate Appeals
- Delinquency
- Juvenile Status Offenses
- Child Abuse and Neglect
- General Civil
- Adoption
- Mental Health
- Guardianship
- Administrative Agency Appeals
- Magistrate Appeals
- Other Civil
- Family Protective Orders
- FPO Appeals
- Other Appeals from Family Court
- Original Jurisdiction from Family Court
- Overlap Cases
- Drug Court
- Truancy Court
- Mass Litigation
- Business Courts
- Other Problem Solving Courts
- Weddings

**Case-Related Activities**

Case-related activities are the essential functions that judges perform when handling court cases. As with the case types, the essential functions were categorized into manageable groups for the time study. Figure 3 identifies the case-related activity categories measured in the time study (a full explanation of the case-related activities appears in Appendix B).

**Figure 3: Case-Related Activities**

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- Pretrial In-court activities
  - Pretrial Out of Court Activities
  - Jury Trial Activities
  - Bench Trial Activities
  - Post-Trial In-Court Activities
  - Post-Trial Out of Court Activities
  - Community Based Supervision & Management
  - Case Related Administration
  - Drug Court Activities
  - All Other Problem Solving Court Activities
- 

**Non-Case-Related Activities**

Activities that do not relate to the processing of a specific case but must be done by a judge are defined as non-case-related activities. Figure 4 lists the non-case-related activities measured and a description of all non-case-related activities is provided in Appendix C.

**Figure 4: Non-Case-Related Activities**

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- Non-Case-Related Administration
  - Chief Judge Administrative duties
  - Receiving Judicial education and training
  - Providing Judicial education and training
  - Community activities, speaking engagements
  - Committees, other meetings, related time
  - Routine Committees meetings and related work
  - Specific court-related Committee work
  - Travel Time
  - Vacation, Sick or other leave
  - Holiday
  - Other
  - NCSC Project Time
- 

**Case Weight Calculation**

The case weights were generated by summing the time recorded for each case type category, then annualizing this time and dividing by the cases filed in calendar year 2012.

Workload values for each case type, or case weights, were multiplied by the three-year average (calendar years 2011, 2012 and 2013) of cases filed in each circuit to determine the need for judges. Averaging the annual case filings takes into account some fluctuations that might occur naturally.

The case weights by case type category provide a picture of current case processing practice in West Virginia’s Circuit Courts. For example, data reported by judges in the Circuit Courts indicate that approximately 1,885,792 case-related minutes are expended on 7,604 felony cases in one year’s time. To develop the case weight, the NCSC consultants divided the time in minutes by the number of felony cases filed in 2012 (1,885,792 minutes / 7,604 criminal felony case filings in 2012). The resultant case weight of 248 minutes means that, on average, processing a criminal -felony case requires 248 minutes (just over four hours) of judicial time. Of course, some cases in this category will require *more* time, while others will require *less*, but the average time is used to determine *typical* workload across all filings in this category. The judicial case weights for all West Virginia case types are shown in Figure 5.

**Figure 5: West Virginia Circuit Judge Case Weights by Case Type<sup>16</sup>**

Case Type	Case Weights in Minutes
Felony	248
Misdemeanor (less truancy)	65
Other Criminal/Miscellaneous Criminal	40
Criminal Appeals/Magistrate Appeals	56
Delinquency	77
Status Offenses (less truancy)	83
Child Abuse and Neglect (less truancy)	246
General Civil	107
Adoption	45
Guardianship	44
Administrative Agency Appeals	92
Magistrate Appeals	56
Other Civil	49
Domestic Matters (all family cases)	65
Overlap Cases	24
Adult Drug Courts	374
Specialty Courts (all types)	374
Weddings	11

**Committee Decisions**

The case weights were reviewed by the Weighted Caseload Study Advisory Committee, in light of their expert knowledge, to determine if any qualitative adjustments were needed.

After substantial discussion, the Committee decided not to make any adjustments to the case weights; however, several decisions were made in an attempt to streamline the model and reduce the number of original case types.

The following original case types were combined:

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<sup>16</sup> Specialty Courts include Juvenile Drug Court, Mental Health Court, Veterans Court and Truancy Court. Mass Litigation Panel and Business Court case processing time was analyzed separately from the Specialty Courts case type.

- All specialty courts were combined to reflect one case weight;
- Family court cases were combined under “domestic matters;”
- Mental health case time was removed from case-specific work and counted as Chief Judge time;
- Juvenile status offenses and truancy cases required realignment. All truancy cases were included under the specialty court case type.

The committee also provided the following comments regarding these changes:

*Truancy:* Truancy cases are filed in an inconsistent manner across the state. Truancy cases are currently counted under a range of case types, including: misdemeanor, abuse and neglect, status offenses and truancy court. To accommodate this inconsistency, Administrative Office of the Courts analysts identified and isolated all truancy cases filed in the state and provided that number to NCSC analysts. The time associated with truancy cases during the time study was moved to the truancy court case type category; and that time was ultimately merged with all specialty court time.

Therefore, for the purposes of this study, all charges associated with a truancy petition were subtracted from their original case type category and are included in the specialty court case type.

*Mental Health.* In this study, the time associated with mental health cases only reflects the time that Chief Judges spend reviewing the orders prior to their acceptance. Given that this work is only conducted by Chief Judges, all time associated with mental health cases was moved to the Chief Judge administrative time category.

*Mass Litigation Panel and Business Court.* Although time was captured for these two court types during the time study, members of the

Mass Litigation Panel and Business Court concluded that the minutes captured were underrepresented. To derive information that more accurately captured a year’s worth of time, judges on both panels were surveyed to obtain a more accurate amount of time dedicated to these two statewide assignments. Business Court judges were asked to review their records and compute the annual number of minutes dedicated to Business Court work, including travel, and Mass Litigation Panel judges were asked to provide a record of the most recent six months of activity in that venue (this value which was doubled to represent an entire year). The survey results determined that, collectively, judges annually spend 108,189 minutes on the Mass Litigation Panel, and judges on the Business Court collectively spend 73,446 minutes annually in that endeavor.

### **Workload Calculation**

Applying the case weights to a three-year average of annual filings from calendar years 2011, 2012 and 2013, along with the non-case-related and travel requirements produces the overall Circuit Judge need. The workload value represents the total number of minutes, on an annual basis, of work based upon baseline data (collected during the time study) and current practices. The challenge is to provide judges with reasonably sufficient time to process each case type and provide citizens with access to justice effectively and efficiently. The judicial workload in terms of aggregate minutes of work for the state of West Virginia is provided in Figure 6. The model indicates that are 7,738,531 minutes needed to process the work of the circuit court, when using the indicated three-year filing average. Appendix D provides the statewide judicial need model.

