



West Virginia Family Court Judicial Workload Assessment

Final Report

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Executive Summary

How many family court judges are needed to provide effective case resolution for the people of the State of West Virginia? To answer this question, the Administrative Office of the Courts, Supreme Court of Appeals, West Virginia, contracted with the National Center for State Courts (NCSC) to measure judicial workload in the West Virginia Family Courts. A clear measure of court workload is central to establish the judges needed to resolve all cases coming before the court. Adequate resources are essential if the West Virginia judiciary is to manage and resolve court business effectively and without delay while also delivering quality service to the public. Meeting these challenges involves systematically assessing the number of judges required to handle the caseload and resolving whether judicial resources are allocated equitably across the state.

West Virginia has historically used the weighted caseload method for this purpose. Weighted caseload is a proven and highly effective strategy, but the results must be periodically examined and updated to ensure ongoing public trust and confidence in the courts. An earlier weighted caseload study was conducted by the National Center for State Courts in 2001. However, at that time, the Family Court system was not in place—the study relied on surveys of Family Law Masters. The current study is the first of its kind to rely on an actual time study of the Family Court judges. The primary project goal was to establish judicial workload standards conducive to effective and efficient case resolution.

The challenge of judicial workload assessment

The principal challenge to conducting a new study of judge need is that judicial resources are not sufficient to keep up with an increasingly

complex caseload. Examination of four case types that were similarly defined over the course of time shows an increase of 46 percent in case filings from 2000 to 2005 (see Exhibit 1). The biggest increase occurred in modifications and other domestic relations case types.

Exhibit 1: Case Filings for Common Case Types, 2000 to 2005

<u>Case Type</u>	<u>2000</u>	<u>2005</u>	<u>Change</u>
Divorce	12,126	12,407	2.3%
Domestic violence	16,563	14,821	-10.5%
Modification	2,705	9,816	262.9%
Other domestic relations ¹	6,404	18,041	181.7%
Total	37,798	55,085	45.7%

When workload rises faster than judges, judges are forced to spend less time per case if they are to stay current with incoming work. In some instances, revised procedures or new technology support faster case processing with no loss in quality. For other case types, the result is just more cases squeezed onto already crowded dockets. This reduction in time per case, based solely on rising volume, is called “case weight erosion.” Augmenting the problem for certain types of cases is new legislation that requires greater judicial time and attention if the rule as well as the spirit of the law is to be met. As workload rises, judges can and do work faster; the issue is distinguishing how best to allocate scarce judicial resources across the vast array of cases coming before the court. Some cases can do with less judge time, but some need more. The challenge is to provide judges sufficient time to reasonably engage litigants, listen to petitioners, clearly explain rulings and orders—features fundamental to the public perception of fairness and appropriate treatment by the court.

¹ The “other domestic relations” case type includes child support, contempt, marriages, and other case types that are not specified. This broad category was used to make the 2005 filings consistent with the categories used in 2000.

Translating judicial workload into an estimate of judicial need requires that the weighted caseload study determine:

- Case weights—the average amount of time reasonably needed by a judge to resolve a case of a specific type.
- Judge year value—the amount of time per year that a well-trained and efficient judge has available to do case-related work (less time spent on non-case related activities such as travel and administrative activities).

To produce an estimate of judicial workload, the case weights are multiplied by case filings. Judge need is estimated when workload is divided by the judge year value.

Results from the 2006 study

All aspects of the 2006 study were overseen and guided by the Family Court Judges' Realignment Committee. In addressing the issue of judicial need, the Committee focused on resolving the tension between efforts to enhance the quality of justice and efforts to ensure the efficient use of existing judicial resources. To accomplish this goal, numerous innovations to the traditional weighted caseload model were implemented in 2006.

- The family court judges participated in an “event-based time study” from August 28 to September 24. The time study was designed to measure the actual time currently spent by judges to resolve nine different types of cases, distinguishing among key events at the preliminary, hearing, and post-hearing phases.
- A statewide survey of family court judges was conducted to gather information on the adequacy of time.

- Travel data from the time study was used to categorize the circuits into low-, medium-, and high-travel circuits. Judge days were revised for each travel tier to account for differences in the amount of time available for addressing case-related matters.
- Judicial members of the realignment committee met in October and November, where they determined case weights for the different case types.

The Committee reviewed information from all phases of the study to reach final consensus on the case weights and statewide judicial need.

- The standard value for the number of judicial working days was 209 days, consistent with the Circuit Court. This figure accounts for holidays, vacation days, sick days, and days devoted to education or conferences.
- Within the “standard judge day” of 8 hours per day, the amount of the work day that is devoted solely to processing cases is 6.5 hours in low-travel circuits, 6.0 hours in medium-travel circuits (1st, 3rd, 5th, 10th, 14th, 15th), and 5.75 hours in high-travel circuits (2nd, 4th, 16th, 17th, 21st, 22nd, 23rd, 25th). Remaining time was spent in travel and handling non-case related judicial tasks.²

The committee determined case weights for nine separate case types. The final weights reflect a compromise between the ideal and practical case weights, with one major exception.³ The committee prioritized divorces with children, thus making a commitment to ensure that all family court judges have sufficient time to properly address this case type in particular. The accepted weights include the following.

² The standard judge day does not reflect the current practice among West Virginia judges of spending much greater than eight hours performing judicial matters. Neither does the standard judge day include judge time spent on special projects, such as teaching at Court and Bar sponsored conferences, performing special assignments, or serving on national, state, and local committees, including serving on the Realignment Committee.

³ The committee did not adjust either the “other domestic relations” or “marriages” case weights. In the “other domestic relations” cases, the committee decided to use the actual average minutes because many of the cases grouped together in this category involve issues concerning children. The actual “marriage” case weight was rounded up from 21.8 to 22 minutes.

