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# Nebraska Judicial Workload Assessment

*Final Report*

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### *Judicial Needs Assessment Committee (JNAC)*

Hon. Stephanie Stacy, Nebraska Supreme Court (Chair)  
Hon. Matthew Acton, County Court, 3<sup>rd</sup> Judicial District  
Eric Asboe, AOC  
Hon. Chad Brown, Separate Juvenile Court, 4<sup>th</sup> Judicial District  
Hon. Kale Burdick, County Court, 8<sup>th</sup> Judicial District  
Liz Neeley, NSBA  
Hon. Jodi Nelson, District Court, 3<sup>rd</sup> Judicial District  
Hon. Travis O'Gorman, District Court, 12<sup>th</sup> Judicial District  
Hon. Anne Paine, County Court, 11<sup>th</sup> Judicial District  
Hon. C Jo Petersen, County Court, 5<sup>th</sup> Judicial District  
Hon. Linda Porter, Separate Juvenile Court, 3<sup>rd</sup> Judicial District  
Amy Prenda, AOC  
Hon. John Samson, District Court, 6<sup>th</sup> Judicial District  
Hon. Julie Smith, District Court, 1<sup>st</sup> Judicial District  
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Hon. Robert Steinke, District Court, 5<sup>th</sup> Judicial District  
Hon. Shelly Stratman, District Court, 4<sup>th</sup> Judicial District  
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Hon. Donna Taylor, County Court, 7<sup>th</sup> Judicial District  
Hon. Derek Vaughn, County Court, 4<sup>th</sup> Judicial District

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## **EXECUTIVE SUMMARY**

At the request of the Nebraska Supreme Court, the Nebraska Administrative Office of the Courts and Probation (AOCP) contracted with the National Center for State Courts (NCSC) to perform a comprehensive update, extension, and improvement of the existing Nebraska judicial weighted caseload system in line with state-of-the-art practices. A clear and objective assessment of court workload is essential to establish the number of judges required to resolve in a timely manner all cases coming before the court. The primary goals of the study were to:

- Develop a valid measure of judicial workload in all District, County and Separate Juvenile Courts, accounting for variations in complexity among different case types, as well as differences in the non-case-related responsibilities of judges;
- Evaluate the current allocation of judicial resources;
- Establish a transparent and empirically driven formula for determining the appropriate level of judicial resources in each judicial district.
- Enable compliance with Nebraska Rev. Stat. §24-1007, which requires the state court administrator to compile accurate judicial workload statistics for each district, county, and separate juvenile court based on caseload numbers weighted by category of case.

### ***Project Design***

To provide oversight and guidance on matters of policy throughout the project, Chief Justice Michael G. Heavican appointed a 19-member Judicial Needs Assessment Committee (JNAC) representing District, County and Separate

Juvenile courts across the state. The workload assessment was conducted in two phases:

1. A quantitative Time Study in which all judges recorded all case-related and non-case-related work over a four-week period. The purpose was to provide an empirical description of the amount of time currently devoted to processing each case type, as well as the division of the workday between case-related and non-case-related activities.
2. A qualitative Sufficiency of Time survey to provide a statewide perspective on areas of concern in relation to current case processing practice and existing judicial resources. All judges were asked to complete the web-based survey. The survey provided important insight into whether judges believe they have sufficient time available to perform all of their various case-related and non-case-related responsibilities.

### ***Project Results***

Applying the final weighted caseload model to current case filings shows that the current number of judges is appropriate to handle the existing judicial workload. The lone exception is the 4<sup>th</sup> Judicial District where the model shows a current need for an additional two judgeships. Viewed statewide, Nebraska currently has a need for a total of 58 District Court judges, 58 County Court judges, and 12 Separate Juvenile Court judges.

## ***Recommendations***

The final weighted caseload model discussed in this report provides an empirically grounded basis for analyzing judicial workload and need in each of Nebraska's District, County, and Separate Juvenile Courts. The following recommendations are intended to ensure the effective use of the weighted caseload model and to preserve the model's integrity and utility over time.

### **Recommendation 1**

The revised weighted caseload model clearly illustrates the changing character of judicial workload in Nebraska. The model is used to determine the number of judges needed in each District, County and Separate Juvenile Court. The model finds the current complement of judges is appropriate in all court locations, with the exception of the 4<sup>th</sup> Judicial District. The model suggests the need for two new judgeships in the 4<sup>th</sup> Judicial District, but does not reflect the additional judgeship to be added in that district effective July 1, 2021.

### **Recommendation 2**

A critical assumption of Nebraska's weighted caseload models is that case filings are entered into JUSTICE uniformly and accurately. NCSC recommends that Nebraska's district and county court clerks continue their efforts to improve the uniformity of data entry and that the trial courts continue efforts to encourage uniformity in case filings. Ideally, for all criminal and civil case types, multi-charge or multi-petition cases should be counted as a single case unless they are unable to be consolidated and must be processed separately. For juvenile 3A cases, NCSC recommends counting 3A children rather than 3A cases due to the disparate filing practices among prosecutors across the state. A case with multiple children should count each child only once, when they are added to the case.

### **Recommendation 3**

The calculations of judge need in this report are based upon a three-year average of case filing data. NCSC recommends that Nebraska AOCF recalculate judge need on an annual basis using the same methodology set forth in this report and updated with year-end case filing data to produce a 3-year rolling average. The application of the workload formula to the most recent filings will reveal the impact of any caseload changes judicial workload.

### **Recommendation 4**

The availability of support personnel, especially law clerks, bailiffs, court clerks, and child support referees, has a profound impact on judges' ability to perform their work efficiently and effectively. The recommended case weights were calculated based on the actual judge time only, so if support personnel are no longer provided or are reduced in a particular district, the judicial need will be higher than is reflected in the weighted caseload report. JNAC members and results from the Sufficiency of Time survey stressed the importance of strong support staff. NCSC recommends that periodic workload assessments be conducted for law clerks, bailiffs, court clerks, and child support referees.

### **Recommendation 5**

Over time, the integrity of any weighted caseload model may be affected by external factors such as changes in legislation, case law, or court technology. NCSC recommends that the Nebraska Supreme Court and the AOCF conduct a comprehensive review of the weighted caseload models every five to seven years. Between updates, if a major change in the law appears to have a significant impact on judicial workload, JNAC and/or a representative focus group of judges that handle the case type(s) may be convened to make interim adjustments to the affected case weight(s).

## I. INTRODUCTION

The Nebraska Administrative Office of the Courts and Probation (AOCP) contracted with the National Center for State Courts (NCSC) to develop a method to measure judicial workload in Nebraska's District, County, and Separate Juvenile Courts. A clear measure of court workload is central to determining how many judicial officers are needed to resolve all cases coming before the court. Adequate resources are essential if the Nebraska 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 judicial officers required to handle the caseload and whether judicial resources are being allocated and used prudently. In response, judicial leaders around the country are increasingly turning to empirically based workload assessments to provide a strong foundation of judicial resource need in their state trial courts.

The need for financial and resource accountability in government is a strong stimulus to develop a systematic method to assess the need for judges. The state-of-the-art technique for assessing judicial need is a weighted caseload study because population or raw, unadjusted filings offer only minimal guidance regarding the amount of judicial work generated by those case filings. The weighted caseload method explicitly incorporates the differences in judicial workload associated with different types of cases, producing a more accurate and nuanced profile of the need for judges in each court.

The current study represents a comprehensive overhaul of the Nebraska weighted caseload system to update the case weights to reflect developments in the law and court procedures. This effort is timely because Nebraska's judicial weighted caseload system was last reviewed and

updated about fifteen years ago. Since the previous weighted caseload study, developments in statutes, rules, case law, case management practices, new technology, a growing number of self-represented litigants, and increasing complexity of cases have had a significant impact on the work of District, County, and Separate Juvenile Court judges, necessitating an update of the case weights. The current workload assessment incorporates several innovations in comparison with previous studies conducted in Nebraska. Specifically, the current study:

1. Increases time study participation, soliciting statewide participation from all District, County, and Separate Juvenile Court judges, to more accurately estimate the time required to resolve cases.
2. Updates and establishes weights for more granular case types across all court levels, to reflect differences in current practice and case processing.
3. Reassesses the amount of time available for case-related work, adjusting the judge day and year values to reflect current practice, incorporating real-time reported travel by district.
4. Develops a rounding convention that puts courts of all sizes on equal footing and sets threshold standards to gauge the need for a change in judicial positions based on workload per judge.

### A. The Weighted Caseload Model

The weighted caseload method of workload analysis is grounded in the understanding that different types of court cases vary in complexity, and consequently in the amount of judicial work they generate. For example, a typical felony case creates a greater need for judicial resources than the average traffic case. The weighted caseload method calculates judicial need based on each court's total workload. The weighted caseload formula consists of three critical elements:

3. *Case filings*, or the number of new cases of each type opened each year;
4. *Case weights*, which represent the average amount of judge time required to handle cases of each type over the life of the case; and
5. The *year value*, or the amount of time each judge has available for case-related work in one year.

Total annual workload is calculated by multiplying the annual filings for each case type by the corresponding case weight, then summing the workload across all case types. Each court's workload is then divided by the year value to determine the total number of full-time equivalent judges and/or judicial officers needed to handle the workload.

Judicial weighted caseload is well established in Nebraska. This methodology is mandated in statute, and for over two decades, the Judicial Resources Commission has used the weighted caseload method to assess judicial resource needs and recommend judgeships to the Nebraska Legislature.

## **B. The Judicial Needs Assessment Committee**

To provide oversight and guidance on policy throughout the project, the Nebraska Supreme Court appointed a 19-member Judicial Needs Assessment Committee (JNAC) consisting of judges from District, County, and Separate Juvenile Courts from all geographical regions and court sizes, as well as AOCF representatives and the Nebraska State Bar Association (NSBA). JNAC's role was to advise NCSC on the selection of case types (e.g., criminal, civil, domestic) and the time study design, as well as to recommend policy decisions regarding the amount of time allocated to case-related and non-case-related work (judge day and year values) and review the results of the analysis. Hon. Stephanie Stacy, Supreme Court of Nebraska, served as chair of JNAC.

The full Committee met two times over the course of the project, in addition to multiple sub-

committee conference calls held to identify case types and evaluate the data collection strategy. Committee responsibilities included:

- Advising the project team on the definitions of case types and case-related and non-case-related events to be used during the time study;
- Encouraging and facilitating participation by judges statewide in the time study and Sufficiency of Time survey;
- Reviewing and commenting on the results of the time study and the content of the final model.

## **C. Research Design**

The workload assessment was conducted in two phases:

1. A *time study* in which all District, County, and Separate Juvenile Court judges were asked to record all case-related and non-case-related work over a four-week period. The time study provides an empirical description of the amount of time currently devoted to processing each case type, as well as the division of the workday between case-related and non-case-related activities.
2. A Sufficiency of Time survey to provide a statewide perspective on areas of concern in relation to current case processing practice and existing judicial resources. All judges were asked to complete the web-based survey. The survey provided important insight into whether judges believe they have sufficient time available to perform all of their various case-related and non-case-related responsibilities.

