



# Final Report

State of Montana

Workload Assessment Study of District  
Court Judicial Officers

DATE

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PREPARED FOR

Montana Court  
Administrator's Office

PREPARED BY

National Center for  
State Courts

Court Consulting  
Services

**National Center for State Courts**

*Court Consulting Services*

David Slayton, Vice President

**Project Staff:**

Suzanne Tallarico, M.A.

John Douglas, B.A.

Shannon Roth, B.A.

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300 Newport Avenue  
Williamsburg, VA 23185  
Phone: (800) 616-6164

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[nsc.org](http://nsc.org)



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## Acknowledgments

The authors wish to acknowledge the invaluable contributions of the Montana District Court Judges in this weighted caseload study. An undertaking of this nature requires the assistance of the informed and dedicated members of the Montana judiciary who gave their valuable time to this project.

Over the course of this study, we were fortunate to work with a distinguished advisory committee that was instrumental in refining the approach and content in our assessment. The Judicial Needs Assessment Committee (JNAC) was comprised of the District Court Judges from across the state, a Clerk of Court, and The Supreme Court Administrator.

### Judicial Workload Assessment Advisory Committee

Hon. Robert “Dusty” Deschamps, 4th District, Hon. Amy Eddy, 11<sup>th</sup> District, Hon. Jessica Fehr, 13<sup>th</sup> District, Hon. Michael Hayworth, 16<sup>th</sup> District, Hon. Jon Oldenburg, 10<sup>th</sup> District (ret.), replaced by Hon. Brenda Gilbert, 6th District, Hon. Olivia Rieger, 7<sup>th</sup> District, Phyllis Smith, Clerk of the District Court, 10<sup>th</sup> District, and Beth McLaughlin, Supreme Court Administrator.

# EXECUTIVE SUMMARY

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## Findings

This assessment establishes a set of workload standards that provide uniform and comparable measures of the number of judicial officers needed to provide effective case resolution. Application of the workload standards to the 2021 calendar year filings results in the need for 11.55 additional District Court Judges in Montana, for a total of 64.8 judicial officers.

Adequate resources are essential if the Montana District Courts are to effectively manage and resolve court business without delay while also delivering quality service to the public. Meeting these challenges involves objectively assessing the number of state-level judicial officers required to handle the District Court's caseload and whether the judicial resources are being allocated and in the correct locations.

The Montana Supreme Court and the District Court Judicial Council have relied on the use of a weighted caseload model to establish the baseline needs for trial court judicial resources since 2006 was, when the first weighted caseload study was conducted. Recognizing the need to update District Court case weights, the Montana Supreme Court's Office of the Court Administrator contracted with the National Center for State Courts (NCSC) to measure judicial workload in the Montana District Courts. The 2022 weighted caseload study provides data to update the case weights and incorporate them into the judicial weighted caseload model.

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## Recommendations

The NCSC proposes three recommendations to maintain the integrity and utility of the case weights and judicial needs model.

1. The weighted caseload model presented in this report should be the *starting point* for determining judicial need. There are qualitative issues that an objective weighted caseload model cannot account for that should be considered when determining judicial staffing level needs. Those issues that result in longer or shorter case processing times should be considered.
2. The judicial needs model, with the updated case weights, should be updated on an annual basis using the most recent year's case filings.
3. Over time, the integrity of the case weights is affected by multiple influences that are likely to impact case processing time. Periodic updating of the case weights, through the conduct of a time-and-motion study, should ensure that the case weights continue to accurately represent the judicial workload.

Based on feedback from participants in the 2022-time study, the Judicial Council members who serve as Advisory Committee members to that project should consider refining the activity categories to a smaller, more manageable number.

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## Project Design

The Montana District Court Judges' time study was completed in a series of interrelated steps, described below.

### Judicial Needs Assessment Committee

The initial step in the study was to establish a policy and review committee, the Judicial Needs Assessment Committee (JNAC), to provide oversight and guidance throughout the life of the project. The committee was comprised of some members of the District Court Judicial Council, including District Court Judges, a Clerk of Court, and the Montana Supreme Court Administrator. The JNAC refined the approach and the content of the assessment and resolved important issues affecting data collection, interpretation, and analysis. Additionally, it monitored the development of the workload assessment methodology and reviewed study's the findings, as well as the final report.

### Time Study

Second, the NCSC team utilized a time-and-motion study to measure the amount of time judicial officers (District Court Judges and Standing Masters) currently spend on various activities throughout the day, including case-related and non-case-related activities. The JNAC encouraged all judicial officers to participate in the time study. During the 6-week timeframe spanning May 22 through July 1,

2022, 95%<sup>1</sup> of Montana judges participated in the time study (53 of 56 judges and standing masters). The large number of participants, statewide, ensures the reliability of the data and guarantees that there are sufficient data points for the development of an accurate and valid picture of current practice – the way judicial officers in Montana process cases.