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**Figure 6: Statewide Workload: West Virginia Circuit Judges<sup>17</sup>**  
**(Based on the Average Filings in Calendar Years 2011, 2012 and 2013)**

Case Type	Case Weights in Minutes	Statewide 3-Year Average Filings	Statewide Workload per Case Type in Minutes
Felony	248	7,644	1,895,712
Misdemeanor (less truancy)	65	969	62,985
Other Criminal/Misc. Criminal	40	8,244	329,760
Criminal Appeals/Magistrate Appeals	56	406	22,736
Delinquency	77	2,804	215,908
Status Offenses (less truancy)	83	1,084	89,972
Child Abuse and Neglect (less truancy)	246	3,247	798,762
General Civil	107	15,988	1,710,716
Adoption	45	1,178	53,010
Guardianship	44	855	37,620
Administrative Agency Appeals	92	233	21,436
Magistrate Appeals	56	618	34,608
Other Civil	49	4,069	199,381
Domestic Matters (all family cases)	65	1,173	76,245
Overlap Cases	24	1,059	25,416
Adult Drug Court	374	1,386	518,364
Specialty Courts (all types)	374	2,966	1,109,284
Weddings	11	1,643	18,073
<b>Total Cases Filed</b>		<b>55,566</b>	
Mass Litigation (total annual minutes)			108,189
Business Court (total annual minutes)			73,446
Chief Judge time (52 minutes per day)			336,908
Case weights x filings + CJ time			7,738,531

<sup>17</sup> Mass Litigation Panel and Business Court case processing time was analyzed independently from the other Specialty Courts.

## Phase II: Determination of FTE Demand

### Circuit Judge Demand

The second phase in the generation of a workload model involves the calculation of the FTE demand to process the workload of the circuit courts. Determination of the FTE demand first requires the definition of the judge year value.

### Circuit Judge Year Value

The judge year value (applied to circuit court judges) is the amount of time a judge is expected to work annually. It is calculated by determining how many days in the year judges are available for work, and how many hours are available in the average day. The product of the judge year and day is the judge year value, or the average amount of time a judge is expected to work. The first step in the calculation is to determine the judge year by deducting from 365 the number of days *not* devoted to work. The second step is to make a distinction between case-related and non-case-related times since judges have many varied responsibilities during the day. To determine the number of average available hours per year requires the determination of a reasonable average of available work hours per day. Again, the NCSC team consulted the Weighted Caseload Study Advisory Committee to develop these estimates. The eight-hour workday used in this study exceeds the average

for studies of this type.<sup>18</sup> Although judges are available and are expected to work at any time, this standard recognizes the constraints on the start and end times of court proceedings and the limitations on resources required from court staff and other agencies.

**Figure 7: Average Judge Year<sup>19</sup>**

Category	Days	Minutes
Total days available	365	175,200
<i>Less</i>		
Weekends	-104	49,920
Sick leave	-10	4,800
Vacation leave	-15	7,200
Holidays	-13	6,240
Training, conference, etc.	-14	6,720
Total work days available	209	100,320
Subtract non-case-related minutes (52 per day)	22.64	10,868
Subtract annual average travel per judge	1.86	895
Case-specific time available	184.49	88,557

<sup>18</sup> Other states who have conducted studies of this type have used an eight-hour day; however, the mean workday in the ten most recent judge weighted caseload studies conducted by the NCSC is 7.68 hours; the median workday is 7.5 hours.

<sup>19</sup> The annual average travel time per judge (895 minutes) is utilized in calculating the 88,557 case-related minutes available as an average figure of available judge time. The Circuit Judge need model is based on the actual judge travel time per circuit, which varies by circuit. See Appendix E for circuit-specific travel and circuit-specific case-related minutes.

Travel was calculated using travel reimbursement records from the Division of Finance, specifically fiscal year 2013 yearly reimbursement paid to each Circuit Judge. Reimbursement for attending national conferences is not included in the calculations. To compute the reimbursed amount for each circuit, the miles were extracted at \$0.50 per mile. The number of minutes traveled was calculated using the number of miles traveled per circuit, applied to an average speed of 40 miles per hour. The calculations shown in Appendix E reflect the minutes per judge per day for travel (meetings and the two annual conferences). Travel associated with the statewide projects of Business Court and Mass Litigation Panel is included in the model as a statewide judge need.

The average judge year in West Virginia consists of 100,320 minutes (209 days x 8 hours x 60 minutes as shown in Figure 7.

Data recorded by judges during the time study period indicate that they spend an average of 52 minutes, per day on non-case-specific activities (Chief Judges spent an additional 52 minutes per day on activities directly related to their role as Chief Judge). The remainder of the eight-hour workday is dedicated to case-related matters, including judicial travel time. Figure 8 presents calculations of the judge day.

**Figure 8: Calculating the Judge Day<sup>20</sup>**

Time per Day	Hours	Minutes
Working time per day	8.00	480
Non-case-related time	.87	52
Daily case-related time	7.13	428
Annual case-related time	1,490.87	89,452

Multiplying the judge year value (209 days) by the number of hours in a day available for case-related work (7.13 hours per day) provides the amount of time available per year for Circuit Judges in West Virginia to hear and process cases (89,452 minutes).

In the need model, judicial circuit-specific travel time is also deducted from the case-related

availability. The average daily travel time for Circuit Judges ranges from a low of 1 minute per day per judge to a high of 56 minutes per day. Travel was calculated using travel reimbursement records from the Division of Finance, specifically fiscal year 2013 annual reimbursement paid to each judge. Reimbursement for national attending conferences is not included in the calculations. To determine the reimbursed amount for each circuit, the miles were extracted at the rate of \$.50 per mile. The number of minutes devoted to travel was calculated by multiplying the number of miles traveled per circuit, by an average speed of 40 miles per hour traveled. The calculations reflect the minutes per judge per day for travel (meetings and the two annual conferences). Travel associated with only two statewide projects, Business Court and Mass Litigation Panel, is included in the model as a statewide FTE need.

For example, Kanawha County (7<sup>th</sup> Circuit) has 7 judges so they receive “credit” for 7 minutes per day or 1,463 minutes annually (7 minutes x 209 days), Wayne County (24<sup>th</sup> Circuit) has 2 judges, so they receive “credit” for 2 minutes per day or 418 minutes annually (2 minutes x 209 days).

The average annual travel time for Circuit Judges is shown in Figure 9.

<sup>20</sup> Travel time is not depicted in the judge day figure presented in Figure 8.

**Figure 9: Average Annual Travel Minutes for Circuit Judges**

Circuit	Allocated Judges per Circuit	Annual Minutes Traveled per Circuit Judge	Annual Minutes Traveled per Circuit
1	4	914	3,654
2	2	1,038	2,076
3	1	9,889	9,889
4	3	485	1,456
5	2	5,313	10,626
6	4	209	836
7	2	209	418
8	2	209	418
9	3	209	627
10	3	209	627
11	2	2,763	5,526
12	2	209	418
13	7	209	1,463
14	2	7,813	15,626
15	3	209	627
16	2	209	418
17	3	209	627
18	1	209	209
19	1	2,913	2,913
20	1	209	209
21	2	1,364	2,727
22	2	6,338	12,675
23	5	1,613	8,067
24	2	209	418
25	2	863	1,726
26	1	6,115	6,115
27	1	209	209
28	1	209	209
29	2	209	418
30	1	209	209
31	1	11,664	11,664

The judge year value estimates a reasonable amount of time a Circuit Court Judge should work in a year. This value is used to compute case weights and expected workload even though many judges in West Virginia may work more than 209 days per year and/or more than eight hours per day.

