

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Human Services to which was referred Senate Bill No. 9
3 entitled “An act relating to improving Vermont’s system for protecting
4 children from abuse and neglect” respectfully reports that it has considered the
5 same and recommends that the House propose to the Senate that the bill be
6 amended by striking out all after the enacting clause and inserting in lieu
7 thereof the following:

8 * * * Legislative Findings * * *

9 Sec. 1. LEGISLATIVE FINDINGS

10 (a) In 2014, the tragic deaths of two children exposed problems with
11 Vermont’s system intended to protect children from abuse and neglect. This
12 act is intended to address these problems and implement the recommendations
13 of the Joint Legislative Committee on Child Protection created by 2014 Acts
14 and Resolves No. 179, Sec. C.109 and improve our State’s system for
15 protecting our children to help prevent future tragedies.

16 (b) To better prevent child abuse and neglect, Vermont must invest in
17 proven strategies to support and strengthen families.

18 (c) To better protect Vermont’s children from abuse and neglect, and to
19 address the increasing burden of drug abuse and other factors that are ripping
20 families apart, the General Assembly believes that our State’s child protection

1 system must be focused on the safety and best interests of children,
2 comprehensive, and properly funded. This system must ensure that:

3 (1) the dedicated frontline professionals, including guardians ad litem,
4 who struggle to handle the seemingly ever-increasing caseloads have the
5 support, training, and resources necessary to do their job;

6 (2) children who have suffered abuse and neglect can find safe,
7 nurturing, and permanent homes, whether with their custodial parents,
8 relatives, or other caring families and individuals;

9 (3) the most serious cases of abuse are thoroughly investigated and
10 prosecuted if appropriate;

11 (4) courts have the information and tools necessary to make the best
12 possible decisions;

13 (5) all participants in the child protection system, from the frontline
14 caseworker to the judge determining ultimate custody, work together to
15 prioritize the child's safety and best interests; and

16 (6) an effective oversight structure is established.

17 (d) This act is only the beginning of what must be an ongoing process in
18 which the House and Senate Committees on Judiciary, the Senate Committee
19 on Health and Welfare, the House Committee on Human Services, in
20 consultation with the Senate and House Committees on Appropriations,

1 continue to enhance the statewide approach to the prevention of child abuse
2 and neglect.

3 * * * Agency of Human Services; Evidence-Informed Models * * *

4 Sec. 2. AGENCY OF HUMAN SERVICES EVIDENCE-INFORMED
5 MODELS

6 The Secretary of Human Services shall identify and utilize
7 evidence-informed models of serving families that prioritize child safety and
8 prevention of child abuse and neglect through early interventions with high risk
9 families that develop family strengths and reduce the impact of adverse
10 childhood experiences. The Secretary shall make recommendations in the
11 FY2017 budget that reflect the utilization of these models.

12 * * * Human Services; Child Welfare Services; Definitions * * *

13 Sec. 3. 33 V.S.A. § 4912 is amended to read:

14 § 4912. DEFINITIONS

15 As used in this subchapter:

16 * * *

17 (14) “Risk of harm” means a significant danger that a child will suffer
18 serious harm by other than accidental means, which harm would be likely to
19 cause physical injury, ~~neglect, emotional maltreatment,~~ or sexual abuse,
20 including as the result of:

* * * Confidentiality * * *

Sec. 4. 33 V.S.A. § 4913 is amended to read:

§ 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL
ACTION

(a) Any physician, surgeon, osteopath, chiropractor, or physician assistant licensed, certified, or registered under the provisions of Title 26, any resident physician, intern, or any hospital administrator in any hospital in this State, whether or not so registered, and any registered nurse, licensed practical nurse, medical examiner, emergency medical personnel as defined in 24 V.S.A. § 2651(6), dentist, psychologist, pharmacist, any other health care provider, child care worker, school superintendent, headmaster of an approved or recognized independent school as defined in 16 V.S.A. § 11, school teacher, student teacher, school librarian, school principal, school guidance counselor, and any other individual who is employed by a school district or an approved or recognized independent school, or who is contracted and paid by a school district or an approved or recognized independent school to provide student services, mental health professional, social worker, probation officer, any employee, contractor, and grantee of the Agency of Human Services who have contact with clients, police officer, camp owner, camp administrator, camp counselor, or member of the clergy who has reasonable cause to believe that any child has been abused or neglected shall report ~~or cause a report to be~~

