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Hon. Mark Howard

THE STATE OF NEW HAMPSHIRE
JUDICIAL COUNCIL
www.nh.gov/judicialcouncil



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Alan Seidman, Ed.D
Philip H. Utter, Esq.
Hon. Robert S. Stephen

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October 20, 2025

Her Excellency, Governor Kelly A. Ayotte,
and the Honorable Council
New Hampshire State House
Concord, New Hampshire 03301

REQUESTED ACTION

Pursuant to RSA 20:7 and RSA 494:4, authorize the acceptance of the Judicial Council's Biennial Report for the period July 1, 2023 through June 30, 2025, effective upon Governor and Council approval.

EXPLANATION

Attached, please find copies of the Biennial Report of the Judicial Council for the 2024 and 2025 Fiscal Years as required by law.

Respectfully Submitted,

Jay Buckey
Executive Director

THE STATE OF NEW HAMPSHIRE

JUDICIAL COUNCIL



25TH BIENNIAL REPORT

JULY 1, 2023 - JUNE 30, 2025



THE STATE OF NEW HAMPSHIRE

JUDICIAL COUNCIL

25th Biennial Report

Pursuant to RSA 494:4

For the period
July 1, 2023, through June 30, 2025

June 2025

New Hampshire Judicial
Council One Granite Place,
Suite 226 Concord, New
Hampshire 03301 603-271-3592
judicialcouncil.nh.gov

The Judicial Council thanks Beth Newton,
2025 summer intern, for her assistance in
researching and drafting this report.

STATE OF NEW HAMPSHIRE

GOVERNOR AND EXECUTIVE COUNCIL

The Honorable Kelly A. Ayotte Governor

The Honorable Joseph D. Kenney
Executive Councilor - District One

The Honorable Karen Liot Hill
Executive Councilor - District
Two

The Honorable Janet Stevens
Executive Councilor - District
Three

The Honorable John Stephen
Executive Councilor - District
Four

The Honorable David K. Wheeler
Executive Councilor - District Five

Mission

To oversee the delivery of effective legal representation to indigent New Hampshire residents in criminal, child protection, and guardianship court proceedings and to engage in public/private partnerships for civil legal services.

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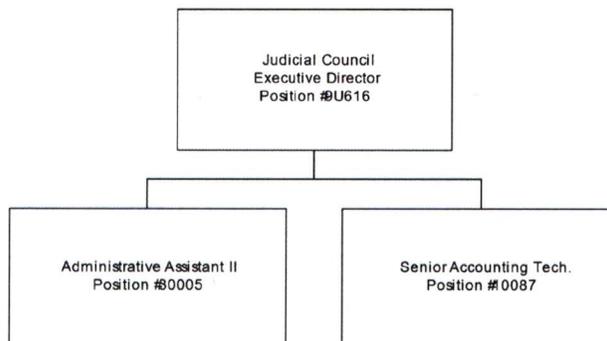
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Organizational Chart (full time)

**New Hampshire Judicial Council
Department 07**

**FY2024 Total Authorized Positions: 3
(1 Unclassified)
(2 Classified)**



Agency Staff

Jay Buckey
Executive Director

Sharon P. Hebert
Business Administrator

David Cunningham
Senior Accounting Technician

Jeffrey Jay
Senior Accounting Technician
(part-time)

Membership of the Judicial Council

Pursuant to RSA 494:1, the membership of the Judicial Council is as follows:

- The 5 members of the judicial branch administrative council, appointed pursuant to supreme court rules.
- The attorney general or designee.
- A clerk or administrator of the superior court, selected by the chief justice of the superior court.
- A clerk or administrator of the circuit court, selected by the administrative judge of the circuit court.
- The president-elect of the New Hampshire Bar Association.
- The chairperson of the senate judiciary committee or a designee from such committee appointed by the chairperson.
- The chairperson of the house judiciary committee or a designee from such committee appointed by the chairperson.
- Eight other members appointed by the governor and council, 3 of whom shall be lawyers of wide experience and at least 2 of whom are members of the New Hampshire Bar Association who have been admitted to practice for more than 5 years, and 5 of whom shall be members of the public who are not lawyers.
- Five other members appointed by the chief justice of the supreme court, 3 of whom shall be lawyers of wide experience and at least 2 of whom are members of the New Hampshire Bar Association who have been admitted to practice for more than 5 years, and 2 of whom shall be members of the public who are not lawyers.¹

Current Members

Pursuant to RSA 494:2, the term of each member who is not an *ex officio* member, shall be three years until a successor is appointed and qualified.

Ex Officio Members

The Honorable Melissa Countway	Supreme Court Justice
The Honorable Mark Howard	Superior Court Chief Justice
The Honorable Ellen V. Christo	Administrative Council- Circuit Court
<i>Vacant</i>	Administrative Council- Circuit Court
The Honorable Chris Keating	Interim Director, Administrative Office of the Courts
Senator Bill Gannon	Senate Judiciary Committee
Representative Majorie Smith	House Judiciary Committee
James T. Boffetti, Esquire	Deputy Attorney General
Robert Lucic, Esquire	President Elect of the New Hampshire Bar

Clerks/Administrators

Jennifer Haggar, Esquire	Superior Court Administrator
Heather S. Kulp, Esquire	Senior Circuit Court Administrator

¹ RSA 494:1 (1945) (amended 2024).