### Adult Drug Court Demand

West Virginia's first Adult Drug Court opened in 2005 under the leadership of Judge Martin J. Gaughan in Brooke, Hancock, Ohio, Marshall and Wetzel Counties. Recognizing that Adult Drug Courts have the potential to reduce repeat offenses and break the cycle of substance abuse, Supreme Court Justice Brent D. Benjamin encouraged interested judges to begin drug courts in their circuits. Mercer County opened its Adult Drug Court in 2006, and Wood and Wirt Counties opened in 2007. Also in 2007, Cabell and Wayne Counties reestablished the Juvenile Drug Court. As of March 2014, seventeen (17) Adult Drug Court programs were operational.<sup>21</sup>

Impressed with the success of the Adult Drug Court programs, the West Virginia Legislature in 2013

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<sup>21</sup> The seventeen Adult Drug Court programs serve twenty-four (24) counties, including: Hancock/Brooke/Ohio (2005), Marshall (2005), Wetzel (2005), Tyler (2009), Wood/Pleasants/Jackson/Wirt/Ritchie/Doddridge (2007), Kanawha (2009), Cabell (2009), Wayne (2011), Lincoln/ Boone (2008), Logan (2008), Mercer/Summers/Monroe/Wyoming/McDowell (2006), Greenbrier/ Pocahontas (2009), Randolph (2012), Pendleton/Hardy/Hampshire (2014), Preston (2009), Monongalia (2009), Marion (2013), Mason (2013) and Putnam (2013) Counties.

Also as of March 2014, fifteen (15) Juvenile Drug Court programs were operational.

required all judicial circuits to participate in an Adult Drug Court by circuit or region by July 1, 2016.<sup>22</sup> Although each Adult Drug Court participant is required to spend at least one year under Adult Drug Court Supervision, the average participation duration in West Virginia is 18 months. The impact of the mandated additional Adult Drug Courts should be considered as part of the anticipated workload of the circuits establishing new Adult Drug Courts.

Figure 10 shows the projected impact in minutes from the newly mandated Adult Drug Courts. This estimate is based on the ratio of the total number of felony criminal cases to Adult Drug Court referrals in circuits having Adult Drug Courts. The median ratio is 17.5%. The median ratio was applied to the number of criminal cases in circuits not having Adult Drug Courts in order to estimate the number of projected referrals in the new Adult Drug Courts. The Adult Drug Court case weight, calculated by the NCSC, was then applied to get the projected impact in minutes of the additional Adult Drug Courts.

**Figure 10: Annual Minutes Associated with Current and Projected Adult Drug Court Referrals**

Case Type	Case Weight in Minutes	Adult Drug Court Referrals (Actual and Projected)	Statewide Adult Drug Court Workload: Actual and Projected
2011-2013 average Adult Drug Court referrals	374	503	188,122
Projected Adult Drug Court referrals	374	883	330,242
Total (actual and projected) Adult Drug Court referrals	374	1,386	518,364

Figure 11 shows the anticipated Circuit Judge deficit need with the mandated Adult Drug Courts based on the ratio of the total number of criminal cases to Adult Drug Court referrals in circuits having Adult Drug Courts as described above.

**Figure 11: West Virginia Circuit Judge Deficit Need**

Judge Need Based on 2013 Judge Allocations	
Current number of Circuit Judges	70.00
Judge deficit need	89.38
Total Additional Judge Need	19.38

### Case-Related Workload Requirements for Circuit Judges

Once the judge year value and case weights have been established, the calculation of the judicial resources needed to manage the workload of the West Virginia Circuit Courts is undertaken. Judicial case-related demand is calculated by dividing the workload value (the annual number of minutes of work required given the number of cases filed and the

<sup>22</sup> WV Code §62-15-4(a) states: “. . . Provided: That all judicial circuits must be participating in a drug court or regional drug court program in accordance with the provisions of this article by July 1, 2016.”



individual case weights) by the year value (the year value is 89,452 minutes per year minus circuit-specific travel time). The Chief Judge time of 52 minutes per day (10,868 minutes per year) is added as case-related time so that these administrative duties are individually accounted for in each circuit. Non-case-related time (also 52 minutes per day) is deducted from available time to handle case related work. These computations result in the number of full time equivalent judges (FTEs) needed to process court cases in the West Virginia Circuit Courts. Figure 12 displays the steps taken to compute Circuit Judge demand.

#### Figure 12: Calculation of Total Needs

- 
- Step 1** *For Each Case Type:  
Case Weight X Case Filings = Workload*
- Step 2** *For Each Case Type:  
Add individual case type workloads to obtain the total workload for each circuit (total minutes of work expected); add Chief Judge time to case related work.*
- Step 3** *Divide the total workload by the judge year value (total non-case-related minutes) to obtain judge resource needs.*
- Step 4** *Sum the FTE need.*
- 

The case-related workload for all Circuit Judges including Chief Judge time (52 minutes per day) in West Virginia is 7,738,531 minutes annually. When accounting for circuit-specific travel and non-case-related work (also 52 minutes per day) are subtracted from the judge annual availability (209 days per year, 8 hours per day).

As described previously, a separate computation was included to determine the need for

Circuit Judges who serve on the Mass Litigation Panel and the Business Court. The expected number of minutes that all judges will spend on these two panels is included as a lump sum of working minutes in the model (108,189 minutes on the Mass Litigation Panel and 73,446 minutes on Business Court Cases.) When these values are inserted into the model as separate work value requirements the statewide need is for 2.35 additional Circuit Judges. When all of the elements of the time study model are combined, a full picture of judge need emerges. Statewide, a total of 89 judges are needed to process the circuit court cases; there are currently 70 Circuit Court Judges allocated statewide, indicating a deficit of 19 judges.

Figures 11 and 13 present the *overall* statewide judge FTE need, accounting for only those circuits showing a positive need in judicial staffing (see Appendix E for the judge need model by circuit).

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**Figure 13: Current Statewide Circuit Judge Need with Statewide Implementation of Adult Drug Court<sup>23</sup>**

Case Type	Case Weights in Minutes	Statewide 3-Year Average Filings	Statewide Workload per Case Type in Minutes & Statewide Judge Deficit Need
Felony	248	7,644	1,895,712
Misdemeanor (less truancy)	65	969	62,985
Other Criminal/Miscellaneous Criminal	40	8,244	329,760
Criminal Appeals/Magistrate Appeals	56	406	22,736
Delinquency	77	2,804	215,908
Status Offenses (less truancy)	83	1,084	89,972
Child Abuse and Neglect (less truancy)	246	3,247	798,762
General Civil	107	15,988	1,710,716
Adoption	45	1,178	53,010
Guardianship	44	855	37,620
Administrative Agency Appeals	92	233	21,436
Magistrate Appeals	56	618	34,608
Other Civil	49	4,069	199,381
Domestic Matters (all family cases)	65	1,173	76,245
Overlap Cases	24	1,059	25,416
Adult Drug Court	374	1,386	518,364
Specialty Courts (all types)	374	2,966	1,109,284
Weddings	11	1,643	18,073
<b>Total Cases Filed</b>		<b>55,566</b>	
Specialty Courts – Mass Litigation Board (annual minutes)			108,189
Specialty Courts – Business Court (annual minutes)			73,446
Chief Judge time (52 minutes per day x 31 judges)			336,908
Annual Workload: Case weights x filings + CJ time			7,738,531
Judge Annual Availability			100,320
- Annual non-case-related time (52 minutes per day)			10,868
- Average annual travel time per judge (minutes)			895
= Availability for case-related work			88,557
Current Circuit Judge Allocation			70.00
Judge Deficit Need			19.38

<sup>23</sup> The statewide annual travel time is presented in Figure 13 only to illustrate the consideration of travel time in the judge need calculation. The statewide judge need is calculated from the sum of each circuit's judge need, which is calculated individually using circuit-specific travel time (see Appendix E). Therefore, the statewide annual average travel time cannot be used to calculate the statewide judge need.