1 ~~made~~ in accordance with the provisions of section 4914 of this title within
2 24 hours. As used in this subsection, “camp” includes any residential or
3 nonresidential recreational program.

4 (b)~~(1)~~ The Commissioner shall inform the person who made the report
5 under subsection (a) of this section:

6 ~~(1)~~(A) whether the report was accepted as a valid allegation of abuse or
7 neglect;

8 ~~(2)~~(B) whether an assessment was conducted and, if so, whether a need
9 for services was found; and

10 ~~(3)~~(C) whether an investigation was conducted and, if so, whether it
11 resulted in a substantiation.

12 (2) Upon request, the Commissioner shall provide relevant information
13 contained in the case records concerning a person’s report to a person who:

14 (A) made the report under subsection (a) of this section; and

15 (B) is engaged in an ongoing working relationship with the child or
16 family who is the subject of the report.

17 (3) Any information disclosed under subdivision (2) of this subsection
18 shall not be disseminated by the mandated reporter requesting the information.

19 A person who intentionally violates the confidentiality provisions of this
20 section shall be fined not more than \$2,000.00.

1 (c) Upon request, the redacted investigation file shall be disclosed to:

2 (1) the child's parents, foster parent, or guardian, absent good cause
3 shown by the Department, provided that the child's parent, foster parent, or
4 guardian is not the subject of the investigation; and

5 (2) the person alleged to have abused or neglected the child, as provided
6 for in subsection 4916a(d) of this title.

7 (d) Upon request, Department records created under this subchapter shall
8 be disclosed to:

9 (1) the ~~court~~ Court, parties to the juvenile proceeding, and the child's
10 guardian ad litem if there is a pending juvenile proceeding or if the child is in
11 the custody of the Commissioner;

12 (2) the Commissioner or person designated by the Commissioner to
13 receive such records;

14 (3) persons assigned by the Commissioner to conduct investigations;

15 (4) law enforcement officers engaged in a joint investigation with the
16 Department, an ~~assistant attorney general~~ Assistant Attorney General, or a
17 ~~state's attorney~~ State's Attorney; and

18 (5) other State agencies conducting related inquiries or proceedings;
19 and.

20 (6) ~~a Probate Division of the Superior Court involved in guardianship~~
21 ~~proceedings. The Probate Division of the Superior Court shall provide a copy~~

1 ~~of the record to the respondent, the respondent's attorney, the petitioner, the~~
2 ~~guardian upon appointment, and any other individual, including the proposed~~
3 ~~guardian, determined by the Court to have a strong interest in the welfare of~~
4 ~~the respondent. [Repealed.]~~

5 (e)(1) Upon request, relevant Department records or information created
6 under this subchapter ~~may~~ shall be disclosed to:

7 (A) ~~service providers working with a person or child who is the~~
8 ~~subject of the report; and~~ A person, agency, or organization, including a
9 multidisciplinary team empaneled under section 4917 of this title, authorized to
10 diagnose, care for, treat, or supervise a child or family who is the subject of a
11 report or record created under this subchapter, or who is responsible for the
12 child's health or welfare.

13 (B) Health and mental health care providers working directly with the
14 child or family who is the subject of the report or record.

15 (C) Educators working directly with the child or family who is the
16 subject of the report or record.

17 (D) Licensed or approved foster care givers for the child.

18 (E) Mandated reporters as defined by section 4913 of this subchapter,
19 making a report in accordance with the provisions of section 4914 of this
20 subchapter and engaging in an ongoing working relationship with the child or
21 family who is the subject of the report.