## **II. CASE TYPES AND EVENTS**

At JNAC's first meeting on August 22, 2019, one of the committee's primary tasks was to establish the case type and event categories upon which to base the time study. Together, the case types, case-related events, and non-case-related

events describe all the work required and expected of Nebraska's District, County, and Separate Juvenile Court judges.

### **A. Case Type Categories**

JNAC was charged with establishing three sets of case type categories, one set each for District, County, and Separate Juvenile Court, which satisfied the following requirements:

- Categories are legally and logically distinct;
- There are meaningful differences among categories in the amount of judicial work required to process the average case;
- There are a sufficient number of case filings within the category to develop a valid case weight; and
- Filings for the case type category or its component case types are tracked consistently and reliably in JUSTICE.<sup>1</sup>

Using the case type categories currently tracked in JUSTICE as a starting point, JNAC revised and defined 8 case type categories for District Court, 19 case types for County Court, and 10 for Separate Juvenile Court (Exhibit 1). This was an update to the previous workload assessment study done in 2006, which used a condensed set of case type categories for the time study (District: 6 case types; County: 12 case types; Separate Juvenile: 4 case types). JNAC decided to better delineate several case types that were collapsed into larger categories or otherwise excluded in the 2006 study. This was done to account for differences in time spent processing those case types as their processing has changed over the course of 15 years.

Details regarding the specific case types included in each category are available in Appendix A (District Court), Appendix B (County Court), and Appendix C (Separate Juvenile Court).

### **B. Case-Related Event Categories**

To describe case-related work in more detail, JNAC defined three case-related event categories that cover the complete life cycle of each case. Case-related events cover all work related to an individual case before the court, including on-bench work (e.g., hearings) and off-bench work (e.g., reading case files, preparing orders). A uniform set of three case-related event categories applied to all three court levels, with a fourth category specifically for the District Court. Exhibit 2 shows the case-related event categories and their definitions.

### **C. Non-Case-Related Events**

Work that is not related to a particular case before the court, such as court management, committee meetings, travel, and judicial education, is also an essential part of the judicial workday. To compile a detailed profile of judges' non-case-related activities and provide an empirical basis for the construction of the judge day and year values, JNAC defined nine non-case-related event categories (Exhibit 2). To simplify the task of completing the time study forms and aid in validation of the time study data, vacation and other leave, lunch and breaks, and time spent filling out time study forms were included as non-case-related events.

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<sup>11</sup> JUSTICE, (*Judicial User System to Improve Court Efficiency*), is the Supreme Court's case-based data

storage system comprised of clerk entries of information from relevant courts.



## Exhibit 1: Case Type Categories

District Court	County Court	Separate Juvenile Court
Problem Solving Court Cases	Felony	Adoption
Protection Orders	Misdemeanor	Domestic Relations
Civil	District Court:	Juvenile:
Class I Felony	Adult Problem-Solving Court	3A Children & Problem-Solving Court*
Other Criminal	Domestic Relations	3A Cases & Problem-Solving Court
Domestic Relations	Protection Orders	Delinquency
Appeals	Traffic	Status Offender 3B
Aministrative Appeals	Civil	Mentally Ill and Dangerous 3C
	Probate	Bridge to Independence (B21)
	Guardianship/Conservatorship	Interstate Compact
	Small Claims	
	Adoption	
	Juvenile:	
	3A Children* & Problem-Solving Court**	
	3A Cases & Problem Solving-Court	
	Delinquency	
	Status Offender 3B	
	Mentally Ill and Dangerous 3C	
	Bridge to Independence (B21)	
	Interstate Compact	

\*3A Children cases include: Abuse/Neglect/Dependency, and Termination of Parental Rights

\*\*At the time of the study, only separate juvenile courts had problem-solving courts, and all participants were involved in a 3A case. As such, the problem-solving court case category was combined with 3A children to arrive at a single weight. The goal is to determine a separate weight for juvenile problem-solving court cases at a future point.

## Exhibit 2. Non-Case-Related Events

### Non-Case-Related Events

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Non-Case-Related Administration

General Legal Research

Judicial Education and Training

Committee Meetings, Other Meetings, and Related Work

Community Activities and Public Outreach

Work-Related Travel

Vacation, Sick Leave, and Holidays

Lunch and Breaks

NCSC Time Study

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### III. TIME STUDY

The time study phase of the workload assessment measured current practice—the amount of time judges currently spent handling cases of each type, as well as on non-case-related work. For a period of four weeks, all Nebraska District, County, and Separate Juvenile Court judges were asked to track all of their working time by case type and event. Separately, the AOCB provided counts of filings by case type category and court. NCSC used the time study and filings data to calculate the average number of minutes currently spent by the judges in each court resolving cases within each case type category (preliminary case weights). The time study results also informed JNAC's selections of day and year values for case-related work.

#### A. Data Collection

##### 1. Time Study

During a four-week period from October 21 – November 17, 2019, all District, County, and Separate Juvenile Court judges were asked to track all working time by case type category and

by case-related or non-case-related event (for non-case-related activities). County Court judges that heard District Court problem-solving court cases were also asked to track their time for that work. Participants were instructed to record all working time, including time spent handling cases on and off the bench, non-case-related work, and any after-hours or weekend work. Judges tracked their time in five-minute increments using a Web-based form.

To maximize data quality, all time study participants were asked to view a live or recorded webinar training module explaining how to categorize and record their time. In addition to the training webinars, NCSC staff presented a live training at their judicial education conference, judges were provided with Web-based reference materials, and NCSC staff were available to answer questions by telephone and e-mail. The Web-based method of data collection allowed time study participants to verify that their own data were accurately entered and permitted real-time monitoring of participation rates.

Across the state, the vast majority of District Court judges (96%), County Court judges

(98%), and Separate Juvenile Court judges (100%) participated in the time study. This level of statewide participation ensured sufficient data to develop an accurate and reliable profile of current practice in Nebraska’s District, County, and Separate Juvenile Courts.

## **2. Caseload Data**

To translate the time study data into the average amount of time expended on each type of case (preliminary case weights), it was first necessary to determine how many individual cases of each type are filed on an annual basis. The AOCB provided filings data for 2017, 2018, and 2019. The caseload data for all three years were then averaged to provide an annual count of filings within each case type category and court, shown in Exhibit 3. The use of a 3-year annual average rather than the caseload data for a single year minimizes the potential for any temporary fluctuations in caseloads to influence the case weights.

### **B. Preliminary Case Weights**

Following the four-week data collection period, the time study and caseload data were used to calculate preliminary case weights as shown in Exhibit 3. A preliminary case weight represents the average amount of time judges currently spend to process a case of a particular type, from pre-filing activity to all post-judgment matters. The use of separate case weights for each case type category accounts for the fact that cases of varying levels of complexity require different amounts of judicial time for effective resolution.

To calculate the preliminary case weights, the time recorded for each case type category was weighted to the equivalent of one year’s worth of time for all judges statewide. The total annual time for each case type was then divided by the average annual filings to yield the average amount of hands-on time judges currently spend

on each case. The preliminary case weights proposed by NCSC are set out in Exhibit 3.

The standard approach for calculating preliminary case weights works well as long as new cases are filed and counted consistently across the state. This was the case in most, but not all, of the case types in Nebraska.

Juvenile Problem-Solving Court cases are currently offered only in the separate juvenile courts and such cases are not consistently tracked and coded in JUSTICE. Consequently, JNAC determined that the time recorded under Problem-Solving Court cases during the time study should be combined with time recorded in Juvenile 3A to form a single “Juvenile 3A & PSC” category. A goal for AOCB is to produce a separate Juvenile PSC case weight at a future point.

Additionally, the counting of Juvenile 3A cases proved problematic in both the county courts and the separate juvenile courts, due to disparate filing practices. Prosecutors in some judicial districts routinely file a separate case for each child, while prosecutors in other districts will file a single case to address multiple children and parents. This creates an equity problem if some courts are getting workload credit for each child and others are getting the same workload credit per case that may involve multiple children. As a consequence, NCSC calculated two versions of the Juvenile 3A & PSC case weight: one version counted 3A cases as has been done historically, and the other version counted 3A children instead. NCSC recommends counting 3A children (using the 3A Children & PSC case weight in Exhibit 3) rather than counting 3A cases, as this approach better addresses the disparate filing practices across the state and puts all courts on a more equal footing.

JNAC reviewed the preliminary case weights developed by NCSC (see Exhibit 3) and with one exception discussed later, generally

considered the weights to be an accurate representation of current judicial practice in the district, county, and separate juvenile courts. JNAC also agreed with NCSC's recommendation to count 3A Children rather than 3A Cases. However, as discussed in the next section, JNAC could not reach consensus on whether to accept or reject the different case weights proposed by NCSC for 3A Children & PSC in County and Separate Juvenile Courts.

#### *1. Different Weights in Different Courts*

Based on the actual time reported by judges during the time study, NCSC developed different case weights for several case types of juvenile case types depending on whether the case was being handled in a county court or a separate juvenile court. In county courts, adoption cases, domestic relations cases, and bridge to independence cases were all weighted higher than the same cases in a separate juvenile court. And in separate juvenile courts, 3A & PSC, status offense cases, and delinquency cases were all weighted higher than the same cases in county court. Of the different proposed case weights, only one prompted concern from members of the JNAC: the case weight for 3A children and PSC. Members of the JNAC devoted considerable discussion to this issue, and NSCS accepted additional input on the issue after the meeting. The time study data showed that judges spend different amounts of time handling 3A cases in the county and separate

juvenile courts. Some members of JNAC observed that the separate juvenile courts were established to specialize in these cases and given resources to handle them in ways different from traditional county court processes. These members suggested the different weights shown in Exhibit 3 reflect the actual variation in judicial practice among Nebraska courts and the higher weights in separate juvenile acknowledge investment in "better" practices. On the other hand, it was suggested that all 3A cases are governed by the same law whether they are handled in county court or separate juvenile court, and the goal should be that the quality of justice is the same for all citizens of Nebraska regardless of whether they live in a district with a separate juvenile court.

NSCS recognizes that, at this point in time, it may not be statutorily possible to create Separate Juvenile Courts in all Nebraska districts. The proposed weights in Exhibit 3 accurately reflect the actual judicial handling practices in each courts, but it is a separate policy question whether the 3A weights should be adjusted to obtain a judicial consensus that the weights are perceived as fair to both county court judges and separate juvenile court judges. NSCS was provided with several policy-based suggestions for adjusting the recommended case weights, and in Appendix G, the impact of the various policy-based adjustments to the case weights is discussed in more detail.