### Phase III: Determination of FTE Need

The final phase in the generation of a needs assessment model involves the calculation of the Circuit Judge need for each judicial circuit. During this phase, the Circuit Judge demand value is compared to the current number of Circuit Judges in each judicial circuit; the need shown represents only the positive need for Circuit Judges (referred to as "Judge Deficit Need"). Figure 14 presents the Circuit Judge deficit need by judicial circuit.

To determine the level at which judges in under-staffed circuits are overworked, the *workload per judge* was calculated. This value represents the level at which judges in each circuit are currently working, based on the expected workload produced in the need model. For example, in the 10<sup>th</sup> Circuit, there are currently three judges allocated, and the model indicates a need for 5.21 Circuit Judges. Given the current staffing and the projected need, each judge in this circuit is working at the rate of 1.74 judges. This figure can be used to determine the most urgent staffing needs across circuits; Figure 15 presents the Circuit Judge deficit need by judicial circuit rank ordered by workload per judge.

Note that the need models presented in this report are based solely on the weighted caseload methodology and do *not* take into account the local policies or practices regarding access to justice issues or other qualitative factors that could impact staffing need levels.

**Figure 14: Circuit Judge Deficit Need by Circuit<sup>24</sup>**

Circuit	Allocated Judges per Circuit	Judge Deficit Need	Current Workload per Judge
1	4	0.00	0.94
2	2	0.30	1.15
3	1	0.12	1.12
4	3	0.01	1.00
5	2	1.52	1.76
6	4	0.64	1.16
7	2	0.31	1.15
8	2	0.00	0.84
9	3	1.30	1.43
10	3	2.21	1.74
11	2	0.40	1.20
12	2	0.00	0.97
13	7	2.36	1.34
14	2	0.31	1.15
15	3	0.00	0.95
16	2	0.40	1.20
17	3	0.56	1.19
18	1	0.08	1.08
19	1	0.59	1.59
20	1	0.17	1.17
21	2	0.00	0.90
22	2	0.21	1.11
23	5	2.36	1.47
24	2	0.38	1.19
25	2	0.69	1.35
26	1	0.81	1.81
27	1	0.22	1.22
28	1	0.17	1.17
29	2	0.00	0.96
30	1	0.46	1.46
31	1	0.45	1.45
Mass Lit/ Bus. Court	0	2.35	NA
Total	70	19.38	NA

<sup>24</sup> The judge deficit need represents only the positive Circuit Judge need for each judicial circuit.

**Figure 15: Circuit Judge Deficit Need by Circuit in Rank Order of Workload per Judge<sup>25</sup>**

Circuit	Judges per Circuit	Judge Deficit Need	Current Workload per Judge
26	1	0.81	1.81
5	2	1.52	1.76
10	3	2.21	1.74
19	1	0.59	1.59
23	5	2.36	1.47
30	1	0.46	1.46
31	1	0.45	1.45
9	3	1.30	1.43
25	2	0.69	1.35
13	7	2.36	1.34
27	1	0.22	1.22
11	2	0.40	1.20
16	2	0.40	1.20
17	3	0.56	1.19
24	2	0.38	1.19
20	1	0.17	1.17
28	1	0.17	1.17
6	4	0.64	1.16
2	2	0.30	1.15
7	2	0.31	1.15
14	2	0.31	1.15
3	1	0.12	1.12
22	2	0.21	1.11
18	1	0.08	1.08
4	3	0.01	1.00
12	2	0.00	0.97
29	2	0.00	0.96
15	3	0.00	0.95
1	4	0.00	0.94
21	2	0.00	0.90
8	2	0.00	0.84

## Keeping the Model Current

One of the advantages of the West Virginia Judge Workload Model is the ease with which it can be maintained. Unless extensive changes are made in the operation of the circuit courts, such as changes associated with electronic filing and paper-on-demand systems that require new business processes, updated case filings can be entered into the equation to determine Circuit Judge need as the caseload changes. The West Virginia Administrative Office of the Courts should be aware of changes in legislation, court rules, legal practice, technology, and administrative factors, which may impact court operations and require updating the model.

## Conclusion

The Judge Needs Assessment Model based on the West Virginia Circuit Judge Workload Study shows a deficit need for a total of 89 judges. When considering only those circuits that are under-staffed 19 additional Circuit Judges are needed.

These case weights are grounded in current practice, as measured by the time study. Although the case weights developed during the course of this study should be accurate for several years, periodic updating is necessary to ensure that the standards continue to represent accurately the West Virginia Circuit Judge workload.

<sup>25</sup> The judge deficit need represents only the positive Circuit Judge need for each judicial circuit.

## Appendices

## Appendix A: West Virginia Circuit Judge Case Type Detail<sup>26</sup>

1. **FELONY:** All criminal cases involving offenses punishable by confinement in the penitentiary as provided in Section §61-11-1. Each indictment or information against each individual is considered a case. Be sure **NOT** to include bound overs, cases with a “B” case number, on statistical reports. Bound overs should only be counted when they officially become felony cases and are given an “F” case number. For a complete explanation of bound overs, refer to the Circuit Clerk Manual.
2. **MISDEMEANOR:** All criminal cases involving offenses not punishable by confinement in the penitentiary as provided in §61-11-1. Each information against each individual is considered a case.
3. **OTHER CRIMINAL/MISCELLANEOUS CRIMINAL:** All petitions that are ancillary to criminal proceedings in magistrate court, including petitions for probation or other alternative sentences, bond reduction, or psychological exams. Also include criminal cases on appeal from municipal court. This designation is also assigned to fugitive-from-justice cases. Do **not** include writs of habeas corpus in this category; report these cases as civil. This category includes search warrants/wire tapes, application of outside witness, outside ex parte, in re grand jury procedure.
4. **CRIMINAL APPEALS/MAGISTRATE APPEALS:** All criminal cases on appeal from magistrate court.
5. **DELINQUENCY:** All matters involving juveniles who have committed an act which would be a crime under state law or municipal ordinance if committed by an adult (§49-1-4(8)). Each juvenile named on a petition is considered a case.
6. **JUVENILE STATUS OFFENSE:** All matters involving juveniles who have not committed an act which would be considered a crime if committed by an adult but rather are alleged to be incorrigible, habitually truant, runaways, or in violation of state statutes or local ordinances regarding use of alcoholic beverages by minors (§49-1-4(14)).
7. **CHILD ABUSE AND NEGLECT:** All proceedings to determine if a child is neglected or abused under Chapter 49, Article 6.
8. **GENERAL CIVIL:** This category includes all civil case types *except those specifically described below*. It also includes foreign judgments filed with the circuit clerk under the provisions of the “Uniform Enforcement of Foreign Judgments Act” (§55-14-1 et seq.) as well as removals from magistrate court and all extraordinary writs, including habeas corpus. Please use the additional letter designation for the following civil cases:
  - 8a. **ADOPTION:** All proceedings for adoption under Chapter 48, Article 4.
  - 8b. **MENTAL HEALTH:** All actions under §27-5-2(a) (4) involving the involuntary commitment and maintenance of persons alleged to be mentally ill or mentally retarded.