### Calculating Judicial Resource Need

Third, the NCSC team applied the updated case weights to the 2021 calendar year filings, which results in the expected judicial workload for the state of Montana. The NCSC team divided the workload by the identified judge year value, while also accounting for non-case-related work and work-related travel, which yielded the number of judicial officers needed to effectively process the cases filed (see the full report for detail on the methodology). The updated model, based on the 2022 case weights and 2021 calendar year filings indicates the need for a total of 11.55 additional judicial officers statewide, as shown in ES 1.

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The participation rate in the current study is consistent with the past ten judicial studies conducted by the NCSC, in which participation has ranged between 90% and 100%.

**Figure ES 1: 2022 Montana District Court  
Judicial Officer Need Model**

| District           | Judicial<br>Officer<br>Demand | Current<br>Judicial<br>Officer<br>Allocation* |
|--------------------|-------------------------------|---|
| 1st District       | 5.7                           | 4   |
| 2nd District       | 2.0                           | 2   |
| 3rd District       | 1.3                           | 1   |
| 4th District       | 8.0                           | 6   |
| 5th District       | 1.7                           | 1   |
| 6th District       | 1.2                           | 1   |
| 7th District       | 1.3                           | 2   |
| 8th District       | 5.4                           | 4.5   |
| 9th District       | 1.4                           | 1.25  |
| 10th District      | 0.8                           | 1   |
| 11th District      | 6.3                           | 4   |
| 12th District      | 1.3                           | 1   |
| 13th District      | 12.7                          | 8.75  |
| 14th District      | 0.5                           | 1   |
| 15th District      | 0.5                           | 1   |
| 16th District      | 1.5                           | 2   |
| 17th District      | 0.7                           | 1   |
| 18th District      | 5.8                           | 4.5   |
| 19th District      | 1.2                           | 1   |
| 20th District      | 2.0                           | 2   |
| 21st District      | 2.0                           | 2   |
| 22nd District      | 1.7                           | 1.25  |
| <b>State Total</b> | <b>64.8</b>                   | <b>53.25</b>                                  |

Note: For judicial officer allocation purposes, Standing Masters account for .50 FTE of a District Court Judge.

## I. INTRODUCTION

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Since 2006, the Montana Supreme Court and the District Court Judicial Council have relied on the use of a weighted caseload model to establish the baseline needs for trial court judicial resources. The first weighted caseload study was conducted by the National Center for State Courts (NCSC) in 2006 (and implemented in 2007) and the OCA has been using that system to assess judicial needs and allocations since that time.

Recognizing that case weights need to be reestablished periodically to adjust for system and case processing changes, the Montana Supreme Court's Office of Court Administration (OCA) contracted with NCSC to perform an update to the existing Montana judicial weighted caseload system. While the original model is still useful, an updated model reflecting current case processing changes, such as an increase in remote hearings, will be more reflective of the current judicial staffing requirements. A clear and objective assessment of court workload and the number of judges required to handle that workload effectively is essential to the state's ability to evaluate whether judicial resources are being allocated based on need.

The current workload assessment study builds on the previous study, maintaining all of the same data elements, but updating the time allocated to various case processing activities.

Specifically, the current study accomplishes the following:

- Increases the participation rate of district court judges and special masters.<sup>2</sup>
- Includes a six-week data collection period (compared to an eight-week data collection period used in 2014).
- Accounts for judicial work at various phases of case processing and incorporates time associated with technology delays.
- Accounts for non-case related work that are a normal part of judicial work; and
- Accounts for variations in judicial travel time requirements by judicial district.

The Judicial Needs Assessment Committee (JNAC) provided oversight and guidance to the NCSC team. This technical report provides a detailed discussion of the workload assessment methodology and results and enumerates decisions made by the JNAC.

## II. DEVELOPING THE NEEDS ASSESSMENT STUDY PARAMETERS

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An advisory committee, the Judicial Needs Assessment Committee (JNAC) was formed to advise the NCSC in conducting the weighted caseload study and to ensure that the study accounted for the qualities that exist within the Montana District Courts. The JNAC was made up of District Court Council members, a Clerk of Court, and the Supreme Court Administrator. The committee met on April 27,

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<sup>2</sup> The participation rate in the 2006-time study was 73.3%, to 91.8% in the 2014 study and 95% in the current study.

2022, to determine the details of the weighted caseload study. The Committee was reconvened to review the data collection process and the study’s findings on August 24, 2022. The Committee’s responsibilities included:

- Advising the project team on the case type categories and events along with their definitions,
- Making policy any other decisions necessary throughout the project, and
- Reviewing and approving the results of the time study.

The first step in developing a workload model is to identify the categories of work judges are required to engage in. Specifically, the NCSC and JNAC identified the case types and activities judges would need to accurately account for all of their work.

## Case Type Categories

The case type categories represent a fundamental building block of the workload assessment. The workload model assumes that more complex case types require more time to resolve. The case types need to be legally and logically distinct from one another and the OCA must have the ability to count the number of cases filed in each category within each of the state’s 22 judicial districts. The JNAC agreed to use the same case types included in the 2006 and 2014 studies.