1 (F) A Family Division of the Superior Court involved in any
2 proceeding in which custody of a child or parent-child contact is at issue.

3 (G) A Probate Division of the Superior Court involved in
4 guardianship proceedings. The Probate Division of the Superior Court shall
5 provide a copy of the record to the respondent, the respondent's attorney, the
6 petitioner, the guardian upon appointment, and any other individual, including
7 the proposed guardian, determined by the Court to have a strong interest in the
8 welfare of the respondent.

9 (H) ~~other~~ Other governmental entities for purposes of child
10 protection.

11 (2) Determinations of relevancy shall be made by the Department.

12 (3) In providing records or information under this subsection (e), the
13 Department may withhold information that could:

14 (A) compromise the safety of the reporter or the child or family who
15 is the subject of the report; or

16 (B) threaten the emotional well-being of the child.

17 (4) In providing records or information under this section, the
18 Department may also provide other records related to its child protection
19 activities for the child.

20 (5) Any persons or agencies authorized to receive confidential
21 information under this section may share such information with other persons

1 or agencies authorized to receive confidential information under this section
2 for the purposes of providing services and benefits to the children and families
3 those persons or agencies mutually serve.

4 (f) Any records or information disclosed under this section and information
5 relating to the contents of those records or reports shall not be disseminated by
6 the receiving persons or agencies to any persons or agencies, other than to
7 those persons or agencies authorized to receive information pursuant to this
8 section. A person who intentionally violates the confidentiality provisions of
9 this section shall be fined not more than \$2,000.00.

10 Sec. 6. 33 V.S.A. § 5110 is amended to read:

11 § 5110. CONDUCT OF HEARINGS

12 (a) Hearings under the juvenile judicial proceedings chapters shall be
13 conducted by the Court without a jury and shall be confidential.

14 (b) The general public shall be excluded from hearings under the juvenile
15 judicial proceedings chapters, and only the parties, their counsel, witnesses,
16 persons accompanying a party for his or her assistance, and such other persons
17 as the Court finds to have a proper interest in the case or in the work of the
18 Court, including a foster parent or a representative of a residential program
19 where the child resides, may be admitted by the Court. An individual without
20 party status seeking inclusion in the hearing may petition the Court for
21 admittance by filing a request with the clerk of the Court. This subsection

1 shall not prohibit a victim's exercise of his or her rights under sections 5233
2 and 5234 of this title, and as otherwise provided by law.

3 (c) There shall be no publicity given by any person to any proceedings
4 under the authority of the juvenile judicial proceedings chapters except with
5 the consent of the child, the child's guardian ad litem, and the child's parent,
6 guardian, or custodian. A person who violates this provision may be subject to
7 contempt proceedings pursuant to Rule 16 of the Vermont Rules for Family
8 Proceedings.

9 * * * Juvenile Proceedings; General Provisions; Children in Need of Care or
10 Supervision; Request for an Emergency Care Order * * *

11 Sec. 7. 33 V.S.A. § 5302 is amended to read:

12 § 5302. REQUEST FOR EMERGENCY CARE ORDER

13 (a) If an officer takes a child into custody pursuant to ~~subdivision~~ section
14 5301(1) ~~or (2)~~ of this title, the officer shall immediately notify the child's
15 custodial parent, guardian, or custodian and release the child to the care of the
16 child's custodial parent, guardian, or custodian unless the officer determines
17 that the child's immediate welfare requires the child's continued absence from
18 the home.

19 (b) If the officer determines that the child's immediate welfare requires the
20 child's continued absence from the home, ~~the officer shall:~~

1 (A) a custodial parent, guardian, or custodian receives actual notice
2 that a person has committed or is alleged to have committed physical or sexual
3 abuse against a child; and

4 (B) a custodial parent, guardian, or custodian knowingly or recklessly
5 allows the child to be in the physical presence of the alleged abuser after
6 receiving such notice.