### Exhibit 3. Filings and Preliminary Case Weights

<b>District Court</b>	Annual Filings (average 2017-2019)	Preliminary Case Weight (minutes)
Problem Solving Court Cases	441	683
Protection Orders	6,102	32
Civil	5,904	219
Class I Felony	1,044	367
Other Criminal	11,368	149
Domestic Relations	13,502	97
Appeals	262	343
Aministrative Appeals	125	540
<b>Total</b>	<b>38,748</b>	

<b>County Court</b>	Filings (average 2017-2019)	Preliminary Case Weight (minutes)
Protection Orders	3,298	32
Felony	17,074	26
Misdemeanor	79,124	23
District Court: Adult Problem-Solving Court	14	683
Traffic	119,853	1
Civil	85,675	8
Probate	6,066	61
Guardianship/Conservatorship	2,049	133
Small Claims	3,709	30
Adoption	696	92
Domestic Relations	4	97
Juvenile: 3A CHILDREN & PSC	1,290	272
Juvenile: 3A CASES & PSC	1,138	308
Juvenile: Delinquency	3,090	100
Juvenile: Status Offender 3B	533	37
Juvenile: Mentally Ill and Dangerous 3C	21	265
Juvenile: Bridge to Independence (B21)	51	58
Juvenile: Interstate Compact Hearings/Filings	141	2
<b>Total</b>	<b>323,834</b>	

**Separate Juvenile Court**

	Annual Filings (average 2017-2019)	Preliminary Case Weight (minutes)
Adoption	289	49
Domestic Relations	89	26
Juvenile: 3A CHILDREN & PSC	1,381	518
Juvenile: 3A CASES & PSC	713	1,003
Juvenile: Delinquency	2,634	136
Juvenile: Status Offender 3B	762	54
Juvenile: Mentally Ill and Dangerous 3C	1	265
Juvenile: Bridge to Independence (B21)	119	36
Juvenile: Interstate Compact Hearings/Filings	122	2
Total	6,133	

## IV. SUFFICIENCY OF TIME SURVEY

To provide a statewide perspective on any areas of concern related to current practice, all District, County, and Separate Juvenile Court judges were asked to complete a Web-based Sufficiency of Time survey in February/March 2020.

For each case type, judges were asked to rate the extent to which they had sufficient time in the average day to handle case-related activities on a scale from 1 (almost never) to 5 (almost always). Judges were then asked to identify and rank-order specific case-related tasks, if any, where additional time would improve the quality of justice. The survey also included questions about the sufficiency of time for general court management (e.g., participation in court planning and administration), as well as space for judges to comment freely on their workload. The majority of District Court judges (85%), County Court judges (67%), and Separate Juvenile Court judges (77%) completed the survey. Appendix D (District Court), Appendix E (County Court), and Appendix F (Separate Juvenile Court) present the survey results in detail.

## V. JUDICIAL NEED

In the weighted caseload model, three factors contribute to the calculation of judicial need: caseload data (filings), case weights, and the year value. The year value is equal to the amount of time each full-time judge has available for case-related work on an annual basis. The relationship among the filings, case weights, and year value is expressed as follows:

$$\frac{\text{Filings x Case Weights (minutes)}}{\text{Year Value (minutes)}} = \text{Resource Need (FTE)}$$

Multiplying the filings by the corresponding case weights calculates the total annual workload in minutes. Dividing the workload by the year value yields the total number of full-time equivalent (FTE) judges needed to handle the workload.

### A. Judge Year Values

To develop the year values for District, County, and Separate Juvenile Court judges, it was necessary to determine the number of days each judge has available for case-related work in each year (judge year), as well as how to divide the work day between case-related and non-case-related work (judge day value)

### **1. Judge Year**

As shown in Exhibit 5, the judge year value was constructed by beginning with 365 days per year, then subtracting weekends, holidays, vacation and sick leave, and full-day participation in judicial education and training. The 2006 JNAC from the previous NCSC judicial workload studies adopted a judge year of 218 case-related days for all levels of court. The current JNAC reviewed and decided to keep that value as it is still reflective of typical working days in a year.

#### **Exhibit 5. Judge Year**

Total days per year	365
Weekends	- 104
Holidays	- 12
Vacation	- 20
Sick Leave	- 8
Education/Training	- 3
<hr/> Total working days per year	218

### **2. Judge Day**

The judge day value represents the amount of time each judge has available for case-related work each day. This value is calculated by subtracting time for lunch, breaks, travel, and non-case-related work (e.g., administration, education) from the total working day.

Travel time is an important distinction between courts based on their geographical location. To measure the amount of time some judges spend driving between courts in their district, real-time reporting was used to capture actual travel time during the 4-week time study. Actual travel time was averaged within judicial districts for each court type, then travel time was factored out of the amount of available case-related time in the year value. This results in a different judge year value in each judicial district based on the reported travel time in that district.

### **3. Judge Year Values**

To calculate the final year values for case-related work, the number of days in the working year was multiplied by the day value for case-related work. This figure was then expressed in terms of minutes per year. Exhibit 6 shows the calculation of the year values for District, County, and Separate Juvenile Court.



## Exhibit 6. Judge Year Values

### District Court Judge Year Value

		District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	District 11	District 12
Day (hours)		8	8	8	8	8	8	8	8	8	8	8	8
Minutes per hour	×	60	60	60	60	60	60	60	60	60	60	60	60
Total minutes per day		480	480	480	480	480	480	480	480	480	480	480	480
Non-case related	–	60	60	60	60	60	60	60	60	60	60	60	60
Travel time	–	60	0	0	0	30	10	45	60	10	70	45	45
Case related time		360	420	420	420	390	410	375	360	410	350	375	375
Judge year (days)	×	218	218	218	218	218	218	218	218	218	218	218	218
Year value (minutes)		78,480	91,560	91,560	91,560	85,020	89,380	81,750	78,480	89,380	76,300	81,750	81,750

### County Court Judge Year Value

		District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10	District 11	District 12
Day (hours)		8	8	8	8	8	8	8	8	8	8	8	8
Minutes per hour	×	60	60	60	60	60	60	60	60	60	60	60	60
Total minutes per day		480	480	480	480	480	480	480	480	480	480	480	480
Non-case related	–	60	60	60	60	60	60	60	60	60	60	60	60
Travel time	–	60	30	0	0	60	60	60	90	10	60	60	60
Case related time		360	390	420	420	360	360	360	330	410	360	360	360
Judge year (days)	×	218	218	218	218	218	218	218	218	218	218	218	218
Year value (minutes)		78,480	85,020	91,560	91,560	78,480	78,480	78,480	71,940	89,380	78,480	78,480	78,480

### Separate Juvenile Court Judge Year Value

		District 2	District 3	District 4
Day (hours)		8	8	8
Minutes per hour	×	60	60	60
Total minutes per day		480	480	480
Non-case related	–	60	60	60
Travel time	–	10	0	0
Case related time		410	420	420
Judge year (days)	×	218	218	218
Year value (minutes)		89,380	91,560	91,560

## B. Judicial Need

To calculate the number of judges needed in District, County, and Separate Juvenile Court, the annual average filings count for each case type was multiplied by the corresponding case weight to calculate the annual judicial workload associated with that case type, in minutes. In each court type, judicial workload was calculated, then divided by the judge year value, or the amount of time each full-time judge has available for case-related work in one year. This yielded the total number of judges required to handle the court's case-related workload, as well as judges' ordinary non-case-related responsibilities, in full-time equivalent (FTE) terms.

Exhibit 7 (District Court), Exhibit 8 (County Court), and Exhibit 9 (Separate Juvenile Court) present the final calculation of judicial workload and need, by district. Overall, the model suggests a need for 58 District Court judges, 58 County Court judges, and 12 Separate Juvenile Court judges.

In some courts, workload-based judicial need may exceed or fall below the number of currently allocated judicial positions. To determine if a change to the number of judicial positions is merited, the FTE workload per judge is examined relative to a rounding rule.

### 1. Rounding Rule

The rounding rule sets an upper and lower threshold by which to determine whether a court has too few or many judicial positions given the typical workload in that district. A standard rule is applied to all districts, court levels, and court sizes. The lower threshold is set at 0.6 FTE per judge; the upper threshold is 1.15 FTE per judge. If a court's FTE per judge falls outside of

that range, they may qualify to have a review of their number of judicial positions.

Weighted caseload calculations typically result in estimates of judicial need that contain fractional judgeships. In some instances when implied need exceeds the number of sitting judges, the current complement of judges in a given court can organize to handle the additional workload, perhaps with the periodic assistance of a retired or substitute judge. However, at some point, the additional workload crosses a threshold that means the court needs another full-time judicial position to effectively resolve the cases entering the court. The main purpose of the rounding rule is to provide a uniform way to identify the threshold. In other words, the rounding rule provides a consistent method to guide the decision of when to round up or down to a whole judicial position and thereby determine the appropriate number of authorized judicial positions in each circuit and district.

Workload per judge is calculated by dividing the total judge need in each circuit/district by the number of funded judicial positions. According to the rounding convention, when workload per judge is greater than or equal to 1.15 FTE, there is a need for one or more additional judicial positions; where workload per judge falls below .6 FTE, there is a need for fewer positions.<sup>2</sup> For example, in the 3<sup>rd</sup> Judicial District there are currently 8 FTE district court judges. Dividing the *Implied Need* by the *Actual Judges* ( $8.44 \text{ FTE} \div 8 \text{ FTE}$ ) results in a *Current Workload per Judge* of 1.05 FTE. Since workload per judge is below the upper threshold of 1.15 FTE, no additional judgeships are recommended.

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<sup>2</sup> A position should not be subtracted, however, when this would result in a per-judge workload greater than 1.15

FTE. For this reason, final workload per judge may be lower than .9 FTE in some counties.

The rounding convention using workload per judge was designed to provide empirical guidance as to which courts are over- or under-resourced. It also provides a means to rank jurisdictions regarding their relative need. The higher the workload per judge, the greater the need for additional resources (e.g., a court with a workload per judge of 1.29 would have a greater need for an additional judge than a court with a workload per judge of 1.12). The upper and lower thresholds are guidelines for an initial identification of courts that may need additional (or fewer) resources.

Courts that are near the threshold (e.g., courts with a workload per judge between 1.10 and 1.20) may benefit from a secondary analysis that

examines additional contextual factors affecting the need for judges. For courts falling slightly below the threshold (e.g., workload per judge of 1.14), these extra factors should be considered when determining whether additional judicial resources are needed.