Below, Figure 1 presents the case types selected by the JNAC for the time-and-motion study, the three-calendar year average case filings for 2019, 2020, and 2021 and the percentage of total filings of each case type. Also, Appendix A also presents the listing of case types used. Using a three-year average number of filings allows for any anomalies in case filing

figures to be smoothed out for purposes of developing case weights.

**Figure 1: Montana District Court Time Study Case Types by Category**

| Case Type   | 3-Year Average Case Filings (CY2019, 2020, 2021) |               | % of Cases Filed |
|---|--|---------------|------------------|
|   | 2019   | 2020          |                  |
| Criminal (DC)   | 12,640   | 12,640        | 24.0%            |
| Civil (DV)  | 15,341   | 15,341        | 29.2%            |
| Adoptions (DA)  | 817  | 817           | 1.6%             |
| Guardian/Conservator (DG)                                 | 1,131  | 1,131         | 2.1%             |
| Juvenile (DJ)   | 876  | 876           | 1.7%             |
| Child Abuse and Neglect (DN)                              | 2,082  | 2,082         | 4.0%             |
| Probate (DP)  | 3,738  | 3,738         | 7.1%             |
| Domestic Relations (DR)                                   | 9,506  | 9,506         | 18.1%            |
| Paternity (DF)  | 37   | 37            | 0.1%             |
| Commitment of a Person with Developmental Disability (DD) | 23   | 23            | 0.0%             |
| Commitment of a Person with a Mental Illness (DI)         | 1,086  | 1,086         | 2.1%             |
| Investigative Subpoena (IS)/Search Warrant (SW)           | 4,806  | 4,806         | 9.1%             |
| Treatment Courts/Drug Courts                              | 536  | 536           | 1.0%             |
| <b>State Total</b>  | <b>52,619</b>                                    | <b>52,619</b> | <b>100.0%</b>    |

## Case-Related and Non-Case-Related Judicial Activities

To cover the full range of judicial activities, the JNAC developed separate categories and definitions for case-related and non-case-related events. Case-related activities are the essential functions that judges perform in resolving a case from initial filing to final resolution. As with the case types, the essential functions were categorized into manageable groups for the time study. Figure 2 below provides the case-related activity categories selected for the time study for judges. Appendix B provides the definition of these activities.

Some activities and responsibilities, such as continuing education and judges' meetings, are not directly related to a particular case, but they are nonetheless essential to a judge's work. These activities, defined as non-case-related activities, are presented in Figure 3; Appendix C provides the definitions. To simplify data collection, sick/vacation leave were included as non-case-related events; however, because the time is already built into the expected judicial working year, the data were treated differently analytically.

Figure 2: Montana District Court Case-Related Events



Figure 3: Montana District Court Non-Case-Related Events



## III. TIME STUDY

To establish a baseline of current practice, NCSC consultants conducted a statewide time-and-motion study of all District Court Judges and Standing Masters to measure the amount of time judicial officers in Montana currently devote to each case type category as well as to non-case-related events and work-related travel. Separately, the OCA provided counts of filings by case type category and judicial district for the three calendar years of 2019, 2020, and 2021; OCA also provided travel

mileage logs for judicial officers, so NCSC consultants could compare annual travel information with the snapshot recorded during the time study. Following the data collection, the project team used the time study results and caseload data to calculate the average number of minutes spent resolving cases within each case type category (preliminary case weights), the average amount of time devoted to non-case-related activities, and the average time associated with judicial officer work-related travel.

Between May 23 and July 1, 2022, all District Court Judges and Standing Masters throughout Montana were asked to track their working time by case type category and case-related event (for case-related activities), or by non-case-related event (for non-case-related activities). The inclusion of the majority of judicial officers statewide, rather than a sample of judges or courts, obviates any concerns regarding sample representativeness. The JNAC opted to collect data for a six-week period to ensure adequate data in all case type and event categories.

Time study participants were asked to track their time in five-minute increments using a manual time tracking form and then enter the information into an on-line data entry site. To maximize data quality, all time study participants were asked to attend training that was delivered via webinar format. During the data collection period, judicial officers also had access to a Help Desk, staffed during weekday working hours, in

which they could submit questions about data entry or request assistance for another reason.

Fifty-three of the 56 (95%) judicial officers in Montana participated in the data collection effort.<sup>3</sup> This extremely high participation rate ensures sufficient data to develop an accurate and reliable picture of current practice in the Montana District Courts.

To translate the time study data into the average amount of time expended on each type of case (the preliminary case weights), it was first necessary to determine how many individual cases in each category were filed statewide. The OCA provided three years of filing data for the calendar years 2019, 2020, and 2021, disaggregated by case type and judicial district. Using this data, NCSC consultants computed the average number of filings in each case type category for use in developing the initial case weights.