Membership of the Judicial Council (continued)

Governor and Executive Council Appointees

Philip H. Utter, Esquire	Term: through October 18, 2025
Hon. Robert Stephen	Term: through October 18, 2027
Brian J. X. Murphy, Esquire	Holdover, term expired October 2019
Kimberley Casey	Term: through January 1, 2026
Steven Lubrano	Term: through January 1, 2026
Dino Scala	Term: through January 1, 2026
Dr. Alan Seidman	Holdover; term expired January 1, 2020
<i>Vacant</i> (lay member)	

Chief Justice Appointees

Stephanie Bray, Esquire	Term: through December 31, 2025
John E. Durkin, Esquire	Term: through December 31, 2025
Richard Samdperil, Esquire (Vice-Chair)	Term: through December 31, 2026
Nina Gardner (Chair)	Term: through December 31, 2025
<i>Vacant</i> (lay member)	

Standing Committees

Executive Committee

Kimberly Casey
Nina Gardner

Child Protection Subcommittee

Stephanie Bray, Esquire
Heather S. Kulp, Esquire
Dr. Alan Seidman

Indigent Defense Subcommittee

John Durkin, Esquire
Nina Gardner
Philip Utter, Esquire
Richard Samdperil, Esquire

Compensation Committee

Kim Casey
Steven Lubrano
Vacant

Duties of the Judicial Council

Pursuant to RSA 494:3, it is the duty of the Judicial Council:

1. To serve as an institutional forum for the on-going and disinterested consideration of issues affecting the administration of justice.
2. To survey and study continuously the administration of justice within the state and the organization, procedure, practice, rules and methods of administration and operation of the courts of the state.
3. To devise ways of simplifying judicial procedure, expediting the transaction of judicial business, and of improving the administration of justice.
4. To recommend and provide general information to the general court, to the supreme court, to the superior court, to the circuit court, to any public official, department or agency or to the state bar association, either upon request or upon the council's own motion, such changes in the law or in the rules, organization, operation or methods of conducting the business of the courts, or with respect to any other matter pertaining to the administration of justice, as it may deem desirable.
5. To serve as a catalyst for the discussion of legal and judicial issues through seminars, forums and special studies, and any other means, within the limits of available state and private funding.
6. To administer the indigent defense delivery system and ensure its quality and cost effectiveness, pursuant to RSA 604-A and RSA 604-B.
7. To provide legal and guardian-ad-litem services in child protection cases, pursuant to RSA 169-C:10, RSA 604-A, and RSA 170-C:13.
8. To provide legal services for indigent proposed wards in guardianship proceedings brought under RSA 463 and RSA 464-A.

Judicial Council Duties by Statute

Collaboration with Other Government Entities

- 490-A:2 Provide advice to the Chief Justices of the Supreme and Superior Courts on the efficient operation of the courts and cooperate with them on making improvements. “The chief justice of the supreme court... shall be responsible for supervising the efficient operation of all courts in New Hampshire. In meeting this responsibility, the chief justices shall receive the advice and cooperation of all persons and bodies interested in the administration of justice, including, but not limited to, the justices of all courts in New Hampshire, the judicial council.”²
- 14:46 Prepare fiscal note worksheets on the financial impact of proposed legislation as directed by the Office of the Legislative Budget Assistant. “Fiscal impact notes shall be prepared by the legislative budget assistant with such assistance and data as he may require from any state agency, political subdivision, or any other source of data which he deems reliable, including but not limited to private individuals, corporations, and associations located within or without the state.”³
- 490-C:2 The executive director serves as an ex officio member of the Guardian *ad Litem* Board. “The board shall consist of the following members...The executive director of the New Hampshire judicial council.”⁴
- 651-E:2 The Executive Director serves as a member of the Inter-branch Criminal and Juvenile Justice Council. “The members of the council shall be as follows...The executive director of the judicial council.”⁵

² RSA 490-A:2 (1971) (amended 2006).

³ RSA 14:46 (1979) (amended 2019).

⁴ RSA 490-C:2, I(d) (2002) (amended 2023).

⁵ RSA 651-E:2, I(p) (2008) (amended 2015).

Rule 56

Supreme Court Rule 56 makes the Judicial Council chair a member of the Judicial Performance Evaluation Advisory Committee.

“The members of the judicial performance evaluation advisory committee shall include: a supreme court justice designated by the supreme court, the chief justice of the superior court and the administrative judge of the circuit court, the chairpersons of the house and senate judiciary committees, the chair of the judicial council or his or her designee, the deputy attorney general, the chairperson of the New Hampshire Bar Association's committee on cooperation with the courts or his or her designee, the executive director of New Hampshire Public Defender, and a judicial branch employee.”⁶

⁶ Sup. Ct. R. 56

Public Defender

- 604-B:5 Oversee the operations and management of the statewide public defender. “The public defender program shall be under the general supervision of the judicial council for such matters pertaining to, but not limited to, allocation of cases between the public defender program and assigned counsel, performance, professional competence, and fiscal and budgetary matters.”⁷
- 604-B:6 Oversee the allocation of cases between the Public Defender and private conflict counsel. “The allocation of cases between the public defender program and assigned counsel shall be in accordance with a plan adopted by the public defender program and approved by the judicial council. The plan shall establish caseload limits for defender attorneys in accordance with professional standards under the code of professional responsibility and shall provide for appointment of assigned counsel only where maximum caseloads have been reached or public defender attorneys are otherwise unavailable.”⁸

⁷ RSA 604-B:5 (1971) (amended 1981).

⁸ RSA 604-B:6 (1971) (amended 1981).