Case Type	Case Weight (average minutes)
Divorce with children	234.0
Divorce without children	105.6
Child support/paternity	139.4
Child support without divorce	46.4
Other domestic relations	85.1
Domestic violence and domestic violence appeals	52.8
Modification	49.6
Contempt	54.4
Marriages	22.0

All adjustments were accompanied by clearly articulated rationale and justification.

Applying the 2006 case weights to current filings and dividing by the average judge year value gives the judge need shown in Exhibit 2. Total need for the state is estimated at 57, an increase of 22 judgeships over the existing complement of 35 family court judges.

Exhibit 3 ranks the circuits by a concept known as “judge need ratio.” The ratio, defined as the implied judge need divided by the actual number of judges, reflects the actual workload of judges. For example, if a circuit has 2 judges, but has a judge need of 3 judges, then each judge is essentially handling 1.5 times as many cases as should be expected. A judge need ratio greater than 1.0 indicates that a judge’s workload is higher than the level expected.

The combination of total judge need and judge need ratio can be used to prioritize judicial need by circuit. Exhibit 4 lists rankings for all family circuits. The side-by-side comparisons of total judge need and judge need ratio demonstrate a great deal of consistency.

Conclusions from the 2006 study:

- ◆ Total family judge need for West Virginia is 57 judges, an increase of 22 judgeships over the current 35 family court judges.
- ◆ All circuits are inadequately staffed.
- ◆ Using a combination of total judge need and judge need ratio, those circuits demonstrating the greatest need are circuits 11, 13, 12, 9, 10, 24, 14, 3, 16, 6, 5, and 21.

Maintaining System Integrity

The potential for keeping the case weights current has been enhanced considerably with the 2006 study. Each workload standard is based on expert-informed adjustments made to actual time. The original weights are constructed by compiling information on three distinct case event categories: preliminary matters, contested and uncontested hearings, and enforcement actions. It is possible to assess the validity and reasonableness of each workload standard by examining this event-level information. Over time, adjustments can be made to the case weights to incorporate changes required to comply with new court rules, mandated legislation, and improved case processing strategies. This case-driven adjustment strategy will ensure that the case weights continue to provide an accurate reflection of judicial workload in West Virginia and help allay the need for conducting the complete, expensive and time consuming workload assessment process.

Exhibit 2: Total Judicial Need

Judicial Circuit	2006 Judges	Judge Need	Difference
1	2	2.4	+ 0.4
2	1	1.5	+ 0.5
3	2	3.4	+ 1.4
4	1	1.5	+ 0.5
5	1	1.7	+ 0.7
6	2	3.3	+ 1.3
7	1	1.4	+ 0.4
8	1	1.5	+ 0.5
9	1	2.0	+ 1.0
10	1	1.9	+ 0.9
11	4	7.4	+ 3.4
12	2	3.6	+ 1.6
13	2	3.7	+ 1.7
14	1	1.9	+ 0.9
15	1	1.4	+ 0.4
16	1	1.8	+ 0.8
17	1	1.5	+ 0.5
18	1	1.6	+ 0.6
19	1	1.2	+ 0.2
20	1	1.6	+ 0.6
21	1	1.7	+ 0.7
22	1	1.6	+ 0.6
23	1	1.4	+ 0.4
24	2	3.5	+ 1.5
25	1	1.1	+ 0.1
26	1	1.5	+ 0.5
Overall	35	57.1	+ 22.1

Exhibit 3: Family Court Rankings by Judge Need Ratio (implied need/actual # judges)

Judicial Circuit	2006 Judges	Judge Need	Judge Need Ratio
9	1	2.0	2.0
10	1	1.9	1.9
14	1	1.9	1.9
13	2	3.7	1.9
11	4	7.4	1.8
12	2	3.6	1.8
16	1	1.8	1.8
24	2	3.5	1.7
5	1	1.7	1.7
21	1	1.7	1.7
3	2	3.4	1.7
20	1	1.6	1.6
6	2	3.3	1.6
18	1	1.6	1.6
22	1	1.6	1.6
2	1	1.5	1.5
26	1	1.5	1.5
8	1	1.5	1.5
4	1	1.5	1.5
17	1	1.5	1.5
15	1	1.4	1.4
23	1	1.4	1.4
7	1	1.4	1.4
1	2	2.4	1.2
19	1	1.2	1.2
25	1	1.1	1.1
Overall	35	57.1	

*Judge Need Ratio is a measure of workload that incorporates the number of current judges.

Exhibit 4: Judge Need and Judge Need Ratio Rankings by Circuit

Circuit	Total Judge Need	Judge Need Ratio Rank	Sum of Rankings
11	1	4	5
13	2	3	5
12	3	5	8
9	7	1	8
10	8	2	10
24	4	7	11
14	9	3	12
3	5	10	15
16	10	6	16
6	6	12	18
5	11	8	19
21	12	9	21
20	13	11	24
18	14	13	27
22	15	14	29
2	16	15	31
26	17	16	33
8	17	16	33
4	18	17	35
17	19	18	37
15	20	19	39
23	21	20	41
7	22	21	43
1	23	22	45
19	24	23	47
25	25	24	49

Chapter 1. Introduction

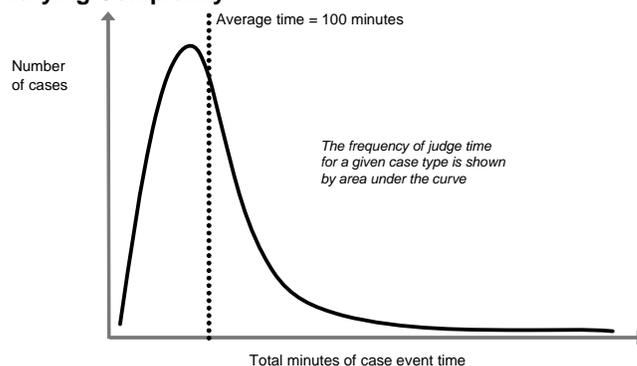
A clear measure of court workload is central to determining how many judges are needed to resolve all cases coming before the court. Adequate resources are essential if the West Virginia judiciary is to effectively manage and resolve court business without delay while also delivering quality service to the public. Meeting these challenges involves assessing objectively the number of judges required to handle the caseload and whether judicial resources are being allocated and used prudently. Weighted caseload is a very effective tool for determining the need for judges and requesting new judgeships, assigning temporary and/or retired judges, conducting workload analyses for assignment and calendaring systems, designating chambers assignments, and designating cross-district judge assignments.