7 (4) The custodial parent, guardian, or ~~guardian~~ custodian has abandoned
8 the child.

9 (5) The child or another child in the same household has been neglected
10 and there is substantial risk of harm to the child who is the subject of the
11 petition.

12 (b) Upon a finding that ~~any of the conditions set forth in subsection (a) of~~
13 ~~this section exists~~ a return home would be contrary to the best interests of the
14 child, the Court may issue such temporary orders related to the legal custody of
15 the child as it deems necessary and sufficient to protect the welfare and safety
16 of the child, including, ~~in order of preference:~~

17 (1) ~~A~~ a conditional custody order returning or granting legal custody of
18 the child to the custodial parent, guardian, ~~or~~ custodian, noncustodial parent,
19 relative, or a person with a significant relationship with the child, subject to
20 such conditions and limitations as the Court may deem necessary and sufficient
21 ~~to protect the child;~~

1 ~~(2)(A) An order transferring temporary legal custody to a noncustodial~~
2 ~~parent. Provided that parentage is not contested, upon a request by a~~
3 ~~noncustodial parent for temporary legal custody and a personal appearance of~~
4 ~~the noncustodial parent, the noncustodial parent shall present to the Court a~~
5 ~~care plan that describes the history of the noncustodial parent's contact with~~
6 ~~the child, including any reasons why contact did not occur, and that addresses:~~

7 ~~(i) the child's need for a safe, secure, and stable home;~~

8 ~~(ii) the child's need for proper and effective care and control; and~~

9 ~~(iii) the child's need for a continuing relationship with the~~

10 ~~eustodial parent, if appropriate.~~

11 ~~(B) The Court shall consider court orders and findings from other~~
12 ~~proceedings related to the custody of the child.~~

13 ~~(C) The Court shall transfer legal custody to the noncustodial parent~~
14 ~~unless the Court finds by a preponderance of the evidence that the transfer~~
15 ~~would be contrary to the child's welfare because any of the following exists:~~

16 ~~(i) The care plan fails to meet the criteria set forth in subdivision~~
17 ~~(2)(A) of this subsection.~~

18 ~~(ii) Transferring temporary legal custody of the child to the~~
19 ~~noncustodial parent could result in substantial danger to the physical health,~~
20 ~~mental health, welfare, or safety of the child.~~

1 ~~(iii) The child or another child residing in the same household as~~
2 ~~the noncustodial parent has been physically or sexually abused by the~~
3 ~~noncustodial parent or a member of the noncustodial parent's household, or~~
4 ~~another person known to the noncustodial parent.~~

5 ~~(iv) The child or another child residing in the same household as~~
6 ~~the noncustodial parent is at substantial risk of physical or sexual abuse by the~~
7 ~~noncustodial parent or a member of the noncustodial parent's household, or~~
8 ~~another person known to the noncustodial parent. It shall constitute prima facie~~
9 ~~evidence that a child is at substantial risk of being physically or sexually~~
10 ~~abused if:~~

11 ~~(I) a noncustodial parent receives actual notice that a person~~
12 ~~has committed or is alleged to have committed physical or sexual abuse against~~
13 ~~a child; and~~

14 ~~(II) the noncustodial parent knowingly or recklessly allows the~~
15 ~~child to be in the physical presence of the alleged abuser after receiving such~~
16 ~~notice.~~

17 ~~(v) The child or another child in the noncustodial parent's~~
18 ~~household has been neglected, and there is substantial risk of harm to the child~~
19 ~~who is the subject of the petition.~~

20 ~~(D) If the noncustodial parent's request for temporary custody is~~
21 ~~contested, the Court may continue the hearing and place the child in the~~

1 ~~temporary custody of the Department, pending further hearing and resolution~~
2 ~~of the custody issue. Absent good cause shown, the Court shall hold a further~~
3 ~~hearing on the issue within 30 days.~~

4 ~~(3) An order transferring temporary legal custody of the child to a~~
5 ~~relative, provided:~~