## Preliminary Case Weights

Following the six-week data collection period, the time study and caseload data were used to calculate preliminary case weights. A preliminary case weight represents the average amount of time judicial officers currently spend to process a case of a particular type, from filing through all post-disposition activity, including time spent during normal working hours and time spent outside of the normal working day or week. The use of separate case weights for different case categories accounts for the fact that cases

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<sup>3</sup> There are currently 50 filled District Court Judge positions in Montana; during the study period, one of these positions was vacant.

of varying levels of complexity require different amounts of time to resolve.

To calculate the preliminary case weight for each case type category, all time associated with each case type during the time study was summed and weighted to the equivalent of one full year’s worth of time, then divided by the corresponding average annual filings. For example, the time study data indicate that Montana judicial officers spend a total of 1,785,047 minutes annually processing criminal cases in District Court. Dividing the total time by the annual average District Court filings for criminal cases (12,640) yields a preliminary case weight of 141 minutes. This means that, on average, judicial officers in Montana spend roughly 2.4 hours on each criminal case throughout the life of the case, including those cases that are disposed of quickly and those cases that reach disposition via a lengthy jury trial. Figure 4 presents the preliminary case weights for all case type categories. Appendix D provides the calculation of the initial case weights. The JNAC reviewed and approved all but three of the preliminary case weights as an accurate representation of the time Montana’s judges devote to adjudicating cases.

Figure 4: Preliminary Case Weights

| Case Type   | Initial Case Weights (minutes) |
|---|--------------------------------|
| Criminal (DC)   | 141                            |
| Civil (DV)  | 54                             |
| Adoptions (DA)  | 25                             |
| Guardian/Conservator (DG)                                 | 62                             |
| Juvenile (DJ)   | 101                            |
| Child Abuse and Neglect (DN)                              | 202                            |
| Probate (DP)  | 18                             |
| Domestic Relations (DR)                                   | 140                            |
| Paternity (DF)  | 198                            |
| Commitment of a Person with Developmental Disability (DD) | 89                             |
| Commitment of a Person with a Mental Illness (DI)         | 60                             |
| Investigative Subpoena (IS)/Search Warrant (SW)           | 20                             |
| Treatment Courts/Drug Courts                              | 392                            |

## Day and Year Values

In every workload study, three factors contribute to the calculation of resource need: case weights, caseload data (filings), and the judge year value. The year value is defined as the amount of time a judge has available to work on an annual basis. The relationship among the case weights, filings, and year value is expressed as follows:

$$\frac{\text{Case Weights (minutes)}}{\text{Judge Year Value (minutes) - Non-Case-Related Time}} = \text{Judicial Resource Need (FTE)}$$

Multiplying the case weights by the corresponding filings from calendar year 2021 results in the total annual case-specific workload in minutes. Dividing the workload by the judge year value (minus the time required for non-case-related work, plus travel time) yields the total number of full-time equivalent (FTE) judges needed to handle the work of the District Courts in Montana.

To develop the judge year value, the JNAC needed to determine the number of days judges have available to devote to work (judge year), as well as how to divide the workday between case-related and non-case-related time (judge day). The judge year was based on the 2006 and 2014 studies; the amount of time associated with case-related and non-case-related time, including travel<sup>4</sup>, was based on empirical data collected from the time study.

### **Judge Year Value**

Accounting for weekends, holidays, judicial education, vacation days and sick time, the JNAC adopted a judge year of 212 days, which is consistent with the previous weighted caseload study conducted in Montana. The 212-day judge year is also consistent with the mean judge year value used in other states in which the NCSC has conducted judicial workload studies.<sup>5</sup>

### **Judge Day Value**

The JNAC agreed that the model used to compute judicial resource needs should be based on an 8-hour day. This accounts for a traditional 8 a.m. to 5 p.m. working day, and allows for a one-hour lunch break, resulting in 8 hours of work time. This workday also

corresponds to traditional courthouse and court staff working hours.

The judge day is separated into three parts: the amount of time devoted to (1) case-related work (2) non-case-related work, and (3) work-related travel.

1. Case-related time for judges includes all time devoted to work that is directly related to a court case. Activities such as the following make up this category of work:
  - Pre-trial activities,
  - Bench trial activities,
  - Jury trial activities,
  - Post-trial activities,
  - Case-related administration, and
  - Technology delays.
2. Non-case-related time for judges includes time devoted to activities that are required of judges, but that are not directly related to a case. Activities such as the following are included in this category of work:
  - Non-case-related administration,
  - Education and training,
  - Community activities, speaking engagements, etc.,
  - Committees, meetings, and related work, and
  - General legal research.

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<sup>4</sup> Work-related travel time was collected during the study period; however, since travel requirements vary across the state, the data were validated using travel reimbursement logs submitted to OCA. A calculation of 50 miles per hour was applied to the number of miles submitted for reimbursement. The higher of the two figures (time study travel time or reimbursement travel time) was included in the model. In some instances, no travel time was provided, either due to lack of travel or non-participation by a single-district judge. In this case, the 2014 travel rate was used,

minus 20% to account for the reduction in travel resulting from the increase in remote hearings.