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The rounding convention can be summarized as:

Rule 1: If workload per judge  $\geq 1.15$ , add judges until workload per judge  $< 1.15$

Rule 2: If workload per judge  $< 0.60$ , subtract a judge ONLY if resulting workload per judge  $< 1.15$

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**Exhibit 7. Judicial Workload and Need, District Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	244,056	416,957	772,490	1,893,644	275,364	252,543	182,868	120,081	347,305	168,962	348,001	311,290	5,333,561
Judicial Year Value	÷ 78,480	91,560	91,560	91,560	85,020	89,380	81,750	78,480	89,380	76,300	81,750	81,750	
Implied Judge Need (from model)	3.11	4.55	8.44	20.68	3.24	2.83	2.24	1.53	3.89	2.21	4.26	3.81	60.78
Actual Judges	÷ 3	4	8	16	4	3	2	2	4	2	4	4	56
Workload per judge (implied ÷ actual)	1.04	1.14	1.05	1.29	0.81	0.94	1.12	0.77	0.97	1.11	1.06	0.95	1.09
Judge need rounded (1.15/.6)	3	4	8	18	4	3	2	2	4	2	4	4	58

**Exhibit 8. Judicial Workload and Need, County Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	215,683	330,412	676,087	1,235,494	326,377	270,590	203,234	135,406	367,949	214,682	396,941	317,911	4,690,766
Judicial Year Value	÷ 78,480	85,020	91,560	91,560	78,480	78,480	78,480	71,940	89,380	78,480	78,480	78,480	
Implied Judge Need (from model)	2.75	3.89	7.38	13.49	4.16	3.45	2.59	1.88	4.12	2.74	5.06	4.05	55.55
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	0.92	0.97	1.05	1.12	0.83	0.86	0.86	0.63	1.03	0.91	1.01	0.81	0.96
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**Exhibit 9. Judicial Workload and Need, Separate Juvenile Court**

	District			Statewide
	2	3	4	
Total Workload	167,764	340,828	627,150	1,135,733
Judicial Year Value	÷ 89,380	91,560	91,560	
Implied Judge Need (from model)	1.88	3.72	6.85	12.45
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.94	0.93	1.14	1.04
Judge need rounded (1.15/.6)	2	4	6	12

## **VI. RECOMMENDATIONS**

The final weighted caseload model provides an empirically grounded basis for analyzing judicial workload and need in each of Nebraska's District, County, and Separate Juvenile Courts. NCSC recommendations are intended to ensure the effective use of the weighted caseload model and to preserve the model's integrity and utility over time.

### **Recommendation 1**

The revised weighted caseload model clearly illustrates the changing character of judicial workload in Nebraska. The model is used to determine the number of judges needed in each District, County and Separate Juvenile Court. The model finds the current complement of judges is appropriate in all court locations, with the exception of the 4<sup>th</sup> Judicial District. The model suggests the need for two new judgeships in the 4<sup>th</sup> Judicial District, but does not reflect the additional judgeship to be added in that district effective July 1, 2021.

### **Recommendation 2**

A critical assumption of Nebraska's weighted caseload models is that case filings are entered into JUSTICE uniformly and accurately. NCSC recommends that Nebraska's district and county court clerks continue their efforts to improve the uniformity of data entry and that the trial courts continue efforts to encourage uniformity in case filings. Ideally, for all criminal and civil case types, multi-charge or multi-petition cases should be counted as a single case unless they are unable to be consolidated and must be processed separately. For juvenile 3A cases, NCSC recommends counting children rather than total cases due to the disparate filing practices across the state. A case with multiple children should count each child only once, when they are added to the case.

### **Recommendation 3**

The calculations of judge need in this report are based upon a three-year average of case filing data. NCSC recommends that Nebraska AOCF recalculate judge need on an annual basis using the same methodology set forth in this report and updated with year-end case filing data to produce a 3-year rolling average. The application of the workload formula to the most recent filings will reveal the impact of any caseload changes judicial workload.

### **Recommendation 4**

The availability of support personnel, especially law clerks, court clerks, bailiffs and child support referees, has a profound impact on judges' ability to perform their work efficiently and effectively. The recommended case weights were calculated based on the actual judge time only, so if support personnel are no longer provided or are reduced in a particular district, the judicial need will be higher than is reflected in the weighted caseload report. JNAC members and results from the Sufficiency of Time survey stressed the importance of strong support staff. NCSC recommends that periodic workload assessments be conducted for law clerks, court clerks, bailiffs and child support referees.

### **Recommendation 5**

Over time, the integrity of any weighted caseload model may be affected by external factors such as changes in legislation, case law, or court technology. NCSC recommends that the Nebraska Supreme Court and the AOCF conduct a comprehensive review of the weighted caseload models every five to seven years. Between updates, if a major change in the law appears to have a significant impact on judicial workload, JNAC and/or a representative focus group of judges that handle the case type(s) may be convened to make interim adjustments to the affected case weight(s).

## APPENDIX A. GLOSSARY OF TERMS, DISTRICT COURT

### *Case Types*

#### **A. Problem-Solving Court Cases**

Young Adult, Adult Drug, Adult DUI, Veterans , Mental Health, Reentry

#### **B. Protection Orders**

Domestic Abuse, Harassment, and Sexual Assault

#### **C. Civil**

Everything that is not a Protection Order or Domestic Relations case

#### **D. Class I Felony**

Murder 1 & 2, 1<sup>st</sup> deg. Sex. Asslt, 1<sup>st</sup> deg. Sex. Asslt on a child

#### **E. Other Criminal**

All other criminal cases that are not Class I Felonies

#### **F. Domestic Relations**

Divorce, Paternity, Court Ordered Support, Grandparent Visitation, Interstate Child Support, etc.

#### **G. Appeals**

Civil, Criminal or Traffic Appeals

#### **H. Administrative Appeals**

### *Case-Related Activities*

#### **1. Pre-Disposition/Non-Trial Disposition**

Includes all on-bench and off-bench activity related to pretrial proceedings and non-trial dispositions. In probate cases, includes uncontested proceedings to appoint a fiduciary or to order supervision of a trust. Includes all off-bench research and preparation related to pre-disposition and non-trial disposition activities. Some examples of pre-disposition/non-trial disposition activities include:

- Arraignment
- Pretrial motion that does not fully dispose of the case (e.g., motion in limine)
- Scheduling conference
- Issuance of warrant
- Entry of guilty plea and sentencing
- Motion to Dismiss
- Motion for default judgment
- Motion for summary judgment
- Uncontested disposition hearing in domestic/paternity case
- Bond reviews
- 404 & 414 motions
- Determine competency
- Daubert Motion, Trammel Motion

- Discovery motions
- Temporary injunctions

## 2. Trial

Includes all on-bench and off-bench activity related to a bench or jury trial or another contested proceeding that disposes of the original petition in the case.. Includes all off-bench research and preparation related to trials. Includes sentencing following a bench or jury trial. Some examples of trial activities include:

- Bench trial
- Jury trial
- Sentencing after conviction at trial
- Trial de novo
- Contested divorce/paternity/support hearing

## 3. Post-Disposition

Includes all on-bench and off-bench activity that occurs after the entry of judgment on the original complaint in the case. Includes all off-bench research and preparation related to post-disposition activity. Does not include trials de novo. Some examples of post-disposition activity include:

- Post-trial motion
- Motion to Revoke Probation
- Sentencing after revocation of probation
- Complaint to change of custody, support, parenting time, or domicile
- Child support enforcement
- Motion for installment judgment
- Custodial sanction hearing
- Post-conviction/habeas/DNA testing
- Motion for New Trial
- Motion to Alter/Amend, Motion to Set Aside Conviction/Judgment
- 
- Renewal on Protection Orders

## 4. Post-Release Supervision (PRS)

*For District Court only.*

- PRS hearing
- Custodial sanction hearing
- PRS status check
- Motion to revoke PRS
- Sentencing after revocation of PRS

## *Non-Case-Related Activities*

### a. Non-Case-Related Administration

Includes all non-case-related administrative work such as:

- Staff meetings
- Judges' meetings
- Personnel matters
- Staff supervision and mentoring
- Court management

**b. General Legal Research**

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

- Reading journals
- Reading professional newsletters
- Reviewing appellate court decisions

**c. Judicial Education and Training**

Includes all educational and training activities such as:

- Judicial education
- Conferences

*Includes travel related to judicial education and training.*

**d. Committee Meetings, Other Meetings, and Related Work**

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

- Community criminal justice board meetings
- Bench book committee meetings
- Other court-related committee meetings

*Includes travel related to meetings.*

**e. Community Activities and Public Outreach**

Includes all public outreach and community service that is performed in a judge's official capacity. This category does not include work for which judges are compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in your official capacity. Examples of work-related community activities and public outreach include:

- Speaking at schools about legal careers
- Judging moot court competitions

*Includes travel related to community activities and public outreach.*

**f. Work-Related Travel**

Work-Related Travel includes only travel between courts during the business day. Time is calculated from the primary office location as determined by the Nebraska Supreme Court to the visited court.

Do not include commuting time from your home to your primary office location. Record travel time from your primary office location to judicial education and training, committee meetings, or community activities and public outreach in the applicable category. This is an account of minutes spent on travel only.

**g. Vacation, Sick Leave, and Holidays**

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

**h. Lunch and Breaks**

Includes all routine breaks during the working day.

**i. NCSC Time Study**

Includes all time spent filling out time study forms and entering time study data using the Web-based form.



## APPENDIX B. GLOSSARY OF TERMS, COUNTY COURT

### *Case Types*

- A. Domestic Relations**  
Divorce, Paternity
- B. Protection Orders**  
Domestic Abuse, Harassment, and Sexual Assault
- C. Felony**  
Bond Settings, Bond Reviews, Preliminary Hearings
- D. Misdemeanor**
- E. District Court: Adult Problem-Solving Court**
- F. Traffic**
- G. Civil**
- H. Probate**  
Estates
- I. Guardianship/Conservatorship**  
Adult, Incompetent, Minor
- J. Small Claims**
- K. Adoption**
- L. Juvenile: Abuse/Neglect/Dependency, Guardianship, and TPR**
- M. Juvenile: Delinquency**
- N. Juvenile: Status Offender 3B**
- O. Juvenile: Mentally Ill and Dangerous 3C**
- P. Juvenile: Bridge to Independence (B2I)**
- Q. Juvenile: Interstate Compact Hearings/Filings**  
Transfer of Youth Under Supervision; Runaways, Escapees, and Absconders
- R. Juvenile: Problem-Solving Court Cases** (currently this time is included in 3A weight)

## ***Case-Related Activities***

### **1. Pre-Disposition/Non-Trial Disposition**

Includes all on-bench and off-bench activity related to pretrial proceedings and non-trial dispositions. In probate cases, includes uncontested proceedings to appoint a fiduciary or to order supervision of a trust. Includes all off-bench research and preparation related to pre-disposition and non-trial disposition activities. Some examples of pre-disposition/non-trial disposition activities include:

- Arraignment
- Pretrial motion that does not fully dispose of the case (e.g., motion in limine, motion to suppress)
- Proceeding to appoint a temporary guardian/conservator
- Scheduling conference
- Issuance of warrant (e.g., review probable cause affidavits and set bond; issue search warrant)
- Pre-Adjudication juvenile delinquency review
- Entry of guilty plea and sentencing
- Informal traffic hearing
- Motion for summary judgment
- Hearing on appointment of permanent guardian/conservator
- Uncontested disposition hearing
- Motions for judgment on the pleadings
- Motions for default judgment
- Motions to dismiss
- Motion to Suppress
- Competency hearings
- Bond Reviews
- Competency Motions
- Cancel Warrants
- Motions for Default Judgment
- Motions for Debtor Exams
- Signing and Reviewing Search Warrants during and after work hours
- Signing and Reviewing Arrest Warrants during and after work hours
- SIGNDESK
- Motions for Substitute Service
- Seal Orders (Juvenile and Adult)
- Gun Appeals
- Juvenile (3a)-ex parte finding for removal; appt counsel, etc.