Indigent Defense

- 604-A:2-b Select attorneys and administer their contracts for handling conflict criminal cases. “The state of New Hampshire, by the judicial council and with the approval of governor and council, may, within the limits of available appropriations, contract with any qualified attorney in the state to provide for the representation of indigents in circumstances where, pursuant to RSA 604-B, the public defender program is unavailable to provide such representation.”⁹
- 604-A:2 Pay the invoices of assigned counsel in indigent criminal cases. “The court shall inform the judicial council of each case in which it makes an appointment of counsel pursuant to this paragraph and the reason for doing so, and the judicial council shall maintain records of all cases in which appointment of council pursuant to this paragraph has been made.”¹⁰
- 604-A:6 Pay the vendors who provide services other than counsel in indigent defense matters. “In any criminal case in which counsel has been appointed to represent a defendant who is financially unable to obtain investigative, expert or other services necessary to an adequate defense in his case, counsel may apply therefor to the court, and, upon finding that such services are necessary and that the defendant is financially unable to obtain them, the court shall authorize counsel to obtain the necessary services on behalf of the defendant.”¹¹

⁹ RSA 604-A:2-b (1985) (amended 2022).

¹⁰ RSA 604-A:2, II(a) (1965) (amended 2024).

¹¹ RSA 604-A:6 (1965) (amended 2006).

Abuse/Neglect Cases

- 169-C:10 Pay invoices of lawyers who provide representation to parents in Abuse/Neglect cases. “In any case of neglect or abuse brought pursuant to this chapter, the court shall appoint an attorney to represent an indigent parent alleged to have neglected or abused his or her child.”¹²
- 170-C:13 Pay for guardian *ad litem* who help children in abuse and neglect cases. “The judicial council shall pay the cost of a CASA guardian ad litem appointed for the child or other guardian ad litem in cases arising from an underlying abuse and neglect proceeding when the state is the moving party or in cases where payment would work a hardship on the petitioner.”¹³
- 169-C:15, III(a) Pay the invoices of guardians *ad litem* who help children in Abuse/Neglect cases. “Upon a finding of reasonable cause that the child is abused or neglected, the court shall appoint a CASA or other approved program guardian ad litem or an attorney to represent the child.”¹⁴
- 490-26:F Serve as the funding source for the State’s support of CASA of NH. “Notwithstanding other provisions of law to the contrary, the state, by the judicial council, may contract with any person qualified under the supreme court rules to provide guardian ad litem, ancillary, or legal services pursuant to statutory authority or court order, or with any organization approved by the supreme court to provide guardian ad litem, ancillary, or legal services.”¹⁵

¹² RSA 169-C:10, II(a) (1979) (amended 2025).

¹³ RSA 170-C:13, I (1973) (amended 2021).

¹⁴ RSA 169-C:15, III(a) (1979) (amended 2023).

¹⁵ RSA 490-26:F, II (1993) (amended 1997).

170-C:13

Pay for attorneys who represent parents in Termination of Parental Rights cases. “When appointment of counsel is made by the court pursuant to RSA 170-C:10 for a parent determined to be financially unable to employ counsel, the court shall use a financial eligibility guideline established by the office of cost containment to determine if the party is indigent. Upon determination that the party is indigent, the court may appoint counsel, subject to an order of repayment through the office of cost containment. The judicial council shall bear the financial responsibility for the payment of costs for attorneys appointed pursuant to RSA 170-C:10 in accordance with the financial eligibility guideline established by the office of cost containment.”¹⁶

¹⁶ RSA 170-C:13, III (1973) (amended 2021).

Other Civil Matters

464-A:6

Pay the invoices of lawyers who represent proposed wards in adult guardianship cases. “If the proposed ward does not have his or her own counsel, the court shall appoint counsel for the proposed ward immediately upon the filing of a petition for guardianship of the person and estate, or the person, or estate. The judicial council shall pay the cost of such appointment, including counsel and investigative, expert, or other services and expenses necessary to provide adequate representation, from funds appropriated for indigent defense.”¹⁷

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Pay the invoices of lawyers who represent proposed wards in juvenile guardianships.

525-A:2

Serve as the funding source for the State’s support of NH Legal Assistance. “Funds appropriated to New Hampshire Legal Assistance shall be used to provide civil legal services to low-income persons in the state... New Hampshire Legal Assistance shall report semi-annually to the judicial council as to its use of these funds.”¹⁸

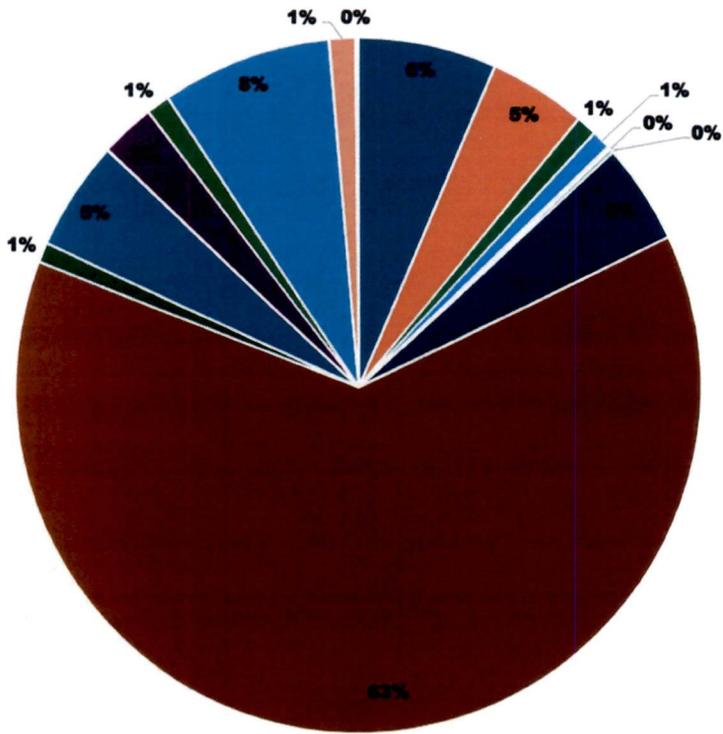
¹⁷ RSA 464-A:6, I (1979) (amended 2021).

¹⁸ RSA 525-A:2 (2005) (amended 2019).