<sup>5</sup> The mean judge year value derived in 37 studies conducted by the NCSC between 1996 and 2006 is 212 days, as reported in the study *Examination of NCSC Workload Assessment Projects and Methodology: 1996-2006* by John Douglas (NCSC). When adding the 14 judicial weighted caseload studies conducted by NCSC since 2006 the mean judge year value remains at 212 days.

3. Travel time includes all time judges spend driving for work-related activities. Normal commuting time was not included in this category, but time associated with the following types of travel was included:
  - Traveling between courthouses,
  - Traveling for meetings, and
  - Traveling to speaking engagements.

As stated earlier, the Montana judicial needs model is built on a standard judge workday of 8 hours per day. Data collected during the time study established the average amount of time associated with non-case-related activities (61 minutes per day)<sup>6</sup> and the average amount of time associated with work-related travel (approximately 15 minutes per day per judicial district).<sup>7</sup> Appendix E presents individual judicial district travel requirements.

Multiplying the judge year by the number of hours in a day available for case-related work (8 hours minus non-case-related time and travel time) yields the amount of time available per year for judges allocated to case-specific work. Therefore, the average case-related judge year value is 85,648 minutes per year, or 404 minutes per day (6.75 hours per day). The remaining 76 minutes of the 8-hour day are associated with non-case-related work and work-related travel.

**Figure 5: Average Judge Year and Day Components for Montana District Court Judges**

| Judicial Officer Day  | Working Minutes per Day | Working Hours per Day | Working Minutes per Year |
|---|-------------------------|-----------------------|--------------------------|
| Total minutes per day   | 480                     | 8                     | 101,760                  |
| <b>Subtract</b>   |                         |                       |                          |
| Non-case-related time   | - 61                    | 1                     | 12,932                   |
| Average travel per district*                                  | - 15                    | 0.25                  | 3,180                    |
| <b>Total case-related time available per judicial officer</b> | <b>354</b>              | <b>6.75</b>           | <b>85,648</b>            |

Actual travel time per district was used to develop the needs model.

## IV. QUALITY ADJUSTMENT

The time study is intended to measure the amount of time judges currently spend handling cases, but it does not inform us of the amount of time judges *should* spend on activities to ensure the quality processing of cases. To gain perspective on the sufficiency of time to perform key case-related and non-case-related activities, the NCSC asked the JNAC to review the preliminary case weights and provide their expert opinion about whether sufficient time exists to attend to all the elements of a case, for each case type, to sufficiently attend to all case processing details.

The committee agreed that the case weights generally reflect the time needed to process most cases, many of which were quite consistent with the 2014 workload assessment study. That said, the committee did make quality adjustments to three case types, by increasing the weights for two case types and decreasing

<sup>6</sup> Non-case-related time measured in the most recent judge workload studies conducted by the NCSC ranges from a low of 43 minutes per day per judge to a high of 120 minutes per day per judge; the mean is 61 minutes per day per judge.

<sup>7</sup> The average daily travel time is derived by dividing the total travel requirements across the state by 22 (for the number of judicial districts). This figure is provided for illustrative purposes only. The actual travel requirements, per district, are built into the model.

the weight for one case type. The adjusted case types include civil, child abuse and neglect, and paternity. Each adjustment, and the rationale for the adjustment, is described below.

As an aftermath of the pandemic, civil cases are once again being set aside to focus on criminal and other case types with strict statutorily defined time standards. First, the committee requested that statutory liens be removed from the case count, since judges do not touch these cases; this change increased the initial case weight to 54. Despite this change, some judges argued that civil cases, while not often disposed through trial, are motion-heavy cases, with nearly all including motions to dismiss or motions for summary judgment, both of which can take a lot of judicial officer time. The committee agreed to reset the weight to the 2006 and 2014 case weight of 109 minutes per case.

Beginning on July 1, 2023, judges will be required to hold a hearing within five days of an abuse and neglect case being filed. Judges in Yellowstone, Flathead, and Dawson Counties are currently engaged in a pilot test of this process. Most agreed that the initial hearing does not result in the case being dismissed, and a show cause hearing is still necessary. Time estimates needed to prepare for and hold an emergency protective services (EPS) hearing were estimated at 45 minutes; however, since some of that time is included in the initial case weight of 202, judges agreed to add 30 minutes to the case weight to account for the new mandated process going into effect in 2023.

Judges were very surprised at the significant increase in paternity cases. Once completed, paternity cases are supposed to be filed as a child abuse and neglect case. One judge on the committee indicated having two paternity cases during the time study, neither of which was refiled as domestic relations cases, so the initial case weight is likely inflated. Given this information, the committee agreed to reduce the case weight to the average of the 2006 and 2014 case weights (61 and 37, respectively), to set the weight at 49 minutes per case.