### **2. Trial**

Includes all on-bench and off-bench activity related to a bench or jury trial or another contested proceeding that disposes of the original petition in the case. In probate cases, includes contested proceedings to appoint a fiduciary or to order supervision of a trust. Includes all off-bench research and preparation related to trials. Includes sentencing following a bench or jury trial. Some examples of trial activities include:

- Bench trial
- Jury trial
- Sentencing after conviction at trial
- Trial de novo
- Trial on appointment of a permanent guardian/conservator
- Contested divorce hearing

- Juvenile adjudicatory hearing
- Contested disposition hearing
- Will Contest
- Trial to Remove POA, Trustee, Guardian/Conservator, Termination of Guardianship/Conservatorship
- Expedited Visitation Hearings in Guardianships
- Contested Fee Application Hearings
- Conducted All Legal Research
- Draft all Orders (Motions, Trial, Scheduling, etc.)
- Drug court termination hearings by county judge for district court drug court cases
- Sentencing hearings to determine financial ability to pay
- Drug court termination hearings by county judge for district court drug court cases

### **3. Post-Disposition**

Includes all on-bench and off-bench activity that occurs after the entry of judgment on the original petition in the case. In probate cases, includes all activity after a fiduciary is appointed or trust supervision is ordered. Includes all off-bench research and preparation related to post-disposition activity. Does not include trials de novo. Some examples of post-disposition activity include:

- Post-trial motion
- Sentencing after revocation of probation
- Guardianship/conservatorship review
- Guardianship/conservatorship modification/termination proceeding
- Account review (probate)
- Motion for installment judgment
- Permanency hearing
- Termination of parental rights
- 90-day review hearing (child protective proceedings)
- Post-adjudication juvenile delinquency review
- Custodial sanction hearing
- Post-conviction/habeas/DNA testing
- Time to Pay Requests
- Motions to Set Aside
- Motion for Debtor Exams
- Revivor Hearings
- Application for Continuing Lien
- Release Garnishee
- Motions to Determine Garnishee Liability
- Release of Non Exempt Funds
- Motions to Seal
- Garnishments
- Debtor exams
- Contempt/orders to show cause hearings
- Hearings on failures to pay fines/costs

## *Non-Case-Related Activities*

### **a. Non-Case-Related Administration**

Includes all non-case-related administrative work such as:

Staff meetings  
Judges' meetings  
Personnel matters  
Staff supervision and mentoring  
Court management

### **b. General Legal Research**

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

Reading journals  
Reading professional newsletters  
Reviewing appellate court decisions

### **c. Judicial Education and Training**

Includes all educational and training activities such as:

Judicial education  
Conferences

*Includes travel related to judicial education and training.*

### **d. Committee Meetings, Other Meetings, and Related Work**

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

Community criminal justice board meetings  
Bench book committee meetings  
Other court-related committee meetings

*Includes travel related to meetings.*

### **e. Community Activities and Public Outreach**

Includes all public outreach and community service that is performed in a judge's official capacity. This category does not include work for which a judge is compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in their official capacity. Examples of work-related community activities and public outreach include:

Speaking at schools about legal careers  
Judging moot court competitions

*Includes travel related to community activities and public outreach.*

### **f. Work-Related Travel**

Work-Related Travel includes only travel between courts during the business day. Time is calculated from the primary office location as determined by the Nebraska Supreme Court to the visited court.

Does not include commuting time from a judge's home to their primary office location. Does include travel time from a judge's primary office location to judicial education and training, committee meetings, or community activities and public outreach in the applicable category. This is an account of minutes spent on travel only.

**g. Vacation, Sick Leave, and Holidays**

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

**h. Lunch and Breaks**

Includes all routine breaks during the working day.

**i. NCSC Time Study**

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

## APPENDIX C. GLOSSARY OF TERMS, SEPARATE JUVENILE COURT

### *Case Types*

- A. Abuse/Neglect/Dependency, Guardianship, and TPR**
- B. Delinquency**
- C. Status Offender 3B**
- D. Mentally Ill and Dangerous 3C**
- E. Problem-Solving Court Cases** (currently this time is included in the 3A weight)
- F. Adoption**
- G. Domestic Relations**
  - Paternity and Custody Determinations
- H. Bridge to Independence (B2I)**
- I. Interstate Compact Hearings/Filings**
  - Transfer of Youth Under Supervision; Runaways, Escapees, and Absconders

### *Case-Related Activities*

#### **4. Pre-Disposition/Non-Trial Disposition**

Includes all on-bench and off-bench activity related to pretrial proceedings and non-trial dispositions. Includes all off-bench research and preparation related to pre-disposition and non-trial disposition activities. Some examples of pre-disposition/non-trial disposition activities include:

- Initial appearance-both 3a and delinq.
- Docket call-
- Pretrial motion hearing (both types of cases)
- Plea hearing/informal adjudication(both types of cases)
- Formal adjudication/trial (both types of cases)
- Disposition hearing (both types of cases)

#### **5. Trial**

Includes all on-bench and off-bench activity related to a bench trial or another contested proceeding that disposes of the original petition in the case. Includes all off-bench research and preparation related to trials. Some examples of trial activities include:

- Continued disposition hearing (both types of cases)
- Review hearing (3a and probation)
- Permanency hearing (3a only)
- Exception hearing (3a only)
- Detention hearing (delinquency only)

## 6. Post-Disposition

Includes all on-bench and off-bench activity that occurs after the entry of judgment on the original petition in the case. Includes all off-bench research and preparation related to post-disposition activity. Does not include trials de novo. Some examples of post-disposition activity include:

- Revocation of probation hearing docket call or plea (delinquency only)
- Revocation of probation hearing-contested hearing (delinquency only)
- Motion for commitment to yrtc hearings (delinquency only)
- Motion for termination of parental rights hearings (3a only) initial appearance, docket call and plea or formal hearing(trial)
- Guardianship review hearings (3a only)
- Placement check hearings (both delinquency and 3a)
- Placement change hearings (primarily 3a but occasionally probation review)
- Interstate compact hearings on runaways and absconders

### *Non-Case-Related Activities*

#### a. Non-Case-Related Administration

Includes all non-case-related administrative work such as:

- Staff meetings
- Judges' meetings
- Personnel matters
- Staff supervision and mentoring
- Court management

#### b. General Legal Research

Includes all reading and research that is *not* related to a particular case before the court. Examples include:

- Reading journals
- Reading professional newsletters
- Reviewing appellate court decisions

#### c. Judicial Education and Training

Includes all educational and training activities such as:

- Judicial education
- Conferences

*Includes travel related to judicial education and training.*

#### d. Committee Meetings, Other Meetings, and Related Work

Includes all work related to and preparation for meetings of state and local committees, boards, and task forces, such as:

- Community criminal justice board meetings
- Bench book committee meetings
- Other court-related committee meetings

*Includes travel related to meetings.*

#### e. Community Activities and Public Outreach

Includes all public outreach and community service that is performed in a judge's official capacity. This category does not include work for which a judge is compensated through an outside source, such as teaching law school courses, or personal community service work that is not performed in

their official capacity as a judge. Examples of work-related community activities and public outreach include:

- Speaking at schools about legal careers
- Judging moot court competitions

*Includes travel related to community activities and public outreach.*

**f. Work-Related Travel**

Work-Related Travel includes only travel between courts during the business day. Time is calculated from the primary office location as determined by the Nebraska Supreme Court to the visited court.

Does not include commuting time from a judge's home to their primary office location. Does include travel time from a judge's primary office location to judicial education and training, committee meetings, or community activities and public outreach in the applicable category. This is an account of minutes spent on travel only.

**g. Vacation, Sick Leave, and Holidays**

Includes all time away from work due to vacation, personal leave, illness or medical leave, and court holidays.

**h. Lunch and Breaks**

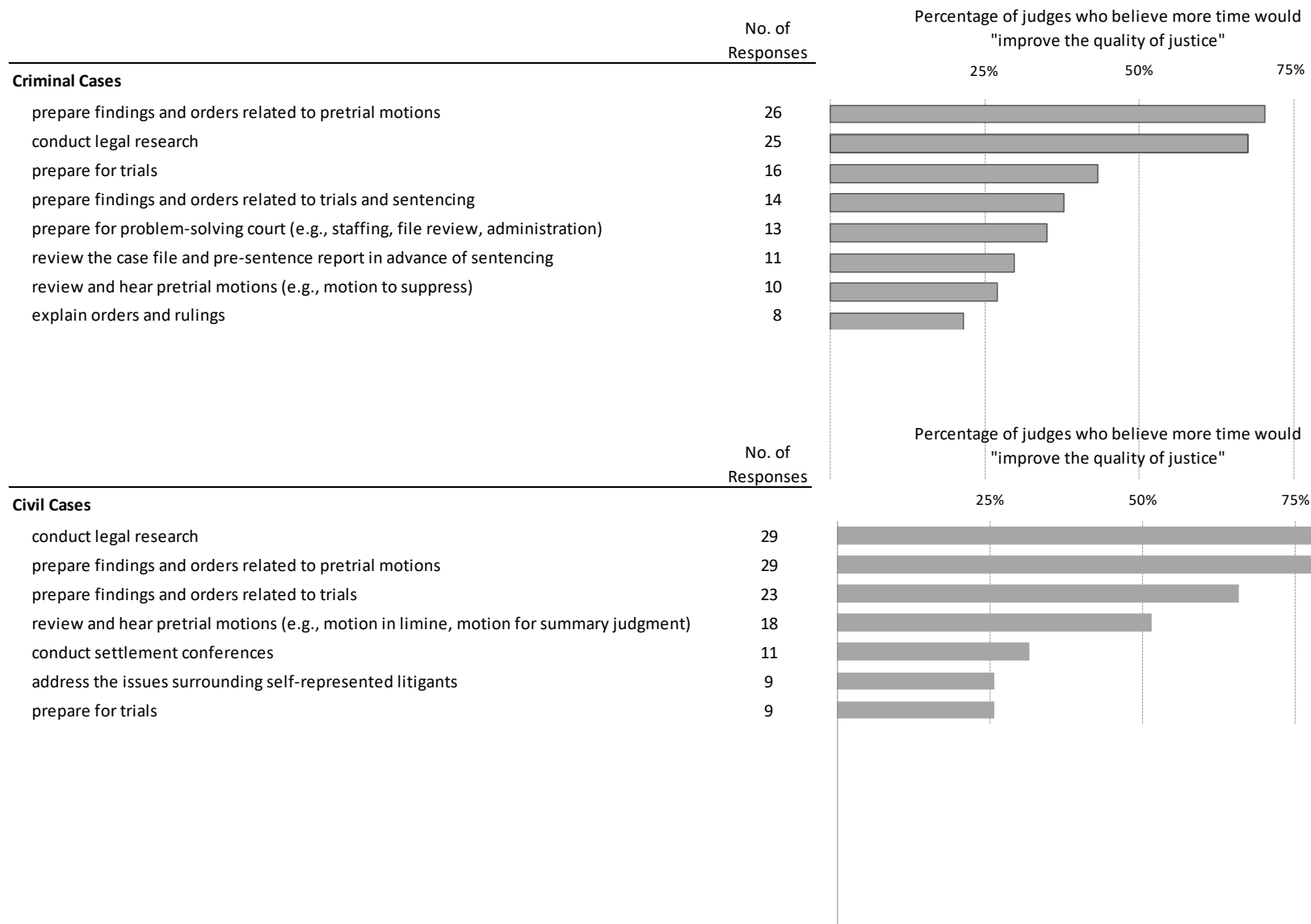
Includes all routine breaks during the working day.