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<sup>26</sup> Appendices A, B and C were the instructions provided to the Circuit Judges to complete the time study.

- 8c. GUARDIANSHIP:** All actions under §44A-1-1 et seq. relating to the appointment of guardians and conservators for persons in need of protection. *Note: In mental health and guardianship cases, include all cases whether handled by a mental hygiene commissioner or a judge. Cases should be counted on the report of the judge with review authority on the case.*
- 8d. ADMINISTRATIVE AGENCY APPEALS:** All actions under §29A-5-4 involving judicial review of contested cases from administrative agencies.
- 8e. MAGISTRATE APPEALS:** All civil cases on appeal from magistrate court.
- 9. OTHER CIVIL:** All other miscellaneous civil matters, except petitions that are ancillary to criminal proceedings in magistrate court, which receive a P case number designation, do not involve a monetary judgment, generally require only one hearing, and usually are presented by petition rather than complaint. Examples include petitions for a change of name, expungements, or any other miscellaneous petition which meets the criteria above. Do **not** include petitions from magistrate court for bond reduction, psychological exam, or probation or other alternative sentence such as work release or home confinement. Count a petition for an injunction only if it is the sole subject of a case, not if it is only one step in the proceedings of an ongoing case. Do **not** include administrative orders issued by the court.
- 10. FAMILY PROTECTIVE ORDERS: DOMESTIC VIOLENCE:** The case transferred to family court for a final hearing as a result of the granting of a protective order by magistrate court. (WV Code §48-27-101).
- 11. FPO APPEALS: DOMESTIC VIOLENCE APPEALS:** The appeal to circuit court resulting from the denial of an emergency protective order by magistrate court (WV Code §48-27-510(a)) or the appeal to circuit court resulting from the appeal of the final order from a domestic violence case originating in Family Court.
- Note: DV Appeals in Circuit Court Statistics may be either the appeal to Circuit Court resulting from the denial of an emergency protective order by magistrate court (WV Code §48-27-510(a)) - dual jurisdiction with Family Court) which is represented as a count of cases in the Circuit Caseload reports; or could be the appeal of the final order from a domestic violence case originating in Family Court which is accounted for on the Domestic Appeals Report.*
- 12. OTHER APPEALS FROM FAMILY COURT:** Any filing in Circuit Court appealing a judgment from a case originating in Family Court, except domestic violence. Original case types in family court with appeals resulting in this category would include: Divorce with children; Divorce without children; Other Domestic Relations; Child Custody without Divorce; Child Support Only; Paternity; Grandparent Visitation; Annulment/Separate Maintenance; and Other.
- 13. ORIGINAL JURISDICTION FROM FAMILY COURT:** All actions for divorce, annulment, or separate maintenance, whether the matter is contested or uncontested. This remains on the circuit report for those rare cases where a Circuit Judge is assigned to hear this type of case. **OTHER DOMESTIC RELATIONS:** All paternity, UIFSA, adult neglect and abuse petitions, and other domestic relations cases. Do **not** include modifications or enforcements or original orders. Do **not** include registrations of foreign (out-of-state)

orders on child custody or support under the provisions of (§48-10-16 or (§48B-6-602). This remains on the circuit report for those rare cases where a Circuit Judge is assigned to hear this type of case.

**14. OVERLAP CASES:**

**JUVENILE ABUSE AND NEGLECT ADMINISTRATIVE PROCEEDINGS (JAA):** Proceedings instituted by circuit court administrative order directing the DHHR to investigate and report on suspected child abuse and neglect.

**JUVENILE ABUSE AND NEGLECT MANDAMUS PROCEEDINGS (JAM):** Cases instituted by circuit court relating to determinations whether DHHR has a mandatory duty to file an abuse/neglect petition.

**CIRCUIT INFANT GUARDIANSHIP (CIG):** Minor Guardianship cases filed in circuit court.

**CIRCUIT INFANT GUARDIANSHIP REMOVED (CIGR):** Minor Guardianship cases originally filed in family court and removed to circuit court.

**15. DRUG COURT:** This category includes all meetings with drug court clients or staff, including bench time and case staffing time.

**16. ALL OTHER PROBLEM-SOLVING COURTS:** This category includes all meetings with “other” treatment court clients or staff, including bench time and case staffing time.

**17. TRUANCY COURT:** This category includes all meetings with truancy court clients or staff, including bench time and case staffing time.

**18. WEDDINGS**



## Appendix B: West Virginia Circuit Judge Case-Related Activities – Functional Task Descriptions

- 1. PRE-TRIAL IN-COURT ACTIVITIES:** This category will include all hearings preliminary to conducting a trial, adjudicatory hearing, or grand jury proceeding. It includes hearings at which evidence is taken as well as hearings at which only legal arguments or arguments on agreed-upon facts are considered and it is not necessary that a record be taken in order to be considered as an in-court activity. A hearing would normally be considered as any proceeding in the courtroom and would include in-camera inspections. It would not be necessary that the hearing be open to the public. *Examples in criminal cases* could include preliminary hearings/examinations, motions to suppress, or any other type of motion considered preparatory to trial. In addition, this category includes hearings in which pleas or admissions are taken. *Examples in civil cases* include hearings relating to temporary restraining orders, discovery issues and formal pretrial conferences. All case management (often called scheduling) conferences (whether done with or without a record in court) are included in this category. Different terms are used to describe pre-trial hearings in other case types such as juvenile delinquency, but this category is designed to include any hearing, including *ex parte* custody hearings, in a matter before the formal adjudicatory hearing.
- 2. PRE-TRIAL OUT-OF-COURT ACTIVITIES:** This category includes all activities conducted by a judge in chambers preliminary to conducting of a trial, adjudicatory hearing, or grand jury proceeding. It includes review of motions or memoranda, research and writing, reviewing files, signing orders, and settlement conferences, excepting a hearing to memorialize an agreement reached.
- 3. JURY TRIAL ACTIVITIES:** This category includes all matters that are conducted during a jury trial, including jury selection, through entry of verdict or through entry of plea, settlement or dismissal prior to verdict. All time spent preparing jury instructions, including time spent in the office prior to commencement of a jury trial, should be included. If the judge is involved with matters relating to the same case during jury deliberation periods, that time should be recorded in this category. However, if during deliberations, the judge is involved in activities relating to other cases or court administration, the time should be recorded in another appropriate category.
- 4. BENCH TRIAL ACTIVITIES:** This category includes all matters, whether in-or out-of-court, incident to the **conduct of a trial or adjudicatory hearing in which the judge is the trier of fact and includes hearings to memorialize an agreement.**
- 5. POST-TRIAL IN-COURT ACTIVITIES:** **This category includes all hearings conducted subsequent to completion** of a bench or jury trial or adjudicatory proceeding. *Examples include, but are not be limited to* sentencing or disposition hearings, post-judgment motions to set aside, reconsider or for new trial, extradition and foreign judgment hearings, post-judgment contempt, annual or other periodic reviews, permanency reviews, motions to modify support, child residency/custody, or parenting time/visitation, hearings in-aid-of-execution, etc.
- 6. POST-TRIAL OUT-OF-COURT ACTIVITIES:** This category includes all activities conducted by a judge subsequent to the completion of a bench or jury trial or adjudicatory proceeding. It includes review of motions or memoranda, research and writing, review of files, signing orders, and preparing findings of fact and conclusions of law.