Finally, regarding travel, the committee reviewed travel time reported during the time study and compared that to travel log submissions for which the miles were computed into time by applying a rate of 50 mph to each mile driven; the higher of these two average travel times were included in the model. For those districts that either did not report travel, or who did not participate in the time study, so no travel numbers were available, the committee agreed to use the 2014 travel times, reduced by 20% to account for the increases in the use of remote hearings, which reduces travel by some degree.<sup>8</sup>

The final case weights, presented below in Figure 6 have a direct impact on total workload and ultimately on the overall need for judges in Montana. This relationship is the focus of the next section of this report.

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<sup>8</sup> In the 19<sup>th</sup> district, the average travel in 2014 was much higher than the travel log information, which was

exceedingly low (and that judge does not often report travel, so the statewide average of 15 minutes was used).

**Figure 6: Preliminary Case Weights**

| Case Type   | Final Case Weights (minutes) |
|---|------------------------------|
| Criminal (DC)   | 141                          |
| Civil (DV)  | 109                          |
| Adoptions (DA)  | 25                           |
| Guardian/Conservator (DG)                                 | 62                           |
| Juvenile (DJ)   | 101                          |
| Child Abuse and Neglect (DN)                              | 232                          |
| Probate (DP)  | 18                           |
| Domestic Relations (DR)                                   | 140                          |
| Paternity (DF)  | 49                           |
| Commitment of a Person with Developmental Disability (DD) | 89                           |
| Commitment of a Person with a Mental Illness (DI)         | 60                           |
| Investigative Subpoena (IS)/Search Warrant (SW)           | 20                           |
| Treatment Courts/Drug Courts                              | 392                          |

## V. CALCULATING JUDICIAL RESOURCE NEED

To determine the staffing need for judicial officers, the final case weights were applied to the number of cases filed in calendar year 2021. Judicial officer need is determined by first calculating the workload by multiplying each case weight by the number of cases by case type in each judicial district. Since judicial travel time is computed as a sum total of minutes per year per district, this time is added to the case-specific workload to represent each district’s expected workload associated with case processing and travel. The product is then divided by the judge year value (480 minutes per day – 61 non-case-related minutes per day x 212 days per year)

which results in the number of judges needed to handle the annual workload.

In six of the state’s 22 judicial districts, Standing Masters are used to assist judges in processing cases. While they are a valuable resource that assists in moving cases through the court process, the Standing Masters are limited in their capacity to engage in all facets of case processing. For example, Standing Masters cannot preside over jury trials, and they cannot make dispositive findings in all case types. In some cases, Standing Masters engage in work that judges do not have time for, such as engaging in early intervention in child abuse and neglect cases. Valuable as these resources are, Standing Masters are not judges and should not be considered as a full-time judicial resource in the judicial needs model. The JNAC recommended that Standing Masters be incorporated into the model as a current resource at the rate of .50 FTE per position.<sup>9</sup>

Figure 7 contains the statewide need calculations for District Court Judicial Officers in Montana. The need model treats Standing Masters as a .50 FTE, as recommended by the JNAC.

The application of the quality adjusted case weights to the calendar year 2021 filings results in over 6 million minutes of case-specific work for the Montana District Courts annually. Dividing the workload by judge year value results in the number of District Court Judges needed to effectively process the cases filed in Montana during calendar year 2022. Statewide, the model

<sup>9</sup> Standing Masters are currently considered to be .50 FTE of a judicial resource in the judicial officer needs model. This figure (.50) was an arbitrary estimate set several years ago. Given the limited areas in which Standing Masters can

work, the fact that they cannot function as judges in all capacities and that they are used to engage in work that judges would not do (such as diversion), the JNAC felt that the Standing Masters to not off-load 75% of judicial work.

indicates a deficit need of 11.55 (64.8 compared to the current 53.25) judicial officers in the District Courts above the judicial officers currently allocated, as shown in Figure 7.