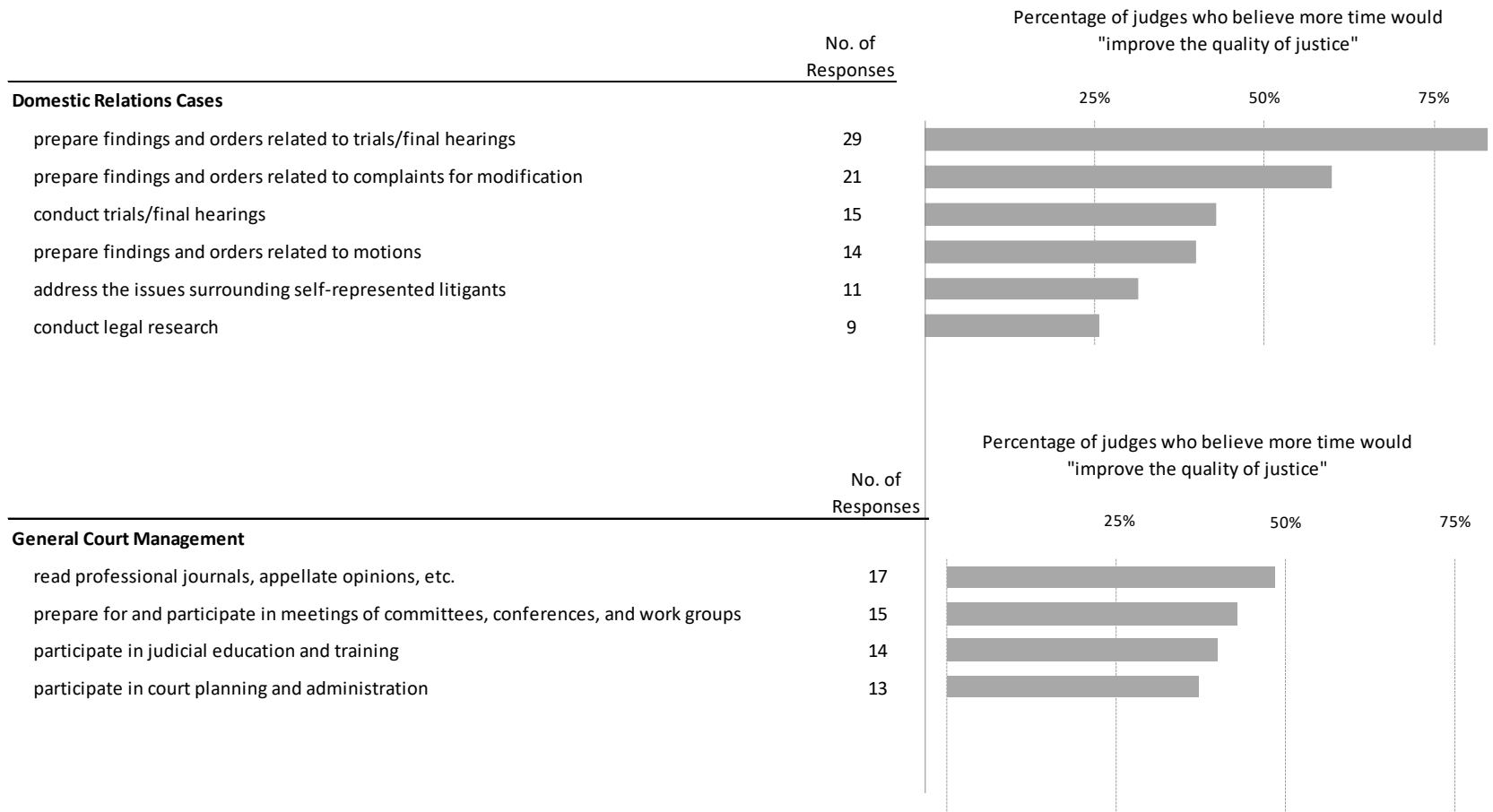
**i. NCSC Time Study**

Includes all time spent filling out time study forms and entering time study data using the Web-based form.

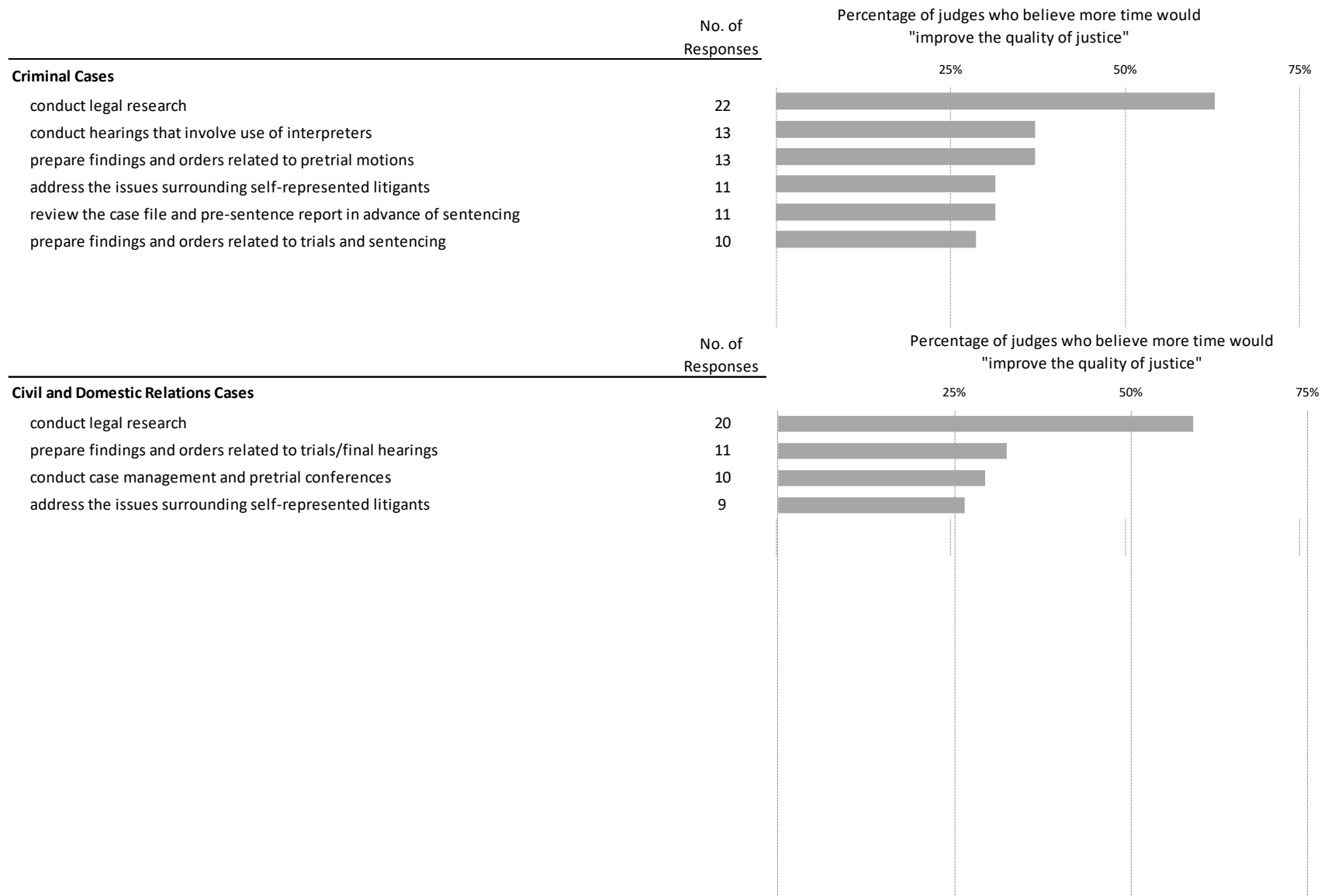


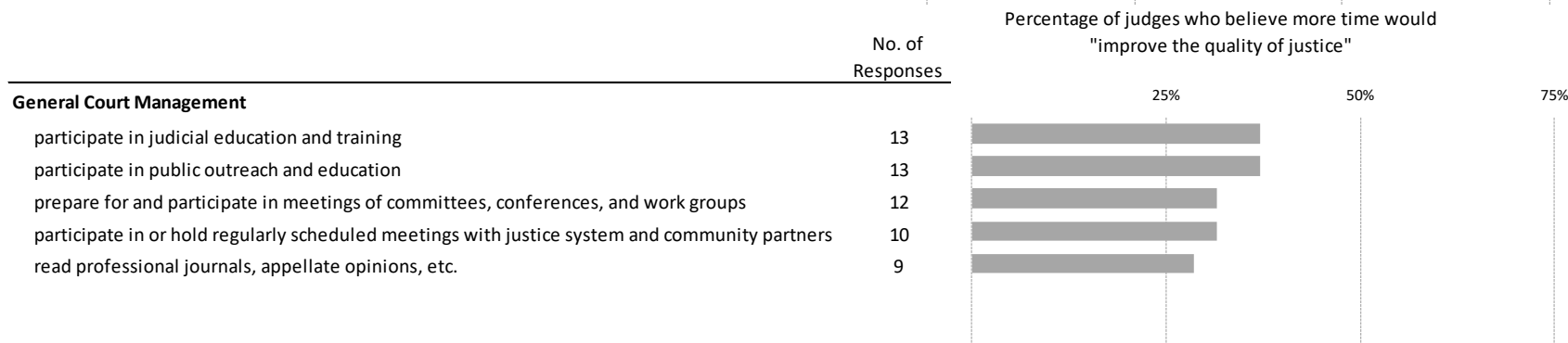
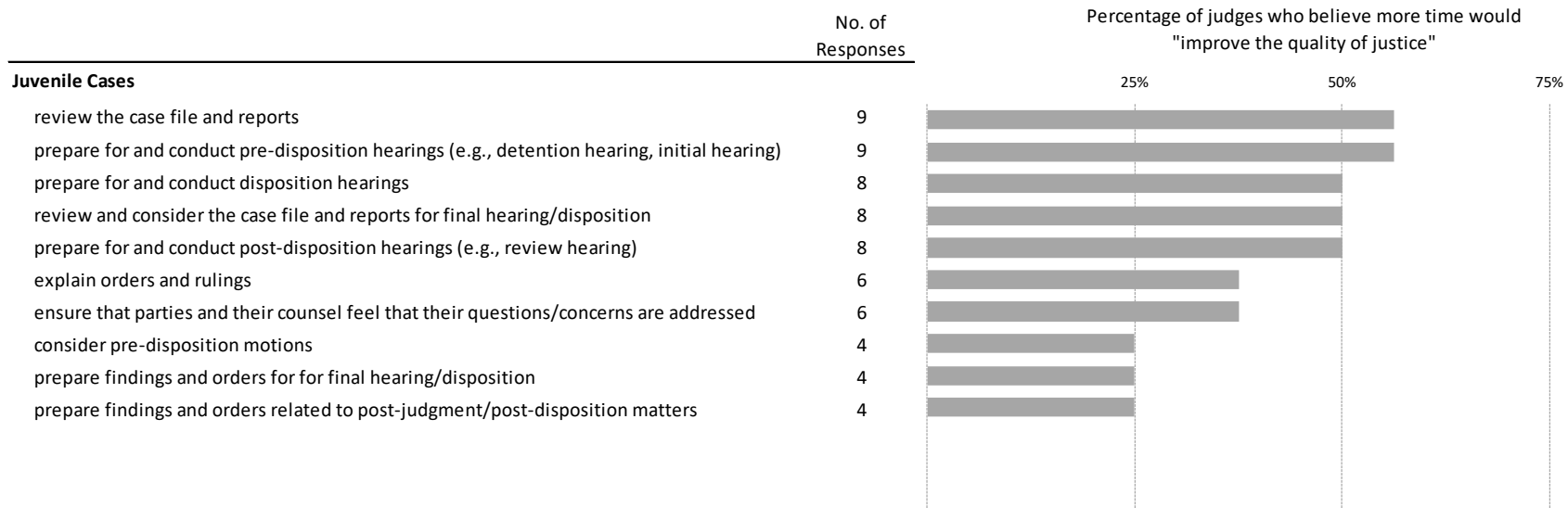
## APPENDIX D. SUFFICIENCY OF TIME SURVEY RESULTS, DISTRICT COURT