Receipts and Expenditures

For the 24-25 biennium the Judicial Council made the following expenditures:

	FY 24 Actual	FY 25 Actual
Expenditure by Budget Accounting Unit		
1091 Assigned Counsel		
Representation in criminal & delinquency cases	\$2,556,012.05	\$3,220,799.77
Representation for parents in abuse & neglect cases	\$2,122,695.51	\$1,947,017.51
1092 GAL Fund		
Representation for proposed wards in guardianship proceedings	\$367,348.67	\$497,522.97
Representation for parents in termination-of-parental-rights cases	\$372,768	\$427,238
Non-CASA G.A.L. services for children in termination-of-parental-rights cases	\$42,706	\$84,551
Representation of parents in appeals	\$59,347	\$94,667
1093 Contract Attorneys		
Representation in criminal & delinquency cases	\$2,070,240	\$2,029,061
1094 NH Public Defender		
Representation in criminal & delinquency cases	\$27,794,554	\$27,994,554
1097 Agency Budget		
	\$399,653.89	\$408,496.05
1098 NH Legal Assistance		
Civil legal services for the poor	\$2,250,000	\$2,250,000
1099 CASA Guardians ad Litem		
CASA G.A.L. services for children	\$1,126,550	\$1,126,550
1101 Non-CASA Guardians ad Litem		
Non-CASA G.A.L. services for children in abuse & neglect cases	\$432,487	\$552,231.33
1103 Services Other Than Counsel		
Non-counsel services in delinquency & criminal cases	\$3,279,992	\$3,810,605
2443 ARPA Indigent Defense		
	\$1,039,251	\$67,332
Substance Use - Indigent Defense		
7220 (substance abuse funds set aside for JC use)	\$42,944	\$50,842
TOTAL EXPENDITURES	\$43,956,549.31	\$44,561,468



- \$5,776,811.82 Assigned counsel representation in criminal & delinquency cases
- \$4,069,713.02 Assigned counsel representation for parents in abuse & neglect cases
- \$864,871.64 Representation for proposed wards in guardianship proceedings (GAL Fund)
- \$800,006 Representation for parents in termination-of-parental-rights cases
- \$127,257 Non-CASA G.A.L. services for children in termination-of-parental-rights cases (GAL Fund)
- \$154,014 Representation of parents in appeals (GAL Fund)
- \$4,099,301 Contract attorney representation in criminal & delinquency cases
- \$55,789,108 NH Public Defender
- \$808,149.94 JC Agency Budget
- \$4,500,000 NH Legal Assistance
- \$2,253,100 CASA GAL
- \$984,718.33 Non-CASA GAL ABN
- \$7,090,597 Services other than counsel criminal & delinquency cases
- \$1,106,583 ARPA Indigent Defense
- \$93,786 Substance Use - Indigent Defense

Summary of Responsibilities

1. Indigent Defense

The Judicial Council oversees the delivery of legal representation for New Hampshire's indigent defendants. The right to counsel is guaranteed through the 15th amendment of the NH Constitution and the Sixth and Ninth amendments of the US Constitution. The Bill of Rights in the NH Constitution provides: "Every person held to answer in any crime or offense punishable by deprivation of liberty shall have the right to counsel at the expense of the state if need is shown."¹⁹

Because important legal, ethical, and administrative considerations require that the entity overseeing indigent defense representation stand separate and apart from the prosecutorial, legislative, and judicial spheres, the Council has proven to be the right home for this important government function.

The New Hampshire Public Defender

The Council provides indigent defense through three avenues. First, through the New Hampshire Public Defender (NHPD). NHPD is a private, non-profit corporation whose sole purpose is to provide legal representation to indigent criminal defendants, to civil commitment respondents, and to children in delinquency proceedings throughout the State of New Hampshire. NHPD is the main provider of indigent defense for the state, providing representation in over 37,000 cases during the period covered. NHPD also provides representation at treatment courts (i.e. drug courts) throughout the state and provides training resources which are used by contract and assigned counsel.

Because of the rules which govern conflicts of interest for attorneys (Rules of Professional Conduct), NHPD cannot ethically represent all indigent criminal defendants in the state. Specifically, Rule 1.7 of the New Hampshire Rules of Professional Conduct specifies that subject to certain exceptions:

"a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- (1) the representation of one client will be directly adverse to another client; or
- (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer."

Such circumstances arise frequently in criminal defense. These ethical rules generally bar attorneys from representing co-defendants in the same case or representing a client when the lawyer represents the victim or a witness in the case (among other situations). These rules are important in preserving access to justice for all defendants but preclude a single entity from taking all indigent defense cases

Contract Counsel

Under the statutory order of appointment, all criminal appointments are initially assigned to NHPD. (See RSA 604-A:2, II). The Council contracts with private attorneys to provide representation in conflict cases where ethical rules forbid NHPD representation. This system was established in 1985 to serve as a backstop to the NHPD, to provide predictability of costs and to reduce the State's reliance on the more expensive assigned counsel system. Contract attorneys agree to take a certain number of cases per year (with each case given a fixed unit value) on a flat fee basis. In recent years, the contract attorney system has declined substantially.

Assigned Counsel

All cases not handled by NHPD or contract counsel are assigned to private lawyers who bill on an hourly basis. Assigned counsel are attorneys in private practice who are appointed to represent the accused when there is a conflict for NHPD and contract attorneys or when there is insufficient contract counsel availability to cover all cases.

Services Other Than Counsel

The Council also administers the funds for court-approved non-counsel services. When an accused person is indigent and cannot afford expert services necessary to their defense in a criminal case, statutory and constitutional law require that the State provide them with funds sufficient to retain expert services. RSA 604-A:6 states:

“In any criminal case in which counsel has been appointed to represent a defendant who is financially unable to obtain investigative, expert or other services necessary to an adequate defense in his case, counsel may apply therefor to the court, and, upon finding that such services are necessary and that the defendant is financially unable to obtain them, the court shall authorize counsel to obtain the necessary services on behalf of the defendant.”