The use of weighted caseload is a “best practice.” Family court caseloads vary in complexity, and different types of cases require different amounts of judicial time and attention. While case counts have a role in determining the demands placed on our state judicial systems, they are silent about the judicial resources needed to process this vast array of cases effectively. That is, raw, unadjusted case filing numbers offer only minimal guidance as to the amount of judicial *work* generated by those case filings. Moreover, the inability to differentiate the work associated with each case type creates the potential for the misperception that equal numbers of cases filed for two different case types result in equivalent workloads. For example, a “typical” divorce case involving children has a greater impact on judicial

resources than a “typical” contempt case. For this reason, the NCSC believes that a comprehensive program of judicial workload assessment is the *best* method for measuring case complexity and determining the need for judges.⁴

Workload, as measured by the individual case weights, represents the *average* number of minutes of judge time that it takes to resolve cases of different types. A particular case weight (say, 234 minutes for a divorce with children case type) does not imply that all divorce with children cases take 234 minutes to resolve; rather it is the average time for that type of case. The curve shown in Exhibit 5 represents the actual distribution of judge time for a particular type of case and makes clear individual cases take different amounts of time.

Exhibit 5: Case Weights Accommodate Cases of Varying Complexity



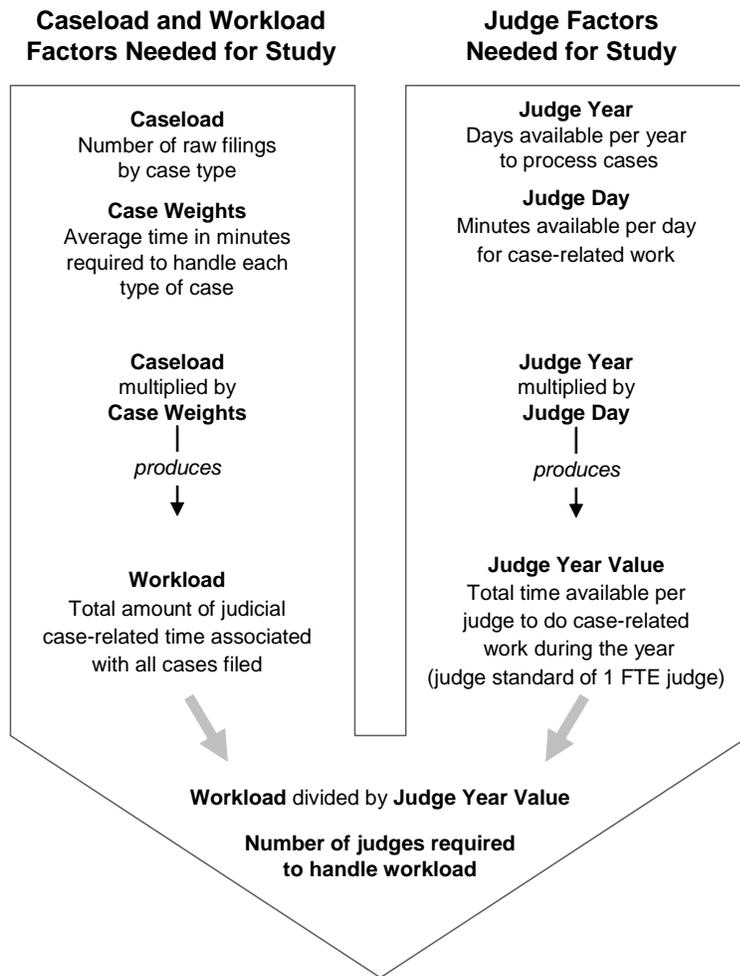
⁴ V. Flango and B. Ostrom, *Assessing the Need for Judges and Court Support Staff* (National Center for State Courts, 1996).

The utility of a case weight is that it summarizes the variation in judicial time by specifying or recommending an average amount of time per case. The preferred approach is to calculate the case weight based on current judicial practice (as determined by a time study) and then review (and potentially adjust particular weights) to ensure judges have sufficient time to handle cases in a reasonable and satisfactory manner. Some cases take more time than the case weight and some take less time,

but, on average, the case weight is an accurate reflection of the typical amount of time judges take (or should take) to resolve specific types of cases.

Once developed, the weights are used to calculate the total judicial workload for each case type by multiplying the number of filings by the case weight. Exhibit 6 provides a summary of the overall procedure:

Exhibit 6: Caseload to Workload



As mentioned earlier, workload is the product of case filings of a given case type multiplied by the case weight for that case type. Total workload is then calculated by summing across all case types. To estimate the number of judges required, the total calculated workload is divided by the judge year value (the amount of time a judge has to do case-related work). The estimated number of judges is obtained by dividing total workload by the judge year value.

As part of the 2006 study, the Family Court Judges' Realignment Committee voted to adopt a "standard judge year" consistent with the West Virginia Circuit Court—209 days. For each day, a distinction is made between case-related and non-case related time. From the "standard judge day" of 8 hours per day, non-case related time—including time spent on court administrative matters, travel, general legal research, and other non case related duties—is subtracted to arrive at the number of minutes per day that a judge has available to do case related work. The Committee chose to replicate the Circuit Court estimate of 6.5 hours devoted directly to processing cases, with adjustments made in those circuits that require significant travel between counties.