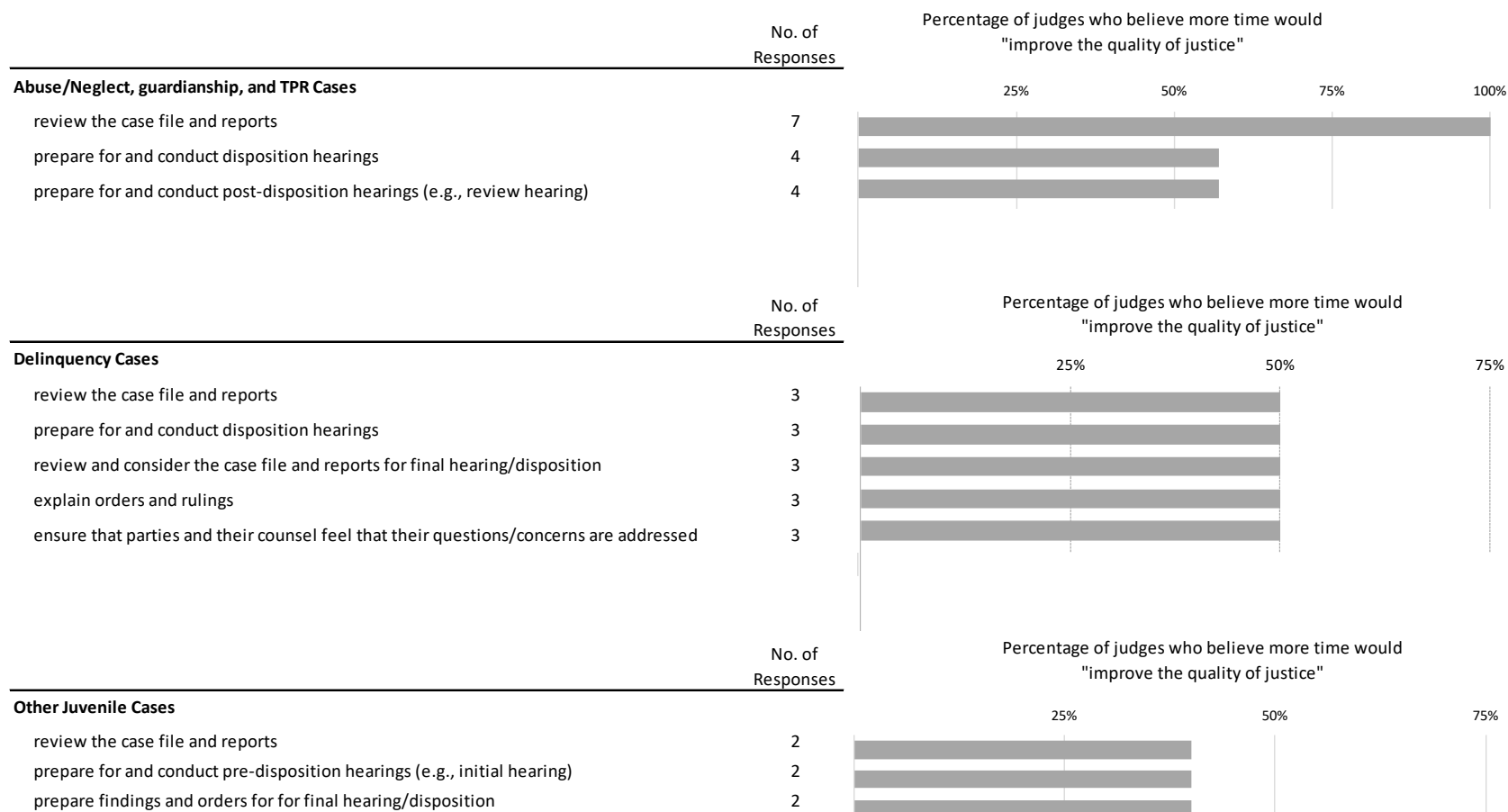


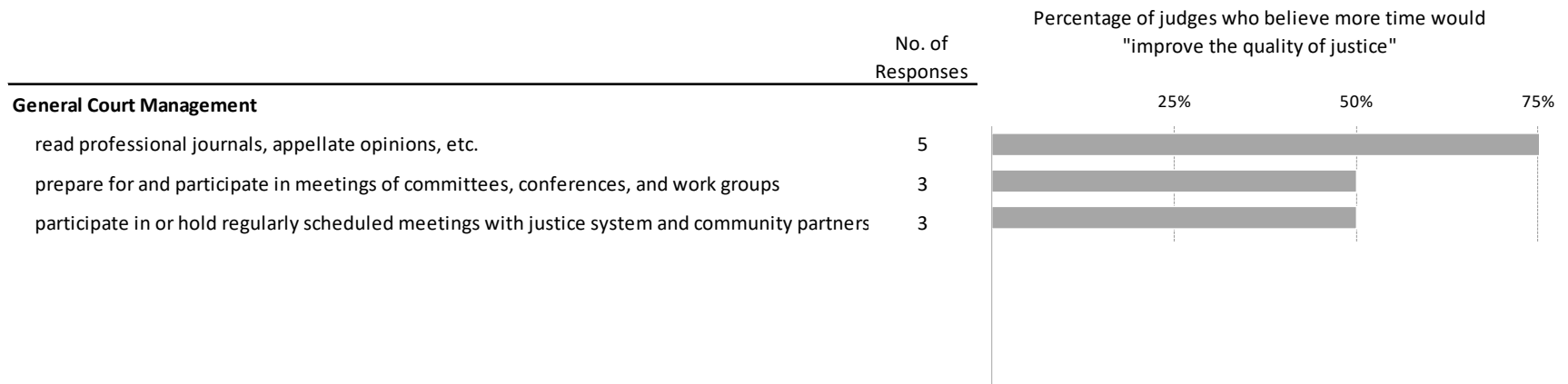
## APPENDIX E. SUFFICIENCY OF TIME SURVEY RESULTS, COUNTY COURT





## APPENDIX F. SUFFICIENCY OF TIME SURVEY RESULTS, SEPARATE JUVENILE COURT





## **APPENDIX G: IMPLICATIONS FOR JUDICIAL NEED USING THREE ALTERNATIVE VERSIONS OF THE 3A CHILDREN & PSC CASE WEIGHT**

The purpose of this Appendix is to present the implications for judicial need in the County Courts and Separate Juvenile Courts using three alternative versions of the case weight for 3A Children & PSC cases. The results on judicial need presented in Exhibits 8 and 9 use the individual weights for 3A Children & PSC based on the time study and shown in Exhibit 3: 272 minutes for County Court and 518 minutes for Separate Juvenile Court. As discussed above in relation to Exhibit 3, JNAC was not able to reach consensus on the case weight(s) for 3A Children & PSC cases for the reasons articulated. To understand the policy implications on judicial need if the weights are adjusted, NCSC considered the following three options suggested by members of the JNAC and other county court judges:

1. Use a combined average of 399 minutes for Juvenile 3A children & PSC in all courts.
2. Use the county court weight of 272 minutes for Juvenile 3A children & PSC in both county court and separate juvenile court .
3. Use the separate juvenile court weight of 518 minutes for Juvenile 3A children & PSC in both the county court and the separate juvenile court.

Results of the three options are presented on the following pages.

*Option 1.* Implied judicial need using the overall average for 3A Children & PSC cases of 399 minutes is shown in **G1a** and **G1b** for County Court and Separate Juvenile Court by district. The primary impact of this option is to increase the implied need in the County Court by about two judicial full-time equivalent (FTE) and to lower the implied need in the Separate Juvenile Court by about two FTE. However, applying the rounding rule using this option would not lead to an immediate suggested change in the number of judges by district for either court type. Over time, however, and assuming no significant change in actual judicial handling practices, this option would generally underestimate the actual judicial need in the separate juvenile courts, and overestimate the actual judicial need in the county courts.

**G1a: County Court Implied Need using County Court & Separate Juvenile Court Average 3A & PSC Case Weight of 399**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Implied Judge Need (from model)	2.96	3.97	7.38	13.49	4.38	3.64	2.75	2.01	4.34	2.93	5.43	4.33	57.61
Actual Judges	3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	0.99	0.99	1.05	1.12	0.88	0.91	0.92	0.67	1.09	0.98	1.09	0.87	0.99
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**G1b: Separate Juvenile Court Implied Need Using County Court & Separate Juvenile Court Average 3A & PSC Case Weight of 399**

	2	3	4	Statewide
	Implied Judge Need (from model)	1.63	3.22	5.80
Actual Judges	2	4	6	12
Workload per judge (implied ÷ actual)	0.82	0.81	0.97	0.89
Judge need rounded (1.15/.6)	2	4	6	12



*Option 2.* Implied need using the County Court time study case weight for 3A Children & PSC cases of 272 minutes for both County Court and Separate Juvenile Court is shown in **G2a** and **G2b**. With this option, there is no change to implied need in the County Court from that shown in Exhibit 8. As this option uses the lower County Court case weight, implied need in the Separate Juvenile Court is also lower, falling by about 3.7 judicial FTE. However, the use of the rounding rule would not lead to an immediate suggested change in the current number of separate juvenile court judges. Over time, however, and assuming no significant change in actual judicial handling practices, this option would accurately estimate the number of county court judges needed, but would generally underestimate the actual judicial need in the separate juvenile courts.