This statute protects the well-established constitutional rights of an accused person to due process, equal protection, effective assistance of counsel and the right to present all proofs favorable. RSA 604-A:6 requires the Council to pay for these services when a trial judge has ruled that the defendant is indigent and that the services are necessary to an adequate defense. Most commonly these services include language interpretation, private investigators, blood analysis, transcripts, depositions of witnesses, toxicology experts, witness fees, psychological examinations, forensic experts, and accident reconstruction experts.

¹⁹ Part 1, Bill of Rights, of the New Hampshire State Constitution, [Art.] 15. [Right of Accused.] (1784) (amended 1984). <https://www.nh.gov/glance/state-constitution/bill-rights>

In certain instances, failure to consult with an expert can result in counsel being found ineffective and the appointment of a new attorney. The New Hampshire Supreme Court found counsel ineffective in a negligent homicide case for failing to consult with an accident reconstruction expert.²⁰ These types of expenditures have grown rapidly in the past several years as cases have grown more complex and new types of expenditures (such as document review software) have arisen.

²⁰ See, e.g. State v. Whitaker, 158 N.H. 762, 772-75 (2009)
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2. Civil Legal Representation

Although indigent defense in criminal cases constitutes the bulk of the Judicial Council's budget, the Judicial Council also funds civil representation in many areas.

Child Protection Cases

When the Division for Children, Youth and Families brings a petition of abuse and neglect against a parent, a confidential Circuit Court – Family Division case is opened. If the accused parent is indigent, the court is required to appoint an attorney pursuant to RSA 169-C:10, II (a). The Judicial Council funds attorneys at both the abuse and neglect stage and at the termination of parental rights proceedings.

These cases are time-consuming and deadline driven. If the child is not reunified with his or her parents at the end of the case, a termination of parental rights case is brought forward. A termination of parental rights case occurs when, “subsequent to a finding of child neglect or abuse under RSA 169-C, the parents have failed to correct the conditions leading to such a finding within 12 months of the finding despite reasonable efforts under the direction of the court to rectify the conditions.”²¹ A parent has the opportunity to appeal a court's decision to the Superior Court and the Supreme Court.

A child is abused when they have been, “(a) sexually abused; or (b) intentionally physically injured; or (c) psychologically injured so that said child exhibits symptoms of emotional problems generally recognized to result from consistent mistreatment or neglect; or (d) physically injured by other than accidental means; or (e) subjected, by any person, to human trafficking as defined in RSA 633:7; or (f) subjected to an act prohibited by RSA 632-A:10-d.”²²

A neglected child is a child,” (a) who has been abandoned by his or her parents, guardian, or custodian; or (b) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health... or, (c) whose parents, guardian or custodian are unable to discharge their responsibilities to and for the child because of incarceration, hospitalization or other physical or mental incapacity.”²³

²¹ RSA 170-C:5, III (1973) (amended 2023).

²² RSA 169-C:3, II (1979) (amended 2022).

²³ RSA 169-C:3, XIX (1979) (amended 2022).

The Judicial Council has taken on an ever-increasing role in child protection cases and is now responsible for paying for parent representation, Court Appointed Special Advocates (CASA) and private Guardians ad Litem (GALs). RSA 169-C: 10 requires the appointment of a GAL in an abuse and neglect case.²⁴ RSAS 170-C:8 requires a GAL be appointed in a termination of parental rights case. CASA provides GAL services through its volunteers. A GAL is “a person appointed by the court to protect the interest of a minor or an incompetent in a case before the court.”²⁵ “The role of the guardian ad litem shall be to gather information to assist the court in determining the best interests of the child.”²⁶ CASA volunteer advocates make recommendations to the court to obtain a safe, permanent placement for children based on the child’s best interest.²⁷

Beginning in 1996 with a small, three-month trial, the Council began providing funding to support a small portion of the administrative, recruitment and training activities of CASA. Since that time, the funding has increased to match CASA’s increasingly larger share of the statewide caseload. In FY24 and FY25, the Judicial Council distributed \$1,126,550.00 in funds to CASA.

Legislation enacted in 2012 requires courts to appoint a CASA GAL in the first instance. At its inception, the rationale for providing funding to CASA was that for its investment in supervision, recruitment, and support for a legal position, the State was able to provide services of a well-trained and supervised volunteer to serve as GAL. The Judicial Council has continued to provide funding for CASA as an important provider of these services.

Advocates also serve as a stable relationship for children throughout the many life changes they experience.²⁸ An added responsibility for CASA advocates in Sullivan County is to attend every Family Treatment Court (“FTC”) session.²⁹ The FTC addresses the neglect conditions caused by substance use disorder and its main goal is reunification with the parents.³⁰ The hard work of CASA advocates, DCYF, parent attorneys, substance use & mental health treatment providers, and community partners has paid off.³¹ Families in FTCs were twice as likely to reunify and parents who participated in the FTC remained in treatment for longer; 197 days instead of 97 days.³²

The Judicial Council also pays fees for attorneys to represent children in abuse and neglect cases. These attorneys can be appointed by the court to represent the child’s interests. These attorneys serve in a different legal role, as they do not represent a child’s “best interest” as a GAL does, but instead represents the child’s “expressed interest,” i.e., what the child says he or she wants to happen.

²⁴ RSA 169-C:10 (1979) (amended 2024).

²⁵ RSA 170-C:2, VI (1973) (amended 2005).

²⁶ RSA 461-A:16, I (2005) (amended 2019).

²⁷ CASA, Our Advocates Provide, <https://casanh.org/>.