The 2006 West Virginia Family Court Judicial Workload Assessment was the first of its kind. Results were used to document baseline figures—the actual average case weights used by the current judges. The Realignment Committee's task was to develop case weights that consider both efficiency and *quality* of service.

Over time, care must be taken when designing a method to update actual case weights in order to avoid the very real issue of "case weight erosion." Workload often rises more quickly than judicial resources. Judges are therefore pushed to work faster if they hope to stay current with incoming caseloads. As a result, the average amount of time judges are able to spend on cases falls. A new time study conducted in this environment will show that judges are spending less time on cases and, if new case weights are based solely on current practice, lock estimates of judicial resource need into tighter and tighter timeframes. Cases are being disposed, but concern rises that available judge time is not sufficient to provide fair and

equitable service to the public. The result is that many judges feel that they are working on an assembly line.

For this reason, an adequacy of time survey was designed to capture whether current time spent on various events is sufficient. The survey uses a Likert scale to assess the adequacy of time with respect to preliminary matters, final hearings, post-hearing activities, and general court management. Results from the survey can be used to adjust case weights. For instance, if the majority of judges find that they seldom have enough time to monitor timeliness of case events, then the case weight can be adjusted upward. The final workload standards, while taking into account current practices, must reflect quality of justice standards.

Recommended characteristics of final workload standards

The final workload standards should:

- ◆ Be firmly based in the reality of the court. By doing so, the workload standards build on current practice – the average amount of time judges currently spend processing all cases of a particular type.
- ◆ Allow sufficient time for equitable and quality case resolution.
- ◆ Take into account the time judges are required to apply to overall court management and quality performance, not merely bench time for hearing cases.
- ◆ Be credible to outside observers as well as to judges. Grounding the standards in current practice and expert opinion about how long cases should take provides a strong base of credibility.

The weighted caseload study offers the judicial branch the opportunity to engage in a systematic and structured process to assess the reasonableness of current practice; that is, do judges and judicial officers have sufficient time to resolve cases in a satisfactory and timely manner? Moreover, an appropriately designed workload-based model has the advantage of providing objective and standardized assessments of judicial resource needs among jurisdictions that vary in population and caseload.

The NCSC and the Administrative Office of the Courts staff worked closely with the Family Court Judges' Realignment Committee to develop a comprehensive and cost-effective workload assessment strategy to:

- Design and implement a multi-method approach for determining judicial need based on judicial workload.
- Construct a set of judicial workload standards that incorporate current practice for the Family Court (as measured by a time study of all Family Court judges).
- Develop a method to assess and improve the quality of justice based on expert judicial opinion (determined through a survey of Realignment Committee members).
- Validate the workload standards.
- Produce a final set of quality-adjusted workload standards that can be applied statewide.

To meet the above project goals, the NCSC, in close collaboration with the Realignment Committee, designed the process to be straightforward and easy to understand; to make extensive use of existing data sources; to minimize the impact on the judiciary and the need for original data collection; to produce a measure of judicial workload that is clear; to be grounded in experience and easy to update; and to lead to the support and “ownership” by legislators and judges. Based on the results of this project, the West Virginia Supreme Court will be able to assess the need for judges based on judicial workload, with differences in workload tied to differences in the complexity of cases.

Chapter 2: Research Design

Workload assessment is essentially a study of supply and demand. How does the workload demand generated by different types of cases compare to the supply of judge time available to do the work? Three fundamental pieces of information are needed to answer this question:

1. *Case filings.* Filings data for 2005 were collected and compiled by the AOC for all 26 family court circuits.
2. *Judge year value.* This value is the amount of time per year that a judge has available to process his or her workload. The circuit court judge year value (1,359 hours per year) was incorporated into the family court workload assessment. This figure is based on the number of judge days (209 days) multiplied by the number of hours per day spent directly on the disposition of cases (6.5 hours).

3. *Individual case workload standards.* These standards, or case weights, represent the average amount of time sufficient for judges to resolve each type of case in an efficient and effective manner.

For the 2006 study, the primary goal was to accurately determine the amount of time judges need to resolve different types of cases in an *efficient* and *effective* manner.⁵ The timeline for the completion of the project was limited—the project began in July 2006 and was completed six months later. Exhibit 7 shows the milestones and timeline.

Exhibit 7. Milestones and Timeline

West Virginia Family Court Judicial Needs Assessment Project

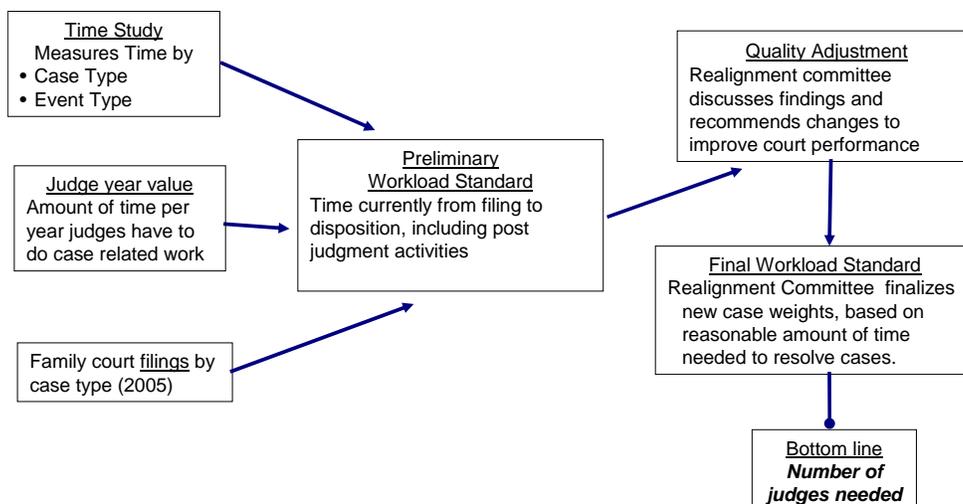


⁵ The Family Court Judges' Realignment Committee met several times over the course of this project to develop the case weights for new categories of case types, review the adequacy of time, discuss the impact of case weights on statewide workload, and evaluate findings from this study.