6 ~~(A) The relative seeking legal custody is a grandparent, great-~~
7 ~~grandparent, aunt, great aunt, uncle, great uncle, stepparent, sibling, or~~
8 ~~step sibling of the child.~~

9 ~~(B) The relative is suitable to care for the child. In determining~~
10 ~~suitability, the Court shall consider the relationship of the child and the relative~~
11 ~~and the relative's ability to:~~

12 ~~(i) Provide a safe, secure, and stable environment.~~

13 ~~(ii) Exercise proper and effective care and control of the child.~~

14 ~~(iii) Protect the child from the custodial parent to the degree the~~
15 ~~Court deems such protection necessary.~~

16 ~~(iv) Support reunification efforts, if any, with the custodial parent.~~

17 ~~(v) Consider providing legal permanence if reunification fails.~~

18 (2) an order transferring temporary legal custody of the child to a
19 noncustodial parent or to a relative;

20 (3) an order transferring temporary legal custody of the child to a person
21 with a significant relationship with the child; or

1 (4) an order transferring temporary legal custody of the child to the
2 Commissioner.

3 ~~(C)(c)~~ The Court shall consider orders and findings from other proceedings
4 relating to the custody of the child, the child’s siblings, or children of any adult
5 in the same household as the child.

6 (d) ~~In considering the suitability of a relative under this subdivision (3) an~~
7 order under subsection (b) of this section, the Court may order the Department
8 to conduct an investigation of a person seeking custody of the child, and the
9 suitability of that person’s home, and file a written report of its findings with
10 the Court. The Court may place the child in the temporary custody of the
11 ~~Department~~ Commissioner, pending such investigation.

12 ~~(4) A temporary care order transferring temporary legal custody of the~~
13 ~~child to a relative who is not listed in subdivision (3)(A) of this subsection or a~~
14 ~~person with a significant relationship with the child, provided that the criteria~~
15 ~~in subdivision (3)(B) of this subsection are met. The Court may make such~~
16 ~~orders as provided in subdivision (3)(C) of this subsection to determine~~
17 ~~suitability under this subdivision.~~

18 ~~(5) A temporary care order transferring temporary legal custody of the~~
19 ~~child to the Commissioner.~~

20 ~~(e)(e)~~ If the Court transfers legal custody of the child, the Court shall issue
21 a written temporary care order.

1 (1) The order shall include:

2 (A) ~~a A finding that remaining in the home is contrary to the child's~~
3 ~~welfare~~ best interests of the child and the facts upon which that finding is
4 based; ~~and.~~

5 (B) a A finding as to whether reasonable efforts were made to
6 prevent unnecessary removal of the child from the home. If the Court lacks
7 sufficient evidence to make findings on whether reasonable efforts were made
8 to prevent the removal of the child from the home, that determination shall be
9 made at the next scheduled hearing in the case but, in any event, no later than
10 60 days after the issuance of the initial order removing a child from the home.

11 (2) The order may include other provisions as may be ~~necessary for the~~
12 ~~protection and welfare~~ in the best interests of the child, ~~such as~~ including:

13 (A) establishing parent-child contact ~~under such and terms and~~
14 ~~conditions as are necessary for the protection of the child.~~ and terms and
15 conditions for that contact;

16 (B) requiring the Department to provide the child with services, if
17 legal custody of the child has been transferred to the Commissioner;

18 (C) requiring the Department to refer a parent for appropriate
19 assessments and services, including a consideration of the needs of children
20 and parents with disabilities, provided that the child's needs are given primary
21 consideration;

1 (D) requiring genetic testing if parentage of the child is at issue;

2 (E) requiring the Department to make diligent efforts to locate the
3 noncustodial parent;

4 (F) requiring the custodial parent to provide the Department with
5 names of all potential noncustodial parents and relatives of the child; and

6 (G) establishing protective supervision and requiring the Department
7 to make appropriate service referrals for the child and the family, if legal
8 custody is transferred to an individual other than the Commissioner.