²⁸ *Id.*

²⁹ Tom Jarvis, Breaking the Cycle: Family Treatment Court in Sullivan County Helps Families Rebuild, NH Bar News, 1, 25 (February 19, 2025).

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

In FY24, CASA had 503 active volunteers who donated 86,870 hours.³³ CASA volunteer advocates ensure children are in a safe environment by meeting with them monthly.³⁴ In 2024 CASA represented 1,544 children in 948 cases in FY24 and closed 270 Abuse/Neglect cases and 121 TPR cases.³⁵ In FY25, CASA had 506 active volunteers who donated 86,546 hours and represented 747 children in 503 cases.³⁶ In FY25 CASA also closed 249 Abuse/Neglect cases and 134 TPR cases.³⁷

³³ CASA, CASA of New Hampshire Final Annual Summary Report Fiscal Year 2024, 1,1 (2024).

³⁴ CASA, Our Advocates Provide, <https://casanh.org/>.

³⁵ *Id.*

³⁶ CASA, CASA of New Hampshire Final Annual Summary Report Fiscal Year 2025, 1,1 (2025).

³⁷ *Id.*

Private GALs

If CASA is unavailable, the court appoints a private GAL. The Council pays for this service. The Council's Executive Director sits on the GAL Board.

Additional Services in Probate and Family Matters

The Council also pays for court-ordered services provided by GALs and attorneys in cases related to guardianships of incapacitated adults and minors, and representation in Supreme Court appeals from any of these case types. People can be made a ward in a guardianship if they are incapable of making financial or healthcare decisions.³⁸ The petition to make someone a ward is required to detail the proposed ward's "financial transactions, personal actions or actual occurrences which are claimed to demonstrate his or her inability to manage an estate, or to provide for personal needs for health care, food, clothing, shelter, or safety," to illustrate why they should be placed under a guardianship.³⁹

Once a guardianship petition is submitted, the proposed ward is required to obtain counsel. Under RSA 464-A:6, even proposed wards that are indigent are required to have counsel: "The right to legal counsel for any person for whom a temporary guardian or guardianship of the person and estate, or person, or estate, is sought shall be absolute and unconditional. If the proposed ward does not have his or her own counsel, the court shall appoint counsel for the proposed ward immediately upon the filing of a petition for guardianship of the person and estate, or the person, or estate. The judicial council shall pay the cost of such appointment, including counsel and investigative, expert, or other services and expenses necessary to provide adequate representation."⁴⁰

The proposed ward's attorney is required to meet with them to learn their wishes because the attorney is must represent the proposed ward's expressed wishes at the guardianship hearing.⁴¹ The guardianship petition will be denied if the proposed ward's attorney can show that "no substantial harm will or has resulted, the proposed ward is making informed judgment, and/or that a less restrictive alternative to guardianship is available."⁴²

Having an attorney to represent a proposed ward's expressed interests is essential to protect their fundamental rights. When people become wards, their rights become limited, including the right to travel, decide where to live, arrange for medical care, manage property, marry or divorce, have a driver's license, make or change a will, testify in court, make contracts, and file lawsuits.⁴³

³⁸ See New Hampshire Public Radio| By the Exchange, The Legal and Emotional Challenges of Adult Guardianship, NHPR (August 2, 2017), <https://www.nhpr.org/the-exchange/2017-08-02/the-legal-and-emotional-challenges-of-adult-guardianship> (providing an overview guardianships).

³⁹ RSA 464-A:4, III (1979) (amended 2002).

⁴⁰ RSA 464-A:6, I (1979) (amended 2021).

⁴¹ New Hampshire Judicial Branch, Guardianship, <https://www.courts.nh.gov/our-courts/circuit-court/probate-division/guardianship>.

⁴² *Id.*

New Hampshire Legal Assistance

NHLA's mission statement: "New Hampshire Legal Assistance is a nonprofit law firm working to make justice a reality for and with people who experience economic hardship that threatens their basic human needs. Through representation and systemic advocacy, NHLA offers civil legal aid that addresses the effects and root causes of poverty."⁴⁴

Since 1997, the Legislature has provided vital funding for New Hampshire Legal Assistance (NHLA) in support of its efforts to provide legal aid to low-income New Hampshire residents. In FY24 and FY25, the Judicial Council distributed \$2,250,000.00 in funds to NHLA. The State funding for NHLA has been a cornerstone of civil justice for vulnerable elders, veterans, the disabled, and victims of domestic violence.

NHLA assists individuals and families with civil legal problems such as preserving affordable housing, preventing homelessness, maintenance of subsistence income, access to affordable health care, enforcing consumer rights, youth education rights, long-term care for vulnerable seniors and safety from domestic abuse. NHLA's services "range from basic legal information, to personalized legal advice, to representation in all of New Hampshire's courts and before many local, state, and federal administrative agencies."⁴⁵ These services are divided into practice area projects, such as the Housing Justice Project, Domestic Violence Advocacy Program ("DVAP"), Benefits Project, Justice in Aging Project, Youth Law Project, Immigrant Justice Project, and Medical-Legal Partnerships.⁴⁶

In 2023, New Hampshire Legal Assistance established two eviction clinics and two domestic violence clinics.⁴⁷ These clinics have a 70% success rate.⁴⁸ In 2025, 487 people were serviced at the eviction clinics and 202 people were serviced at the domestic violence clinics.⁴⁹ In 2025, NHLA also served 1,483 clients.⁵⁰ In 2024, 368 people were serviced at the eviction clinics and 136 people were serviced at the domestic violence clinics.⁵¹ In 2024, NHLA served 989 clients.⁵² In 2024, the NHLA also started a pilot program to train and mentor paralegals that are able to represent clients at the eviction and domestic violence clinics.⁵³

⁴³ See Disability Rights Center-NH, Guardianships and Less Restrictive Alternatives, <https://drcnh.org/disability-issue-areas/guardianship/> (providing general information regarding guardianships).