The approach to judicial workload adopted in this study provided members of the Realignment Committee with a structured process to assess the reasonableness of current case processing

practices. The basic parts of the study are show in Exhibit 8, with each part discussed in greater detail below.

Exhibit 8: Project Overview



Time Survey

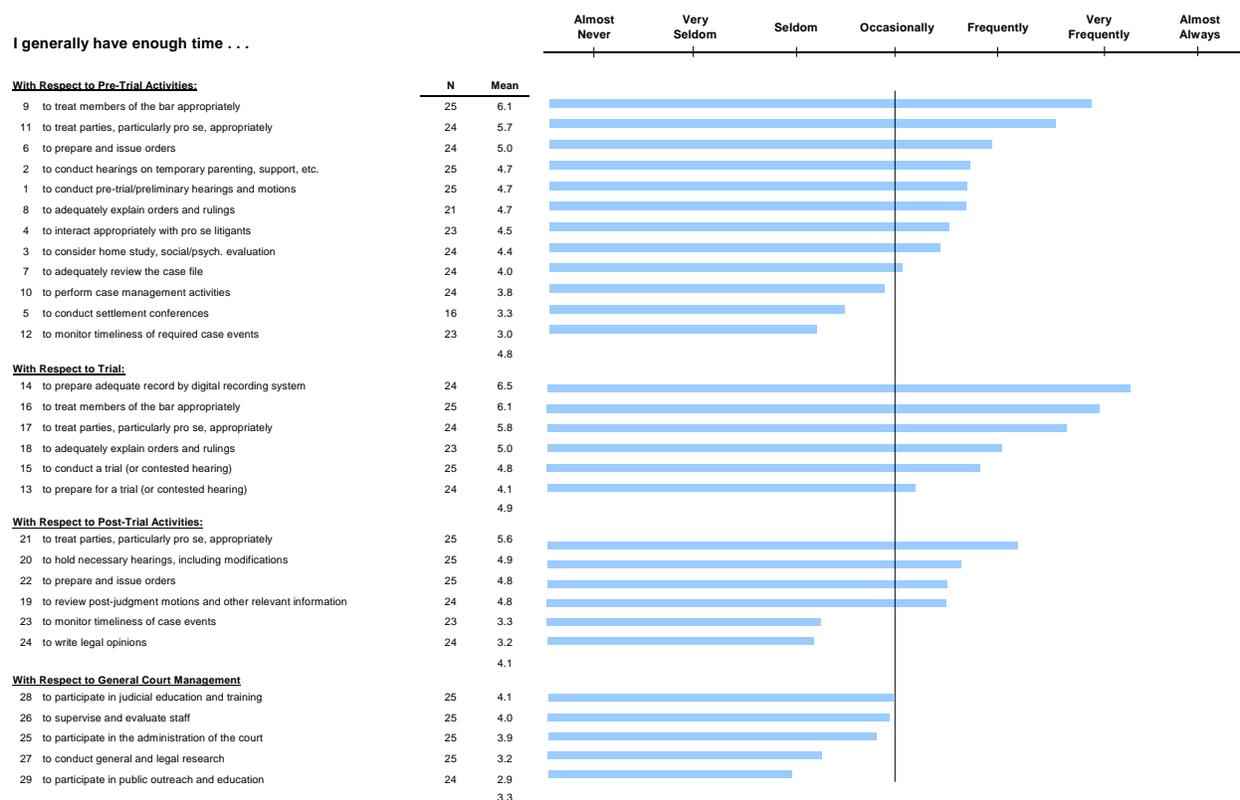
The time study measures case complexity in terms of the average amount of judicial time actually spent processing different types of cases, from the initial filing to final resolution, including post-judgment activity (if any). Following approval by the Realignment Committee on the types of cases and case events to be involved in the workload standard process, the NCSC project team designed data collection materials and collected data from all twenty-six family court districts during a four-week time period (August 14 to September 11). The essential element was collecting time data on *all* judicial activity. Bench time was recorded on the Internet-based data collection system by local staff. The bench activity data was edited upon entry to eliminate invalid time entries. The project team further checked the accuracy of the time reports by identifying any days for which the time data appeared excessive or under-reported. All potential problems were

investigated, and where appropriate, adjustments were made to the data. In situations where the source of inconsistency was not readily apparent, the NCSC project lead contacted the Administrative Office of the Courts and corrections were submitted as needed.

Non-bench time was recorded by the judges and clerks and entered directly into the online data collection system. Once the data was entered, logic checks were done to validate the entries. The four-week data collection was very successful, with consistent participation by all but one judge.

To supplement data from the time study, judges were asked to complete an adequacy of time form. The goal of this survey was to document judicial perception of the adequacy of time as related to specific aspects of case management and administration. Exhibit 9 provides the detailed results of the adequacy of time survey, base on responses from 25 judges.

Exhibit 9: Results of Adequacy of Time Survey



Findings from the Adequacy of Time Survey

- ◆ Generally, judges do not feel they have an adequate amount of time to monitor timeliness of case events and manage the court.
- ◆ Seven general items were scored less than '4.' Judges only occasionally had enough time to:
 1. Participate in public outreach and education
 2. Monitor timeliness of case events
 3. Write legal opinions
 4. Conduct general and legal research
 5. Conduct settlement conferences
 6. Perform case management activities
 7. Participate in the administration of the court

Judge Year Value

The judge year value was identical to that used in the West Virginia Circuit Court study: Judge year (209 days) x Case-related judge day (6.5 hours) = Judge year value of 1,359 hours per year that each judge can spend directly on the disposition of cases.