Figure 7: 2022 Montana District Court Judicial Officer Need Model

| District           | Annual Workload  | Year Value | Non-Case-Related Time Deduction | Time Study Travel by County | Case-Related | Judicial Officer Demand | Current Judicial Officer Allocation* |
|--------------------|------------------|------------|---------------------------------|-----------------------------|--------------|-------------------------|--------------------------------------|
| 1st District       | 637,018          | 101,760    | 12,920                          | 1,170                       | 87,670       | 5.7                     | 4                                    |
| 2nd District       | 201,874          | 101,760    | 12,920                          | 110                         | 88,730       | 2.0                     | 2                                    |
| 3rd District       | 118,186          | 101,760    | 12,920                          | 4,884                       | 83,956       | 1.3                     | 1                                    |
| 4th District       | 725,333          | 101,760    | 12,920                          | 4,617                       | 84,223       | 8.0                     | 6                                    |
| 5th District       | 115,811          | 101,760    | 12,920                          | 28,912                      | 59,928       | 1.7                     | 1                                    |
| 6th District       | 105,137          | 101,760    | 12,920                          | 7,365                       | 81,475       | 1.2                     | 1                                    |
| 7th District       | 126,576          | 101,760    | 12,920                          | 4,876                       | 83,964       | 1.3                     | 2                                    |
| 8th District       | 505,956          | 101,760    | 12,920                          | 1,015                       | 87,825       | 5.4                     | 4.5                                  |
| 9th District       | 118,187          | 101,760    | 12,920                          | 13,831                      | 75,009       | 1.4                     | 1.25                                 |
| 10th District      | 71,812           | 101,760    | 12,920                          | 5,192                       | 83,648       | 0.8                     | 1                                    |
| 11th District      | 608,596          | 101,760    | 12,920                          | 815                         | 88,025       | 6.3                     | 4                                    |
| 12th District      | 108,012          | 101,760    | 12,920                          | 12,450                      | 76,391       | 1.3                     | 1                                    |
| 13th District      | 1,228,416        | 101,760    | 12,920                          | 1,460                       | 87,380       | 12.7                    | 8.75                                 |
| 14th District      | 50,846           | 101,760    | 12,920                          | 1,590                       | 87,250       | 0.5                     | 1                                    |
| 15th District      | 43,199           | 101,760    | 12,920                          | 22,472                      | 66,368       | 0.5                     | 1                                    |
| 16th District      | 129,888          | 101,760    | 12,920                          | 12,976                      | 75,864       | 1.5                     | 2                                    |
| 17th District      | 60,121           | 101,760    | 12,920                          | 11,334                      | 77,507       | 0.7                     | 1                                    |
| 18th District      | 560,386          | 101,760    | 12,920                          | 405                         | 88,435       | 5.8                     | 4.5                                  |
| 19th District      | 108,164          | 101,760    | 12,920                          | 3,180                       | 85,660       | 1.2                     | 1                                    |
| 20th District      | 183,693          | 101,760    | 12,920                          | 4,112                       | 84,728       | 2.0                     | 2                                    |
| 21st District      | 194,285          | 101,760    | 12,920                          | 189                         | 88,652       | 2.0                     | 2                                    |
| 22nd District      | 126,592          | 101,760    | 12,920                          | 23,093                      | 65,747       | 1.7                     | 1.25                                 |
| <b>State Total</b> | <b>6,128,088</b> |            |                                 |                             |              | <b>64.8</b>             | <b>53.25</b>                         |

\*Note: For judicial officer allocation purposes, Standing Masters account for .50 FTE of a District Court Judge.

## VI. RECOMMENDATIONS

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The case weights adopted by the JNAC indicate the need for 64.8 District Court judicial officers to process the annual incoming caseload of Montana effectively. When considering only the judge deficit need (only those districts in which a positive need for judges is indicated) there is a need for 11.55 additional judicial officers to manage the work of the Montana District Courts. These case weights are grounded in current practices (as measured by the time study), and were reviewed for quality by the JNAC, who represented the Montana judiciary. Three recommendations are made to maintain the integrity and utility of the case weights and the model developed herein.

The NCSC proposes three recommendations to maintain the integrity and utility of the case weights and judicial needs model.

1. The weighted caseload model presented in this report should be the *starting point* for determining judicial need. There are qualitative issues that an objective weighted caseload model cannot account for that should be considered when determining judicial staffing level needs. Those issues that result in longer or shorter case processing times should be considered.
2. The judicial needs model, with the updated case weights, should be updated on an annual basis using the most recent three-year average of case filings.
3. Over time, the integrity of the case weights is affected by multiple influences that are likely to impact case processing time. Periodic updating of the case weights, through the conduct of a time-and-motion study, should ensure that the case weights continue to accurately represent the judicial workload.

Based on feedback from participants in the 2022-time study, the Judicial Council members who serve as Advisory Committee members to that project should consider refining the activity categories to a smaller, more manageable number.

## APPENDICES

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### APPENDIX A: CASE TYPE CATEGORIES

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The case type categories for which case weights were developed are standard, and therefore, well-understood and recognized categories for District Court judicial officers. For this reason, no definitions were provided.

1. Criminal (DC)
2. Civil (DV)
3. Adoptions (DA)
4. Guardian/ Conservator (DG)
5. Juvenile (DJ)
6. Child Abuse and Neglect (DN)
7. Probate (DP)
8. Domestic Relations (DR)
9. Paternity (DF)
10. Commitment of a person with Developmental Disability (DD)
11. Commitment of a person with a Mental Illness (DI)
12. Investigative Subpoena (IS)/Search Warrant (SW)
13. Treatment Courts/Drug Courts