⁴⁴ NHLA, Fourth/Final Semiannual Grant Report to the Judicial Council for SFY 2022-2023, 1, 1 (2023).

⁴⁵ *Id.*

⁴⁶ NHLA, Third Semiannual Grant Report to the Judicial Council for SFY 2024-2025, 1, 2-3 (2025).

⁴⁷ NHLA, Fourth/Final Semiannual Grant Report to the Judicial Council for SFY 2022-2023, 1, 2 (2023).

⁴⁸ NHLA, Third Semiannual Grant Report to the Judicial Council for SFY 2024-2025, 1, 2 (2025).

⁴⁹ *Id.* at 8.

⁵⁰ *Id.*

⁵¹ NHLA, Second Semiannual Grant Report to the Judicial Council for SFY 2023-2024, 1, 5 (2024).

⁵² *Id.*

⁵³ *Id.* at 2.

Agency Accomplishments FY 2024 and 2025

The work of the Judicial Council impacts thousands of New Hampshire residents who depend upon it to fund and provide competent legal representation in the civil and criminal spheres. In fiscal years 2024 and 2025:

- The Judicial Council funded the Criminal Law Defense Academy (“CDA”) to train attorneys and increase the pool of qualified attorneys for contract and assigned counsel cases.⁵⁴ The CDA ran from September 2023 to June 2024 and had eleven enrollees that graduated.⁵⁵ These enrollees were private attorneys that wanted to take indigent defense cases, but lacked the necessary experience.⁵⁶ The CDA covered criminal defense, criminal procedure, trial skills, and best practices in indigent defense.⁵⁷ Over the course of the CDA, these enrollees handled 323 cases.⁵⁸
- In April 2024, the Judicial Council adopted comprehensive standards for the representation of children by appointed counsel.⁵⁹ These standards set out what children’s attorneys should be familiar with, such as procedures and available services, especially community resources.⁶⁰ The procedures covered how to deal with children who have backgrounds in trauma and abuse, how to deal with parents and other parties, and what to do if you think your client is being abused in their placement.⁶¹
- On January 21, 2025, the Judicial Council held a full day CLE to train attorneys seeking to serve as children’s attorneys.⁶² The CLE covered best practices in 169-B & -C cases, the statutory framework and anatomy of 169-B & -C cases, law & practice related to institutional placement, special education & school discipline basics, ethics, ACEs, and behavioral health & science data.⁶³
- The Judicial Council recommended a rate increase for assigned counsel which was adopted by the New Hampshire Supreme Court.

⁵⁴ Tom Jarvis, The UNH Criminal Defense Academy Tackles the Indigent Defense Crisis, NH Bar News, 1, 1 (July 17, 2024).

⁵⁵ *Id.* at 22.

⁵⁶ *Id.* at 1.

⁵⁷ *Id.*

⁵⁸ *Id.* at 22.

⁵⁹ Grace Yurish, New Hampshire Judicial Council Adopts Standards for the Representation of Children, NH Bar News, 6, 6 (June 19, 2024).

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Representing Children in Child Protection & Delinquency Cases, NH Bar News, 23, 23.

⁶³ *Id.*

- The Judicial Council recommended changes to Supreme Court rules to facilitate electronic signatures in district court, which were adopted.
- The Judicial Council obtained federal funds to overhaul the outdated payment system for assigned and contract counsel.

Future Challenges

The Judicial Council faces several challenges in accomplishing its mission:

- New Hampshire has the lowest number of attorneys per capita in New England.⁶⁴ There is an acute lack of attorneys in rural areas, especially private attorneys that can contract with the Judicial Council.⁶⁵ Some counties have no contract attorneys available for public defender cases.⁶⁶ This forces contract and assigned counsel attorneys to travel a wide area to represent their clients.⁶⁷
- The relative scarcity of attorneys hinders the Judicial Council from locating sufficient attorneys to take indigent defense cases. Neighboring states are recruiting attorneys to take the same types of indigent defense cases that the Judicial Council needs staffing for.
- The most cost effective and efficient approach to meeting indigent defense needs is adequate funding of the public defender. However, due to resources issues, NHPD continues to have staffing issues that preclude it from taking all cases in the first instance. Even when fully staffed, NHPD cannot take around 15% of indigent cases due to conflicts of interest.⁶⁸ When NHPD is not fully staffed additional cases must go into the conflict system, this is more expensive and slows assignment times. This leads to the ongoing of problem of incarcerated defendants without counsel.
- Conflict cases must be taken by contract or assigned counsel. The number of attorneys or firms willing to sign indigent defense contracts has dropped by 45%. Currently there are 18 contract attorneys and approximately 45 assigned counsel attorneys who regularly take cases. The remaining cases must go to assigned counsel. The additional cases that NHPD is unable to accept place an additional strain on the indigent defense system. This leads to the ongoing backlog of defendants, some of whom are incarcerated, who are unable to be swiftly assigned counsel.
- CASA of NH is unable to take all CASA cases due to resource issues. CASA declined 94 cases involving 187 children in 2024 due to a lack of resources.⁶⁹ When CASA cannot take a case, the case must be assigned to a private GAL.

⁶⁴ Grace Yurish, Legal Deserts Widen the Justice Gap in New Hampshire, NH Bar News, 1, 1 (October 10, 2024).

⁶⁵ *Id.* at 19.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Annmarie Timmins, Indigent Defense is Recovering from Crisis but Still 'Under Lot of Stress', NH Bar News, 26, 26 (November 15, 2023).