Case Filings

The West Virginia AOC provided case filing data for 2005. The NCSC and AOC made one adjustment to the filings data. The normative standard for the West Virginia family court is to record filings for “divorce with children” cases and “divorce without children” cases. However, a small number of clerks reported data for a generic category of “divorce.” In 2005, there were 12,407 divorce cases of all kind—464 of those cases (3.7%) could not be categorized as a “divorce with children” or “divorce without children” case type. Given the small percentage of generic “divorce” cases, the NCSC project team re-classified the cases into the current divorce case types. Using the proportion of divorce cases for each of the two case types, 49% of the generic divorce caseload of 464 filings was placed in the “divorce with children” case type; the remaining 51% was placed in the “divorce without children” case type.

Study Adjustments

The primary aspect of the current workload assessment that required adjustment was travel time. Data on travel time was collected for all family court judges through the time study. Essentially, time on the road takes away from time on the bench. A judge who must travel between county courthouses during the course of a day does not have the capacity to devote 6.5 to case-related matters each day.

In West Virginia, there are a few extreme travel courts based on geography and the number of counties served. For example, the family judge of the 25th Circuit travels, on average, two hours each day. Generally, the circuits neatly fall into three tiers. The first tier consists of circuits where there is a one-to-one ratio between the number of judges and counties in the circuit. Here travel times are less than 15 minutes per day and judges can devote the full 6.5 hours to handling case-related matters. A second tier of circuits have an average travel time of 30 minutes per day—their judge day was lowered to 6 hours per day. The third tier consists of those circuits in which a judge averages 45 or more travel minutes per day. In these cases, the judge day was adjusted to 5.75 hours. Judges in the medium- and high-travel tiers serve more than one county.

Adjustments for Travel

- ◆ The typical judge day in West Virginia is 6.5 hours. This is the number of hours that judges can devote to hearing cases. The remaining 1.5 hours are spent in travel and handling administrative tasks.
- ◆ The judge day for 6 circuits was adjusted to 6.0 hours to account for an average of 30 minutes in travel each day. The circuits include 1, 3, 5, 10, 14, and 15.
- ◆ The judge day for 8 circuits was adjusted to 5.75 hours to account for the fact that judges in these circuits spend, on average, at least 45 minutes in travel. The circuits include 2, 4, 16, 17, 21, 22, 23, and 25.

Determining the final judge need

The Realignment Committee met in late October and early November to review preliminary findings and determine if further adjustments or modifications to the assessment were needed. Considerable discussion was given to the appropriate case weights for each case type. Members of the Realignment Committee recognized the challenges in developing case weights that would accomplish two goals. First, the case weights should reflect a standard of quality that is currently lacking. Second, the case weights, and the ensuing judge need, should be realistic and politically acceptable. Essentially, there is a balancing act that must be played out between ideal case weights and the political landscape. The Realignment Committee chose to prioritize the case weight assigned to a very sensitive and contentious case type—divorce with children. This priority represents the family court's strong commitment to ensuring the equitable and fair handling of divorce cases that involve children. The standards for other case types were reached through compromise and consensus to keep the judge need to a politically acceptable level.

The greatest limitation to this study is the short amount of time in which it was conducted. Had more time been provided, the NCSC research team would have proposed an in-depth Delphi process to better estimate case weight standards for each component of the case type. Such a process would have involved focus groups of judges from across the state.

This was the first judicial workload assessment for the West Virginia Family Court. Results from the study serve as a benchmark upon which future standards can be developed. The assessment provides a comparison among judicial circuits and can be used as a planning tool to help ensure equity in judicial resources across the state. Beyond providing an objective measure of statewide judicial need, the weighted caseload results can also be extended to examine variation in local practice. The results can be used in concert with other considerations, including budget constraints, projected filing trends, and differences in local case processing practices that may differentially affect the need for judicial resources statewide.

Chapter 3: Results

The calculation of judge need requires four elements. First, the case weight standards must be determined for each case type handled by the circuit courts. Second, case filings by circuit must be compiled and verified for accuracy. Third, judge year must be built into the equation, with appropriate modifications to account for travel. Fourth, current judicial staffing by circuit must be documented. The inclusion of these elements in a standard mathematical formula results in a concept known as judge need. Judge need is the amount of judges that are needed to properly handle the current caseload.

Case Weight Standards

The 2006 case weights are shown in Exhibit 10. For a “divorce with children” case, judges require, on average, 234 minutes to handle all aspects of the case. This can be contrasted with a “marriage” case, which averages 22 minutes. As noted previously, some cases will take more time and others less, but the average should coincide with the case weight.

The “divorce with children” cases are the most complex and sensitive, and hence, require the most time. “Divorce with children” cases have a weight that is more than twice as much as divorces in which children are not involved. The recognition that variations of cases will require differences in time is reflected in the child support case weights as well. A child support case that involves paternity determination has a case weight of 139 minutes; a child support case that does not involve a divorce takes, on average, 46 minutes.

The final case weights reflect the outcome of a structured study of judicial workload that involved a time study, a statewide adequacy of time survey, a survey of members of the Realignment Committee, and a final

reconciliation process. This comprehensive process of case weight development was necessary given that the West Virginia Family Court is a relatively new judiciary body that had never before developed case weight standards.

Exhibit 10: 2006 Case Weights

Case Type	Case Weight (average minutes)
Divorce with children	234.0
Divorce without children	105.6
Child support/paternity	139.4
Child support without divorce	46.4
Other domestic relations	85.1
Domestic violence and domestic violence appeals	52.8
Modification	49.6
Contempt	54.4
Marriages	22.0

Case Filings

The number of cases filed by case type for each circuit for the most recent year is the second element needed to build a model of judge need. The West Virginia AOC provided 2005 filings for all case types. As noted previously, the case filing data included 464 cases of “divorce”—a generic category that is no longer used by the Family Court system. These filings, which comprised just 3.7% of all divorce filings, were proportionately regrouped into “divorce with children” and “divorce without children” cases.