7. **COMMUNITY-BASED SUPERVISION & MANAGEMENT:** This category includes all activities associated with criminal cases that are on supervision, such as probation violations, revocations or modification.
8. **CASE RELATED ADMINISTRATION:** This category includes most other activities not included in one of the previous categories that are related to administration of a judge's cases, and are specific to an individual case. These activities could include scheduling of dockets, conferences with clerks or assistants, providing instructions to staff or similar routine matters.
9. **DRUG COURT ACTIVITIES:** This category is specifically limited to Adult and Juvenile Drug Court activities. This category includes all meetings with treatment or problem-solving court clients or staff, including bench time and case staffing time.
10. **ALL OTHER PROBLEM SOLVING COURTS:** This category is specifically limited to all problem-solving court activities other than Drug Court. This category includes all meetings with treatment or problem-solving court clients or staff, including bench time and case staffing time.

## Appendix C: West Virginia Circuit Judge Non-Case-Related Activities – Functional Task Descriptions

1. **NON-CASE-RELATED ADMINISTRATION:** Includes work directly related to the *administration or operation* of the court.
  - Personnel/Management issues
  - Case assignment/Calendaring
  - Internal staff meeting
  - Budget
2. **CHIEF JUDGE ADMINISTRATIVE DUTIES:** Includes Chief Judge work directly related to the administration and operation of the court.
3. **RECEIVING JUDICIAL EDUCATION AND TRAINING:** Includes being the recipient of continuing education and professional development, and out-of-state education programs permitted by the state.
4. **PROVIDING JUDICIAL EDUCATION AND TRAINING:** Includes preparing for and delivering continuing education and professional development presentations, and out-of-state education programs permitted by the state.
5. **COMMUNITY ACTIVITIES, SPEAKING ENGAGEMENT:** Includes time spent on community and civic activities in your role as a judge, e.g., speaking at a local bar association luncheon, attendance at rotary functions, or Law Day at the local high school.
6. **ROUTINE COMMITTEE MEETINGS AND RELATED WORK:** Includes all routine committee meeting time, such as en banc meetings and any committee-related work.
7. **SPECIFIC COURT-RELATED COMMITTEE WORK:** Includes but is not limited to *Mass Litigation Panel, Business Court, Court Improvement Board, Fatality Review Committee, Adjudicated Juvenile Rehabilitation Committee, Committee for the Study of Residential Placement of Children, Courthouse Facilities Committee, Court Security Committee, Compliance Committee on Prisons and Jails, Judicial Investigation Commission, Judicial Hearing Board, and other committee work.*
8. **TRAVEL TIME:** Includes all work-related travel; DOES NOT INCLUDE your normal commuting time to and from home to your normal assignment.
9. **VACATION, SICK OR OTHER LEAVE:** Includes any non-recognized holiday/military leave time. DO NOT record statewide, recognized holidays as they have already been accounted for in the determination of the Judge Year Value.
10. **HOLIDAY:** If you take a holiday and **do not work**, please record 8 hours of time in this category. If you **do work** this day (in chambers or at home, please record your work time in the correct categories).
11. **OTHER:** Includes all other work-related, but non-case-related tasks that do not fit in the above categories.
12. **NCSC TIME STUDY DATA REPORTING** - includes all time associated with recording time for the time study.

## Appendix D: Current Statewide West Virginia Circuit Judge Need with Statewide Implementation of Adult Drug Court<sup>27</sup>

Case Type	Case Weights in Minutes	Statewide 3-Year Average Filings	Statewide Workload per Case Type in Minutes & Statewide Judge Deficit Need
Felony	248	7,644	1,895,712
Misdemeanor (less truancy)	65	969	62,985
Other Criminal/Miscellaneous Criminal	40	8,244	329,760
Criminal Appeals/Magistrate Appeals	56	406	22,736
Delinquency	77	2,804	215,908
Status Offenses (less truancy)	83	1,084	89,972
Child Abuse and Neglect (less truancy)	246	3,247	798,762
General Civil	107	15,988	1,710,716
Adoption	45	1,178	53,010
Guardianship	44	855	37,620
Administrative Agency Appeals	92	233	21,436
Magistrate Appeals	56	618	34,608
Other Civil	49	4,069	199,381
Domestic Matters (all family cases)	65	1,173	76,245
Overlap Cases	24	1,059	25,416
Adult Drug Court	374	1,386	518,364
Specialty Courts (all types)	374	2,966	1,109,284
Weddings	11	1,643	18,073
<b>Total Cases Filed</b>		<b>55,566</b>	
Specialty Courts – Mass Litigation Board (annual minutes)			108,189
Specialty Courts – Business Court (annual minutes)			73,446
Chief Judge time (52 minutes per day x 31 judges)			336,908
Annual Workload: Case weights x filings + CJ time			7,738,531
Judge Annual Availability			100,320
- Annual non-case-related time (52 minutes per day)			10,868
- Average annual travel time per judge (minutes)			895
= Availability for case-related work			88,557
Current Circuit Judge Allocation			70.00
Judge Deficit Need			19.38

<sup>27</sup> The statewide annual travel time is presented in Appendix D only to illustrate the consideration of travel time in the judge need calculation. The statewide judge need is calculated from the sum of each circuit's judge need, which is calculated individually using circuit-specific travel time (see Appendix E). Therefore, the statewide annual average travel time cannot be used to calculate the statewide judge need.

## Appendix E: West Virginia Circuit Judge Needs Assessment Model by Circuit<sup>28</sup>

(Model begins on next page)

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<sup>28</sup> This footnote provides various details regarding the West Virginia Circuit Judge Needs Assessment Model by Circuit.