## APPENDIX B: CASE-RELATED ACTIVITY CATEGORIES

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- 1. PRE-TRIAL ACTIVITIES:** This category includes:
  - 1<sup>st</sup> appearance / arraignment
  - Preliminary and other pre-trial hearings & motions (hearings, reviewing, ruling)
  - Pleas, plea changes, default judgments, uncontested hearings.
  - Motions for summary judgment
  - Warrant/failure to appear
  - Prepare and issue orders
- 2. JURY TRIAL ACTIVITIES:** This category includes all matters that are related to conducting a jury trial, including:
  - Juror voir dire
  - All jury trial–related activities
- 3. BENCH TRIAL ACTIVITIES:** This category includes all matters, whether in-or out-of-court, incident to the conduct of a trial or adjudicatory hearing in which the judge is the trier of fact and includes hearings to memorialize an agreement.
- 4. POST-TRIAL ACTIVITIES:** This category includes all hearings conducted subsequent to completion of a bench or jury trial or adjudicatory proceeding, including:
  - disposition/sentencing hearings
  - review pre-sentencing reports
  - motions for new trial, motions to alter or amend a judgment, motions for supersedeas
  - bond, motion for attorneys' fees
- 5. CASE RELATED ADMINISTRATION:** This category includes most other activities not included in one of the previous categories that are related to administration of a judge's cases and are specific to an individual case. These activities could include scheduling of dockets, conferences with clerks or assistants, providing instructions to staff or similar routine matters, such as:
  - researching, writing, and drafting decisions/opinions
  - calendaring
  - signing orders, and reviewing writs/motions
  - docket calls
- 6. TECHNOLOGY DELAYS:** Time associated with case-related technology delays such as telephone connectivity, digital recording, remote hearing technology, and other technology delays that cause case processing delays.
- 7. DRUG COURT– IN SESSION:** Time spent in Drug Court staffing and in-court sessions.

## APPENDIX C: NON-CASE-RELATED ACTIVITY CATEGORIES

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**NON-CASE-RELATED ADMINISTRATION:** Includes work directly related to the *administration or operation* of the court, including activities such as:

- a. Personnel/Management issues
- b. Case assignment and calendaring
- c. Addressing facilities, budget, and technology

**JUDICIAL EDUCATION AND TRAINING:** Includes continuing education and professional development, reading advance sheets, statewide judicial meetings, and out-of-state education programs permitted by the state.

**COMMUNITY ACTIVITIES, EDUCATION, SPEAKING ENGAGEMENT:** Includes time spent on community and civic activities in your role as a judge, e.g., speaking at a local bar association luncheon, attendance at rotary functions, or job-related presentations to other bodies. This activity also includes preparing for, or officiating at, weddings.

**COMMITTEES OTHER MEETINGS AND RELATED WORK:** Includes time spent in state, local or other work-related committee meetings, staff or other meetings that are job-related. Also include any work done (prep or post-meeting) for these meetings outside of the actual meeting.

**GENERAL LEGAL RESEARCH:** Includes non-case specific legal reading/research. Such as reading law journals, professional literature, research/reading to keep you abreast of legislative changes, legal opinions, etc.

**DRUG COURT ADMINISTRATIVE TIME** – Includes time associated with grant management or other administrative tasks associated with Drug Court.

**TRAVEL TIME:** Includes any reimbursable travel. This includes time spent traveling to and from a court or other facility outside one's county of residence for any court-related business, including meetings. Traveling to the court in one's own county is local "commuting time," which should NOT be counted as travel time.

**VACATION, ILLNESS/MILITARY LEAVE:** Includes any non-recognized holiday leave time. DO NOT record statewide, recognized holidays as they have already been accounted for in the determination of the Judge Year Value. **No need to track time on Memorial Day unless you work that day.**

**OTHER:** Includes all other work-related, but non-case-related tasks that do not fit in the above categories.

**NCSC TIME STUDY DATA REPORTING** – Record time spent each day to record and log the time for the weighted caseload study.

## APPENDIX D: CASE WEIGHT CALCULATION

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The graphic below depicts the case weight calculation used for each case type included in this study.

$$\text{Case Weights (minutes)} = \frac{\text{Minutes of Activity}}{\text{Case Filings}}$$

Example:

A case weight of 150 minutes meant that, on average, a case of this type requires 150 minutes of judicial officer time from filing through post-disposition activity.

## APPENDIX E: AVERAGE TRAVEL REQUIREMENTS BY JUDICIAL DISTRICT

| Average Travel Minutes per FTE per day by District |           |
|--|-----------|
| 1st District                                       | 5.52      |
| 2nd District                                       | 0.52      |
| 3rd District                                       | 23.04     |
| 4th District                                       | 21.78     |
| 5th District                                       | 136.38    |
| 6th District                                       | 34.74     |
| 7th District                                       | 23.00     |
| 8th District                                       | 4.79      |
| 9th District                                       | 65.24     |
| 10th District                                      | 24.49     |
| 11th District                                      | 3.84      |
| 12th District                                      | 58.72     |
| 13th District                                      | 6.89      |
| 14th District                                      | 7.50      |
| 15th District                                      | 106.00    |
| 16th District                                      | 61.21     |
| 17th District                                      | 53.46     |
| 18th District                                      | 1.91      |
| 19th District                                      | 15.00     |
| 20th District                                      | 19.40     |
| 21st District                                      | 0.89      |
| 22nd District                                      | 108.93    |
| <b>State Average</b>                               | <b>15</b> |