Exhibit 11 shows the case filings for each case type. In 2005, 35 family court judges handled 55,085 cases—1,574 cases per judge. Five years earlier, the total number of filings was 37,798. In short, the number of filings increased by 46 percent between 2000 and 2005. This figure represents significant case weight erosion.

Exhibit 11: 2005 Case Filings

Case Type	Case Filings
Divorce with children	6,066
Divorce without children	6,341
Child support/paternity	1,176
Child support without divorce	5,125
Other domestic relations	3,080
Domestic violence and domestic violence appeals	14,821
Modification	9,816
Contempt	7,650
Marriages	1,010
TOTAL	55,085

Judge Year

Judge year is the third element required to determine judge need. Judge year is the total amount of judicial time available each year per judge. This value, consistent with the judge year used for the Circuit Court, was determined as follows:

Calculation of Judge Year

- ◆ Available judge days reflects the number of days available to each judge per year to hear case-related matters. This figure is 209 days, which assumes 13 holidays, 15 vacation days, 10 sick days, 10 education days, and 4 days spent on other meetings or conferences.
- ◆ A judge day consists of 6.5 hours devoted to case-related activity, and 1.5 hours spent on non-case related matters (including travel).
- ◆ The judge year = 209 days x 6.5 case-related hours per day, or 1,359 hours per year that a judge can spend directly on the disposition of cases.

The Realignment Committee asked the research team to study the impact of travel for those judges who serve multiple counties and must regularly travel between courthouses. The time study provided the source of travel data for the family court judges.

The documentation of excess travel time resulted in three circuit tiers. Low-travel circuits typically averaged fewer than 15 minutes per judge per day in travel (12 circuits). Six circuits were identified as medium-travel circuits, with travel times averaging 30 minutes per judge per day (circuits 1, 3, 5, 10, 14, 15). Eight circuits were high-travel circuits where travel times exceeded, on average, 45 minutes per judge per day (circuits 2, 4, 16, 17, 21, 22, 23, 25). The judge day for 2006 was modified to take into account excessive travel. Details are found below:

Travel Tier	Judge Day	No. of Circuits
Low Travel (less than 15 minutes)	6.5 hours	12
Medium Travel (average 30 minutes)	6.0 hours	6
High Travel (average 45 minutes)	5.75 hours	8

Number of Judges

The final element in the determination of judge need is the number of judges by circuit. In 2006, the West Virginia Family Court was served by 35 judges.

Judge Need

Judge need is calculated using case weights, case filings, judge year, and the current number of judges. Exhibit 12 shows the calculation of judge need for the state of West Virginia. The data indicate that 57 judges are needed to handle the current caseload. This figure represents a need of 22 judges for the West Virginia Family Court.

Exhibit 12: Statewide Results for Judge Need

<u>Case Type</u>	<u>Total Filings</u>		<u>Case Weight</u>		<u>Workload</u>
Divorce with Children	6,066	x	234.0	=	1,419,444
Divorce without Children	6,341	x	105.6	=	669,610
Child Support/Paternity	1,176	x	139.4	=	163,887
Child Support without divorce	5,125	x	46.4	=	237,800
Other Domestic Relations	3,080	x	85.1	=	262,108
Domestic Violence and Domestic Violence Appeals	14,821	x	52.8	=	782,549
Modification	9,816	x	49.6	=	486,874
Contempt	7,650	x	54.4	=	416,160
Marriages	1,010	x	22.0	=	22,220
Total					55,085
Average Judge Year Value					
Implied Need				=	57.1
Current Number of Judges				-	35.0
Difference/ # Judges Needed				=	22.1

Judge need was also calculated by circuit to identify areas of greatest needs. Exhibit 13 details judge need by circuit. According to this information, all West Virginia family court circuits are in need of additional judges. Those circuits with a total judge need of at least one additional judge include:

- Circuit 11 (judge need = 3.4 judges),
- Circuit 13 (judge need = 1.7 judges),
- Circuit 12 (judge need = 1.6 judges),
- Circuit 24 (judge need = 1.5 judges),
- Circuit 3 (judge need = 1.4 judges),
- Circuit 6 (judge need = 1.3 judges), and
- Circuit 9 (judge need = 1.0 judge).

Another approach to presenting the data is to use a concept known as judge need ratio, which is calculated by dividing the implied judge need by the actual number of judges. The ratio provides a representation of the average

workload by judge. For instance, if judge need is 2, but there is currently only 1 judge serving in the circuit, we can estimate that the judge is currently performing the function of two judgeships. Exhibit 14 shows judge need ratio by circuit for 2006. Of particular interest is the consistency between total judge need and judge need ratio. The circuits with the highest judge need ratio were circuits 9, 10, 4, 13, 11, 12, 16, 24, 5, and 21.

Finally, Exhibit 15 uses a combination of total judge need and judge need ratio to rank all circuits. In this case, total judge need and judge need ratios were extended to the hundredths place and ranked—ranks were shared in cases of a tie. The rankings offer a quick glimpse of judge need in all 26 circuits. It is worth noting that even those circuits ranked toward the bottom of the scale have a judge need ratio greater than 1.0.