- Adult Drug Court cases depicted in the need model include actual Adult Drug Court cases in active Adult Drug Courts plus additional referral estimates equivalent to the rate of 17.5% felony criminal case filings; for counties *without* active Adult Drug Courts, projected referrals at the rate of 17.5% of felony criminal case filings, are included in the model.
- Cabell County Adult Drug Court is currently operated under a Family Court Judge in the circuit; however, the values are provided herein to show the need within the circuit should the Adult Drug Court shift to the responsibility of the Circuit Court.
- Mass Litigation Panel and Business Court are portrayed in terms of annual minutes of work; the travel time associated with this work is applied to those courts in the aggregate.
- Judge deficit need refers to positive judge need only.
- The final column entitled “Statewide Workload per Case Type in Minutes & Statewide Judge Deficit Need” on the last page of Appendix E, which shows the need for 19.38 judges, is derived by summing the judge deficit need (horizontally) for only those circuits in which a positive judge need exists.

**Appendix E: West Virginia Circuit Judge - Needs Assessment Model by Circuit (Circuits 1 through 7)**

Case Type	Case Weights in Minutes	1 Brooke Hancock Ohio	2 Marshall Tyler Wetzel	3 Doddridge Pleasants Ritchie	4 Wirt Wood	5 Calhoun Jackson Mason Roane	6 Cabell	7 Logan
Felony	248	345	223	89	261	359	498	164
Misdemeanor (less truancy)	65	29	24	10	12	22	117	52
Other Criminal/Miscellaneous Criminal	40	341	225	90	249	346	559	222
Criminal Appeals/Magistrate Appeals	56	6	5	3	16	1	15	0
Delinquency	77	144	139	28	65	53	359	54
Status Offenses (less truancy)	83	18	37	2	54	18	145	30
Child Abuse and Neglect (less truancy)	246	168	63	48	170	170	219	93
General Civil	107	847	416	144	615	413	937	329
Adoption	45	39	26	12	47	64	48	47
Guardianship	44	32	18	7	34	43	71	23
Administrative Agency Appeals	92	16	2	0	5	0	5	1
Magistrate Appeals	56	17	9	3	29	10	67	11
Other Civil	49	320	82	70	163	119	188	16
Domestic Matters (all family cases)	65	32	92	8	80	54	38	24
Overlap Cases	24	27	15	4	41	67	10	37
Adult Drug Court	374	67	44	15	53	63	87	34
Specialty Courts	374	63	60	31	61	133	0	153
Weddings	11	171	97	25	65	0	111	25
<b>Total Cases Filed</b>		<b>2,682</b>	<b>1,577</b>	<b>589</b>	<b>2,020</b>	<b>1,935</b>	<b>3,474</b>	<b>1,315</b>
Mass Litigation (total annual minutes)								
Business Court (total annual minutes)								
Chief Judge Time (52 minutes per day)		10,868	10,868	10,868	10,868	10,868	10,868	10,868
Case Specific Work x Filings (weights x filings) + CJ Time		331,324	203,767	89,437	267,561	296,397	414,165	205,809
Judge Annual Availability (209 days)		100,320	100,320	100,320	100,320	100,320	100,320	100,320
- Annual non-case specific time (52 minutes per day per judge)		10,868	10,868	10,868	10,868	10,868	10,868	10,868
- Annual travel time per judge		914	1,038	9,889	485	5,313	209	209
= Annual Availability for case-specific work per judge		88,538	88,414	79,563	88,967	84,139	89,243	89,243
Allocated Judges per Circuit		4	2	1	3	2	4	2
Judge Deficit Need		0.00	0.30	0.12	0.01	1.52	0.64	0.31
Current Workload per Judge		0.94	1.15	1.12	1.00	1.76	1.16	1.15

**Appendix E: West Virginia Circuit Judge - Needs Assessment Model by Circuit (Circuits 8 through 14)**

Case Type	Case Weights in Minutes	8 McDowell	9 Mercer	10 Raleigh	11 Pocahontas Greenbrier	12 Fayette	13 Kanawha	14 Braxton Clay Gilmer Webster
Felony	248	160	381	365	244	238	847	161
Misdemeanor (less truancy)	65	1	11	122	76	6	183	4
Other Criminal/Miscellaneous Criminal	40	146	369	540	291	222	937	150
Criminal Appeals/Magistrate Appeals	56	8	19	8	15	7	16	6
Delinquency	77	46	104	210	53	34	163	40
Status Offenses (less truancy)	83	16	5	32	23	24	132	4
Child Abuse and Neglect (less truancy)	246	75	208	231	79	110	284	238
General Civil	107	223	661	1,100	347	359	2,169	186
Adoption	45	15	49	59	21	30	94	45
Guardianship	44	14	49	33	30	23	108	22
Administrative Agency Appeals	92	0	3	4	3	1	147	2
Magistrate Appeals	56	6	23	15	6	7	181	6
Other Civil	49	30	283	29	58	70	652	133
Domestic Matters (all family cases)	65	7	70	83	34	19	120	19
Overlap Cases	24	19	24	144	7	40	66	33
Adult Drug Court	374	28	67	64	51	42	148	28
Specialty Courts	374	82	216	266	78	0	291	71
Weddings	11	24	69	144	35	6	26	12
<b>Total Cases Filed</b>		<b>900</b>	<b>2,611</b>	<b>3,449</b>	<b>1,451</b>	<b>1,238</b>	<b>6,564</b>	<b>1,160</b>
Mass Litigation (total annual minutes)								
Business Court (total annual minutes)								
Chief Judge Time (52 minutes per day)		10,868	10,868	10,868	10,868	10,868	10,868	10,868
Case Specific Work x Filings (weights x filings) + CJ Time		149,494	383,732	465,309	208,081	173,882	835,095	188,469
Judge Annual Availability (209 days)		100,320	100,320	100,320	100,320	100,320	100,320	100,320
- Annual non-case specific time (52 minutes per day per judge)		10,868	10,868	10,868	10,868	10,868	10,868	10,868
- Annual travel time per judge		209	209	209	2,763	209	209	7,813
= Annual Availability for case-specific work per judge		89,243	89,243	89,243	86,689	89,243	89,243	81,639
Allocated Judges per Circuit		2	3	3	2	2	7	2
Judge Deficit Need		0.00	1.30	2.21	0.40	0.00	2.36	0.31
Current Workload per Judge		0.84	1.43	1.74	1.20	0.97	1.34	1.15