**G2a: County Court Implied Need using County Court 3A & PSC Case Weight of 272**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Implied Judge Need (from model)	2.75	3.89	7.38	13.49	4.16	3.45	2.59	1.88	4.12	2.74	5.06	4.05	55.55
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	0.92	0.97	1.05	1.12	0.83	0.86	0.86	0.63	1.03	0.91	1.01	0.81	0.96
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**G2b: Separate Juvenile Court Implied Need Using County Court 3A & PSC Case Weight of 272**

	District			Statewide
	2	3	4	
Implied Judge Need (from model)	1.37	2.68	4.68	8.73
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.69	0.67	0.78	0.73
Judge need rounded (1.15/.6)	2	4	6	12

*Option 3.* Implied need using the Separate Juvenile Court time study case weight for 3A Children & PSC cases of 518 minutes for both County Court and Separate Juvenile Court is shown in **G3a** and **G3b**. Use of this option leads to no change in the implied need for Separate Juvenile Court as shown in Exhibit 9. This case weight is higher than the original weight used for County Court, resulting in an increase to implied need in county court of about four judicial FTE. Once again, applying the rounding rule would not lead to an immediate suggested change in the current number of county court judges, although the implied judicial need in two districts (9<sup>th</sup> and 11<sup>th</sup>) increases to the upper threshold of the rounding rule of 1.15. Over time, however, and assuming no significant change in actual judicial handling practices, this option would accurately estimate the number of separate juvenile court judges needed, but would generally overestimate the actual judicial need in the county courts.

**G3a: County Court Implied Need using Separate Juvenile Court 3A & PSC Case Weight of 518**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Implied Judge Need (from model)	3.16	4.04	7.38	13.49	4.59	3.81	2.90	2.12	4.56	3.12	5.78	4.59	59.54
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	1.05	1.01	1.05	1.12	0.92	0.95	0.97	0.71	1.14	1.04	1.16	0.92	1.03
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**G3b: Separate Juvenile Court Implied Need Using Separate Juvenile Court 3A & PSC Case Weight of 518**

	District			Statewide
	2	3	4	
Implied Judge Need (from model)	1.88	3.72	6.85	12.45
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.94	0.93	1.14	1.04
Judge need rounded (1.15/.6)	2	4	6	12

# **ADDENDUM TO FINAL REPORT**

Including final case weights and implied judicial need for  
District Court, County Court and Separate Juvenile Court

December 2020

After receiving the “Nebraska Judicial Workload Assessment, Final Report, October 2020” the Nebraska Supreme Court put the full report out for public comment. Written comments were received from and on behalf of county court judges, attorneys who handle juvenile cases, and the Nebraska State Bar Association. All comments were carefully considered by the Supreme Court, and copies were shared with the NCSC for its additional consideration and response. **This addendum summarizes the public comments, the NCSC response to those comments, and the final decision of the Nebraska Supreme Court to accept the NCSC report and adopt the proposed case weights as modified.**

### **Summary of Public Comments:**

The comments were generally supportive of the workload study and the new methodology used to determine judicial need, but expressed concern that different weights were proposed for the same juvenile case types depending on whether the case was heard in the county courts or the separate juvenile courts. Many comments expressed a fundamental belief that all juvenile case types should be weighted the same whether handled in a county court, or in a separate juvenile court. To achieve more uniform case weights, some suggested that an averaged case weight should be developed for all juvenile case types and applied in all courts regardless of judicial handling practices. Others suggested that using the highest recommended case weight in both types of courts would ensure that all areas of the State have sufficient judicial resources to devote appropriate time to handling juvenile cases.

The Nebraska State Bar Association generally rejected the notion that all juvenile case weights must be identical in the county courts and separate juvenile courts, reasoning “there are valid reasons why the time spent on 3A cases in these courts differ which may be related to community demographics, specialization, court culture and the difference in access to services across the state.” The NSBA generally opposed lowering case weights in the separate juvenile courts, but it did support separating the time devoted to problem solving courts, and increasing the county court weight for 3(a) juvenile abuse/neglect cases from 272 minutes to 383 minutes.

### **Summary of NCSC Response to Public Comments:**

After reviewing the public comments, the NCSC assured the Nebraska Supreme Court that the juvenile case weights proposed in its final report are empirically sound. All case weights were based on the actual time reported by judges during the month-long time study, and different weights were developed because the data show significantly different judicial handling practices in those courts, with judges in the separate juvenile courts reporting considerably more time. This actual difference in judicial handling practices is not a new phenomenon; it was observed in both prior judicial time studies, and explains why those studies also recommended a higher case weight for abuse/neglect cases in the separate juvenile courts.

While expressing confidence in the methodology and accuracy of the weights proposed in the 2020 final report, the NCSC was also supportive of making limited, policy-based adjustments to the proposed weights to address the concerns expressed during the public comment period. In considering such adjustments, the NCSC encouraged the Nebraska Supreme Court to keep in mind that a well-developed set of judicial workload standards should: (1) provide an empirically correct profile of the time actually spent by judges handling the cases; (2) account for all the time judges spend on their work (including time in chambers, travel time, administrative time, continuing education, and judicial

outreach); (3) allow sufficient time for all judges to deliver high-quality justice; and (4) be viewed as objectively credible by the judges, the practicing bar, and the public.

### **Nebraska Supreme Court Adopts Final Report with Modifications:**

After careful consideration, the Nebraska Supreme Court voted to accept the NCSC's final report and to adopt the proposed case weights, with the following modifications:

- (1) The court accepted the recommendation to count 3(a) children rather than 3(a) cases for purposes of preparing weighted caseload reports, with the caveat that this approach will be reconsidered if, in the future, uniformity in filing practices can be achieved.
- (2) The Court directed that all time reported for juvenile problem solving courts should be removed from the time reported on abuse/neglect cases, and NCSC should develop a temporary weight for juvenile problem-solving court cases, pending a narrow time study of juvenile problem-solving court cases in the future. The explicit focus on juvenile problem solving court cases produces a case weight of 654 minutes. With the recent adoption of state-wide practice standards for such courts, it is expected that judicial handling practices will be uniform across the state, so the temporary weight of 654 minutes for juvenile problem-solving court cases will be applied in both county courts and separate juvenile courts.
- (3) After the problem-solving court time is removed from the proposed weight for 3(a) children in the separate juvenile court, the adjusted weight is 487 minutes. The Court directs that this adjusted weight of 487 minutes will be applied to 3(a) children in both county courts and separate juvenile courts, with the expectation that all judges handling such cases will work to implement best practices, and with the caveat that this modification will be reconsidered if, in the future, judicial handling practices do not support application of a uniform weight.
- (4) The Court adopts all other proposed case weights as recommended in the final report. For the sake of clarity, the Court directed the NCSC to prepare a Case-Weight Chart for inclusion in the addendum which shows the final adopted case weights for all courts.

The Nebraska Supreme Court concluded that these limited policy-based adjustments to the weighted caseload standards fairly address the important concerns expressed by the county court judges, without reducing resources in the separate juvenile courts or compromising the empirical integrity of the new judicial workload study.

The following four Exhibits show the final results from the study:

- Addendum Exhibit 1: Final Case Weights
- Addendum Exhibit 2: Final Judicial Workload and Need, District Court
- Addendum Exhibit 3: Final Judicial Workload and Need, County Court
- Addendum Exhibit 4: Final Judicial Workload and Need, Separate Juvenile Court

**Addendum Exhibit 1. Final Case Weights**

<b>District Court</b>	Final Case Weight (minutes)
Problem Solving Court Cases	683
Protection Orders	32
Civil	219
Class I Felony	367
Other Criminal	149
Domestic Relations	97
Appeals	343
Aministrative Appeals	540

<b>County Court</b>	Final Case Weight (minutes)
Protection Orders	32
Felony	26
Misdemeanor	23
District Court: Adult Problem-Solving Court	683
Traffic	1
Civil	8
Probate	61
Guardianship/Conservatorship	133
Small Claims	30
Adoption	92
Domestic Relations	97
Juvenile: 3A CHILDREN	487
Juvenile: Problem Solving Court (PSC)	654
Juvenile: Delinquency	100
Juvenile: Status Offender 3B	37
Juvenile: Mentally Ill and Dangerous 3C	265
Juvenile: Bridge to Independence (B21)	58
Juvenile: Interstate Compact Hearings/Filings	2

<b>Separate Juvenile Court</b>	Final Case Weight (minutes)
Adoption	49
Domestic Relations	26
Juvenile: 3A CHILDREN	487
Juvenile: Problem Solving Court (PSC)	654
Juvenile: Delinquency	136
Juvenile: Status Offender 3B	54
Juvenile: Mentally Ill and Dangerous 3C	265
Juvenile: Bridge to Independence (B21)	36
Juvenile: Interstate Compact Hearings/Filings	2

**Addendum Exhibit 2. Final Judicial Workload and Need, District Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	244,056	416,957	772,490	1,893,644	275,364	252,543	182,868	120,081	347,305	168,962	348,001	311,290	5,333,561
Judicial Year Value	÷ 78,480	91,560	91,560	91,560	85,020	89,380	81,750	78,480	89,380	76,300	81,750	81,750	
Implied Judge Need (from model)	3.11	4.55	8.44	20.68	3.24	2.83	2.24	1.53	3.89	2.21	4.26	3.81	60.78
Actual Judges	÷ 3	4	8	16	4	3	2	2	4	2	4	4	56
Workload per judge (implied ÷ actual)	1.04	1.14	1.05	1.29	0.81	0.94	1.12	0.77	0.97	1.11	1.06	0.95	1.09
Judge need rounded (1.15/.6)	3	4	8	18	4	3	2	2	4	2	4	4	58

**Addendum Exhibit 3. Final Judicial Workload and Need, County Court**

	District												Statewide
	1	2	3	4	5	6	7	8	9	10	11	12	
Total Workload	246,003	339,938	671,497	1,229,131	361,236	297,101	226,823	151,369	406,925	243,353	449,496	358,368	4,981,240
Judicial Year Value	÷ 78,480	85,020	91,560	91,560	78,480	78,480	78,480	71,940	89,380	78,480	78,480	78,480	
Implied Judge Need (from model)	3.13	4.00	7.33	13.42	4.60	3.79	2.89	2.10	4.55	3.10	5.73	4.57	59.22
Actual Judges	÷ 3	4	7	12	5	4	3	3	4	3	5	5	58
Workload per judge (implied ÷ actual)	1.04	1.00	1.05	1.12	0.92	0.95	0.96	0.70	1.14	1.03	1.15	0.91	1.02
Judge need rounded (1.15/.6)	3	4	7	12	5	4	3	3	4	3	5	5	58

**Addendum Exhibit 4. Final Judicial Workload and Need, Separate Juvenile Court**

	District			Statewide
	2	3	4	
Total Workload	162,205	366,468	606,676	1,135,733
Judicial Year Value	÷ 89,380	91,560	91,560	
Implied Judge Need (from model)	1.81	4.00	6.63	12.44
Actual Judges	÷ 2	4	6	12
Workload per judge (implied ÷ actual)	0.91	1.00	1.10	1.04
Judge need rounded (1.15/.6)	2	4	6	12