Exhibit 13: Total Judicial Need

Judicial Circuit	2006 Judges	Judge Need	Difference
1	2	2.4	+ 0.4
2	1	1.5	+ 0.5
3	2	3.4	+ 1.4
4	1	1.5	+ 0.5
5	1	1.7	+ 0.7
6	2	3.3	+ 1.3
7	1	1.4	+ 0.4
8	1	1.5	+ 0.5
9	1	2.0	+ 1.0
10	1	1.9	+ 0.9
11	4	7.4	+ 3.4
12	2	3.6	+ 1.6
13	2	3.7	+ 1.7
14	1	1.9	+ 0.9
15	1	1.4	+ 0.4
16	1	1.8	+ 0.8
17	1	1.5	+ 0.5
18	1	1.6	+ 0.6
19	1	1.2	+ 0.2
20	1	1.6	+ 0.6
21	1	1.7	+ 0.7
22	1	1.6	+ 0.6
23	1	1.4	+ 0.4
24	2	3.5	+ 1.5
25	1	1.1	+ 0.1
26	1	1.5	+ 0.5
Overall	35	57.1	+ 22.1

Exhibit 14: Family Court Rankings by Judge Need Ratio (implied need/actual # judges)

Judicial Circuit	2006 Judges	Judge Need	Judge Need Ratio
9	1	2.0	2.0
10	1	1.9	1.9
14	1	1.9	1.9
13	2	3.7	1.9
11	4	7.4	1.8
12	2	3.6	1.8
16	1	1.8	1.8
24	2	3.5	1.7
5	1	1.7	1.7
21	1	1.7	1.7
3	2	3.4	1.7
20	1	1.6	1.6
6	2	3.3	1.6
18	1	1.6	1.6
22	1	1.6	1.6
2	1	1.5	1.5
26	1	1.5	1.5
8	1	1.5	1.5
4	1	1.5	1.5
17	1	1.5	1.5
15	1	1.4	1.4
23	1	1.4	1.4
7	1	1.4	1.4
1	2	2.4	1.2
19	1	1.2	1.2
25	1	1.1	1.1
Overall	35	57.1	

*Judge Need Ratio is a measure of workload that incorporates the number of current judges.

Exhibit 15: Judge Need and Judge Need Ratio Rankings by Circuit

Circuit	Total Judge Need	Judge Need Ratio Rank	Sum of Rankings
11	1	4	5
13	2	3	5
12	3	5	8
9	7	1	8
10	8	2	10
24	4	7	11
14	9	3	12
3	5	10	15
16	10	6	16
6	6	12	18
5	11	8	19
21	12	9	21
20	13	11	24
18	14	13	27
22	15	14	29
2	16	15	31
26	17	16	33
8	17	16	33
4	18	17	35
17	19	18	37
15	20	19	39
23	21	20	41
7	22	21	43
1	23	22	45
19	24	23	47
25	25	24	49

Conclusions

The 2006 workload assessment was a comprehensive study that incorporated a time study, adequacy of time survey, and careful deliberation in the assignment of case weight standards. The outcome of the study is clear: There is an overwhelming need for judges in the West Virginia Family Courts. Every family court circuit demonstrates a need for additional judicial resources, with a number of family court judges essentially handling the workload of two judges. To properly handle the 55,000-plus cases that enter the family court annually in a fair and equitable manner, the West Virginia Family Court requires 57 judges, an increase of 22 over the current level of 35 judges.

Chapter 4: Future Considerations

Keeping the Case Weights Current

The 2006 workload assessment provided baseline data for the Family Court of West Virginia. Over time, the 2006 case weight standards need to reflect changes in laws and practices. Periodic updating is necessary to ensure that the standards continue to accurately represent judicial workload. Three recommendations are made below that identify a course of action to be taken by the Realignment Committee to maintain the integrity of the workload standards through ongoing and structured oversight as well as appropriate case auditing practices.

Over time, the integrity of case weights are affected by multiple influences, including changes in legislation, court rules, legal practice, technology and administrative factors. Examples of such factors include legislative mandates that increase the number of required hearings (e.g., additional modification hearings), the development of specialized courts (e.g., domestic violence courts), and the introduction of more efficient case management practices. In addition, of critical importance to the effective use of case weights is complete and accurate case filing and disposition data collected in comparable fashion from all 26 West Virginia family court circuits. West Virginia should develop a procedure to periodically review and update the workload standards and data collection system so as to preserve the validity of the proposed judicial needs assessment process.

The West Virginia AOC has primary responsibility for maintaining the judicial needs model and should make sufficient staff resources available to keep up-to-date on factors (such as those discussed above) that may affect the accuracy of the standards. For the workload standards to be reliable and accurate over time, the NCSC recommends the following:

Recommendation 1:

There should be an annual review of factors impacting the case weights for specific types of cases. We recommend that the Realignment Committee meet on an annual basis to review the impact of new legislation or other contextual factors on the judicial case weights. This review process will serve to identify areas in which specific research may be needed to quantify the impact of new laws, policy, or court procedures on the weights for specific types of cases. Because this process will target for review only those standards where there is evidence of recent change, it will be more cost effective than updating the entire set of workload standards.

An annual review of this kind will require AOC research staff commitment to gathering and analyzing relevant data and estimating the likely impact of change within the family court system. There should be no reason to redo the study or to undertake a complete, statewide sampling of time-study data on an annual basis. Instead, efforts should be made to identify only those case types for which time data may have changed significantly from the initial study results. Relatively small-scale samples then can be taken to assess whether any adjustments to selected workload standards are warranted.

However, over time, there will be sufficient changes in legislation, case processing, court structure, and/or jurisdiction to justify a complete study.

Recommendation 2:

The AOC should plan to conduct a systematic update of the workload standards prior to realignment considerations, approximately every eight years, depending on the judgment of the Realignment Committee. Funding for this should be part of the regular legislative agenda related to the process of assessing the need for new judgeships.

Integrity of the workload standards depends also on maintaining the quality of record keeping and statistical reporting.

Recommendation 3:

The AOC should institute a process to conduct county-level audits of the data collected and reported that are the source for West Virginia's case statistics. A multi-year audit scheme could be developed.

Regular and thorough auditing and feedback for correcting data collection problems is critical for achieving reliability in reporting across the courts. In particular, extra care should be taken to ensure that "modification" case types are counted consistently across counties and circuits, and that all reporting entities use the appropriate divorce case types.