**Appendix E: West Virginia Circuit Judge - Needs Assessment Model by Circuit (Circuits 15 through 21)**

Case Type	Case Weights in Minutes	15 Harrison	16 Marion	17 Monongalia	18 Preston	19 Barbour Taylor	20 Randolph	21 Grant Mineral Tucker
Felony	248	243	254	324	81	130	90	246
Misdemeanor (less truancy)	65	30	13	16	7	11	22	27
Other Criminal/Miscellaneous Criminal	40	249	256	310	109	153	102	248
Criminal Appeals/Magistrate Appeals	56	7	51	12	2	1	6	11
Delinquency	77	121	101	29	14	44	46	74
Status Offenses (less truancy)	83	17	42	2	5	41	3	30
Child Abuse and Neglect (less truancy)	246	86	81	69	27	49	34	47
General Civil	107	546	460	888	299	174	208	263
Adoption	45	36	31	32	20	16	12	29
Guardianship	44	21	25	22	11	14	15	18
Administrative Agency Appeals	92	1	1	4	1	3	1	2
Magistrate Appeals	56	14	23	40	6	9	14	10
Other Civil	49	84	206	447	54	43	60	77
Domestic Matters (all family cases)	65	28	37	21	20	20	7	18
Overlap Cases	24	11	46	11	15	43	21	11
Adult Drug Court	374	43	44	57	17	23	24	42
Specialty Courts	374	147	30	123	22	94	41	7
Weddings	11	89	38	168	7	12	24	85
<b>Total Cases Filed</b>		<b>1,773</b>	<b>1,739</b>	<b>2,575</b>	<b>717</b>	<b>880</b>	<b>730</b>	<b>1,245</b>
Mass Litigation (total annual minutes)								
Business Court (total annual minutes)								
Chief Judge Time (52 minutes per day)		10,868	10,868	10,868	10,868	10,868	10,868	10,868
Case Specific Work x Filings (weights x filings) + CJ Time		255,399	213,782	317,437	96,792	137,907	103,994	159,367
Judge Annual Availability (209 days)		100,320	100,320	100,320	100,320	100,320	100,320	100,320
- Annual non-case specific time (52 minutes per day per judge)		10,868	10,868	10,868	10,868	10,868	10,868	10,868
- Annual travel time per judge		209	209	209	209	2,913	209	1,364
= Annual Availability for case-specific work per judge		89,243	89,243	89,243	89,243	86,539	89,243	88,088
Allocated Judges per Circuit		3	2	3	1	1	1	2
Judge Deficit Need		0.00	0.40	0.56	0.08	0.59	0.17	0.00
Current Workload per Judge		0.95	1.20	1.19	1.08	1.59	1.17	0.90



**Appendix E: West Virginia Circuit Judge - Needs Assessment Model by Circuit (Circuits 22 through 28)**

Case Type	Case Weights in Minutes	22 Hampshire Hardy Pendleton	23 Berkeley Jefferson Morgan	24 Wayne	25 Boone Lincoln	26 Lewis Upshur	27 Wyoming	28 Nicholas
Felony	248	144	552	176	219	182	119	83
Misdemeanor (less truancy)	65	1	35	5	34	36	33	0
Other Criminal/Miscellaneous Criminal	40	134	533	193	253	200	139	76
Criminal Appeals/Magistrate Appeals	56	8	145	4	14	0	2	1
Delinquency	77	50	350	174	105	64	28	30
Status Offenses (less truancy)	83	10	7	33	164	5	35	21
Child Abuse and Neglect (less truancy)	246	67	23	100	101	61	82	87
General Civil	107	306	1,769	317	399	296	211	178
Adoption	45	28	117	58	49	18	31	23
Guardianship	44	19	54	22	33	12	16	14
Administrative Agency Appeals	92	0	9	3	2	1	2	4
Magistrate Appeals	56	12	37	12	24	7	0	5
Other Civil	49	68	289	70	180	105	0	55
Domestic Matters (all family cases)	65	22	95	17	83	16	18	14
Overlap Cases	24	11	119	55	46	22	48	33
Adult Drug Court	374	26	96	31	42	32	21	15
Specialty Courts	374	160	467	141	89	30	0	35
Weddings	11	11	35	26	127	80	0	31
<b>Total Cases Filed</b>		<b>1,077</b>	<b>4,732</b>	<b>1,437</b>	<b>1,964</b>	<b>1,167</b>	<b>785</b>	<b>705</b>
Mass Litigation (total annual minutes)								
Business Court (total annual minutes)								
Chief Judge Time (52 minutes per day)		10,868	10,868	10,868	10,868	10,868	10,868	10,868
Case Specific Work x Filings (weights x filings) + CJ Time		183,836	646,631	212,436	238,425	150,968	108,466	104,786
Judge Annual Availability (209 days)		100,320	100,320	100,320	100,320	100,320	100,320	100,320
- Annual non-case specific time (52 minutes per day per judge)		10,868	10,868	10,868	10,868	10,868	10,868	10,868
- Annual travel time per judge		6,338	1,613	209	863	6,115	209	209
= Annual Availability for case-specific work per judge		83,114	87,839	89,243	88,589	83,337	89,243	89,243
Allocated Judges per Circuit		2	5	2	2	1	1	1
Judge Deficit Need		0.21	2.36	0.38	0.69	0.81	0.22	0.17
Current Workload per Judge		1.11	1.47	1.19	1.35	1.81	1.22	1.17

**Appendix E: West Virginia Circuit Judge - Needs Assessment Model by Circuit (Circuits 29 through 31 and Total)**

Case Type	Case Weights in Minutes	29 Putnam	30 Mingo	31 Monroe Summers	Mass Lit/ Business Court Minutes and Travel	Statewide 3-Year Average Filings 2011-2013	Statewide Workload per Case Type in Minutes & Statewide Judge Deficit Need
Felony	248	164	116	186		7,644	1,895,712
Misdemeanor (less truancy)	65	16	4	10		969	62,985
Other Criminal/Miscellaneous Criminal	40	164	260	178		8,244	329,760
Criminal Appeals/Magistrate Appeals	56	14	1	2		406	22,736
Delinquency	77	31	20	31		2,804	215,908
Status Offenses (less truancy)	83	43	53	33		1,084	89,972
Child Abuse and Neglect (less truancy)	246	49	92	36		3,247	798,762
General Civil	107	419	365	144		15,988	1,710,716
Adoption	45	31	33	18		1,178	53,010
Guardianship	44	25	10	17		855	37,620
Administrative Agency Appeals	92	4	2	4		233	21,436
Magistrate Appeals	56	8	4	3		618	34,608
Other Civil	49	47	27	44		4,069	199,381
Domestic Matters (all family cases)	65	50	11	16		1,173	76,245
Overlap Cases	24	18	9	6		1,059	25,416
Adult Drug Court	374	29	20	33		1,386	518,364
Specialty Courts	374	75	0	0		2,966	1,109,284
Weddings	11	58	0	42		1,643	18,073
<b>Total Cases Filed</b>		<b>1,245</b>	<b>1,027</b>	<b>803</b>		<b>55,566</b>	
Mass Litigation (total annual minutes)					108,189		108,189
Business Court (total annual minutes)					73,446		73,446
Chief Judge Time (52 minutes per day)		10,868	10,868	10,868			336,908
Case Specific Work x Filings (weights x filings) + CJ Time		171,597	130,045	112,506	181,635		7,738,531
Judge Annual Availability (209 days)		100,320	100,320	100,320	100,320		100,320
- Annual non-case specific time (52 minutes per day per judge)		10,868	10,868	10,868			10,868
- Annual travel time per judge		209	209	11,664	22,900		895
= Annual Availability for case-specific work per judge		89,243	89,243	77,788	77,420		88,557
Allocated Judges per Circuit		2	1	1			70.00
Judge Deficit Need		0.00	0.46	0.45	2.35		19.38
Current Workload per Judge		0.96	1.46	1.45			

# Appendix F: West Virginia Circuit Judges County Map

**Circuit Court Circuits**  
**August 29, 2014**

Map created by Administrative Office