⁶⁹ CASA, CASA of New Hampshire Final Annual Summary Report Fiscal Year 2024, 1,1 (2024).

- New Hampshire Legal Assistance is a vital source of civil legal assistance for New Hampshire Residents. However, due to resource constraints, NHLA was unable to represent 467 potential clients in 2025 due to a lack of resources.⁷⁰
- Additional data in criminal defense cases has increased the need for reviewing documents and videos, for example, even a routine case may have hours of body camera footage. Reviewing this evidence can be extremely time-consuming and expensive. Investing in additional technology would greatly aid in efficiently dealing with the addition of new data in criminal cases.
- Statutory changes will require more attorneys to serve as children’s attorneys to represent the expressed interests of institutionalized children or children who are at risk of institutionalized children. This will place additional needs on a system where the existing roster of attorneys is already thin. SB 463, which takes effect on January 1, 2026, allows court-appointed legal representation to be given to children who are institutionalized or at risk of becoming institutionalized.⁷¹
- The Judicial Council, as an agency, would benefit from additional resources to improve its financial operations and provide additional training and other resources for attorneys to encourage participation in indigent defense.

⁷⁰ NHLA, Third Semiannual Grant Report to the Judicial Council for SFY 2024-2025, 1, 8 (2025); NHLA, Second Semiannual Grant Report to the Judicial Council for SFY 2023-2024, 1, 7 (2024).

⁷¹ Grace Yurish, SB 463 Expands Access to Court-Appointed Counsel for Children in Abuse and Neglect Cases, NH Bar News, 6, 6 (November 20, 2024).

Conclusions

In the opinion of the executive director, resources are the main challenge for the Judicial Council in carrying out its mission. The agency has a broad mandate and very limited staffing and resources to carry it out. Additional resources are necessary to resolve the ongoing crisis of indigent incarcerated defendants without counsel. The Legislative Budget Assistant Judicial Council audit of 2024 made suggestions which ought to be implemented. Specifically, the agency needs a full-time finance director, sufficient resources allocated to provide counsel to all who qualify, and the vacant positions on the Council should be filled to ensure a broad range of perspectives are brought to the Council.⁷²

Adequate funding of existing centralized providers, such as NHPD, CASA of NH, and NHLA is also crucial to the continued ability of the agency to perform its mission. It is more efficient and less expensive to adequately fund these agencies in the first instance rather than pay for assigned counsel/GALs. Increased funding is necessary for these organizations to meet the needs of those who qualify for services. Other states, such as Massachusetts and Maine, have recognized the advantage of this approach for indigent defense and are hiring additional attorneys for such programs to meet their indigent defense needs.⁷³ Prioritizing the funding for these agencies provides the best return on investment for the Judicial Council and the State.

However, even when fully staffed, the public defender cannot accept roughly 15% of indigent defense cases due to conflicts. When NHPD must turn away cases due to resource limitations, there are not adequate numbers of attorneys available and willing to take indigent defense cases. There is statutory authorization for an “alternative” public defender that could take conflict cases. This should continue to be considered as a cost-effective means for providing services. The rates for conflict counsel must also remain adequate to ensure that enough attorneys will accept cases.

For the agency itself, adding a finance director would strengthen financial processes and oversight. Additional staff would also help to further the shift of reviewing counsel and services billing from the Judicial Branch to the Judicial Council. This includes statewide implementation of the LegalServer case management system. Implementing this system will be a huge step forward for modernizing billing (as recommended in the audit). Making the change to a modern system requires training attorneys and staff in how to use the system, as well as having expertise in how to fully leverage the system for reporting and analysis. Centralizing billing review and authority with the Judicial Council is more efficient and reduces the amount of judge and staff time that the Judicial Branch must allocate to this task.

Shifting responsibility and authority to the Judicial Council would also aid its ability to standardize billing processing across courts and case types. It would also facilitate setting standardized billing rates for vendors who provide services other than counsel. Standardizing and streamlining the billing process would both decrease the cost of services and make vendors more likely to participate by reducing the administrative burden of providing services. Additional staff would also allow the agency to dedicate staff resources to critical operational improvements that directly support core aspects of its mission, such as training, improved oversight of services, and improving the administration of justice in New Hampshire.

Investing in technology should also be prioritized. New software exists that allows the automatic generation of transcripts and synopses of extensive body camera footage and other digital discovery. Funding the adoption of this software will enable existing providers to make their employees more productive. The Judicial Council could also potentially offer access to this software as a cost-effective way to encourage private attorneys to sign up as assigned counsel. Anytime the Judicial Council leverages its ability to provide training or technology to assigned counsel, it is a cost-effective means of inducing assigned counsel to take cases.

Cooperation with other entities in reviewing and improving processes also holds the potential for improving services while constraining costs. The cost of indigent defense is tied to the procedures and processes of the courts. Improvements and investments in case processing, such as electronic filing, will generally serve to decrease the costs of indigent defense.

Statutory changes are also a potential means of controlling costs. In criminal cases, the number of cases that require counsel is directly tied to the number of cases where defendants face incarceration. Reclassifying charges that carry the potential for incarceration, even when such penalties are rarely used, is another route for potential cost savings.

This agency will remain at your service to provide any requested information concerning the importance of this additional funding to the orderly administration of justice.

Thank you for your consideration.

Respectfully Submitted,

/s/ Jay M. Buckey

Jay M. Buckey
Executive Director

⁷² See State of New Hampshire, Judicial Council Internal Review Revenues and Expenditures, October 2024.

⁷³ See, e.g., Michael P. Norton Mass public defender hires 22 new attorneys in rapid expansion. State House News Service, October 22, 2025. (<https://www.msn.com/en-us/news/us/mass-public-defender-agency-hires-22-new-attorneys-in-rapid-expansion/ar-AA1Mc63j>)