9 (3) If legal custody of a child is transferred to the Commissioner, the
10 Commissioner shall provide the child with assistance and services. In his or
11 her discretion, the Commissioner may provide assistance and services to other
12 children and families to the extent that funds permit, ~~notwithstanding~~
13 ~~subdivision (2)(B) of this subsection.~~

14 ~~(d) If a party seeks to modify a temporary care order in order to transfer~~
15 ~~legal custody of a child from the Commissioner to a relative or a person with a~~
16 ~~significant relationship with the child, the relative shall be entitled to~~
17 ~~preferential consideration under subdivision (b)(3) of this section, provided~~
18 ~~that a disposition order has not been issued and the motion is filed within~~
19 ~~90 days of the date that legal custody was initially transferred to the~~
20 ~~Commissioner. [Repealed.]~~

1 * * * Adoption Act; Postadoption Contact Agreements * * *

2 Sec. 9. 15A V.S.A. § 1-109 is amended to read:

3 § 1-109. TERMINATION OF ORDERS AND AGREEMENTS FOR
4 VISITATION OR COMMUNICATION UPON ADOPTION

5 When a decree of adoption becomes final, except as provided in Article 4 of
6 this title and 33 V.S.A. § 5124, any order or agreement for visitation or
7 communication with the minor shall be unenforceable.

8 Sec. 10. 33 V.S.A. § 5124 is added to read:

9 § 5124. POSTADOPTION CONTACT AGREEMENTS

10 (a) Either or both parents and each intended adoptive parent may enter into
11 a postadoption contact agreement regarding communication or contact between
12 either or both parents and the child after the finalization of an adoption by the
13 intended adoptive parent or parents who are parties to the agreement. Such an
14 agreement may be entered into if:

15 (1) the child is in the custody of the Department for Children and
16 Families;

17 (2) an order terminating parental rights has not yet been entered; and

18 (3) either or both parents agree to a voluntary termination of parental
19 rights, including an agreement in a case which began as an involuntary
20 termination of parental rights.

21 (b) The Court may approve the postadoption contact agreement if:

1 (1)(A) it determines that the child’s best interests will be served by
2 postadoption communication or contact with either or both parents; and

3 (B) in making a best interests determination, it may look to:

4 (i) the age of the child;

5 (ii) the length of time that the child has been under the actual care,
6 custody, and control of a person other than a parent;

7 (iii) the desires of the child, the child’s parents; and the child’s
8 intended adoptive parents;

9 (iv) the child’s relationship with and the interrelationships
10 between the child’s parents, the child’s intended adoptive parents, the child’s
11 siblings, and any other person with a significant relationship with the child;

12 (v) the willingness of the parents to respect the bond between the
13 child and the child’s intended adoptive parents;

14 (vi) the willingness of the intended adoptive parents to respect the
15 bond between the child and the parents;

16 (vii) the adjustment to the child’s home, school, and community;

17 (viii) any evidence of abuse or neglect of the child;

18 (ix) the recommendation of any guardian ad litem involved in the
19 proceeding and actively engaged with the child;

20 (x) the recommendation of a therapist or mental health care
21 provider working directly with the child; and

1 (xi) the recommendation of the Department;

2 (2) it has reviewed and made each of the following a part of the Court
3 record:

4 (A) a sworn affidavit by the parties to the agreement which
5 affirmatively states that the agreement was entered into knowingly and
6 voluntarily and is not the product of coercion, fraud, or duress and that the
7 parties have not relied on any representations other than those contained in the
8 agreement;

9 (B) a written acknowledgment by each parent that the termination of
10 parental rights is irrevocable, even if the intended adoption is not finalized, the
11 adoptive parents do not abide by the postadoption contact agreement, or the
12 adoption is later dissolved;

13 (C) an agreement to the postadoption contact or communication from
14 the child to be adopted, if he or she is 14 years of age or older; and

15 (D) an agreement to the postadoption contact or communication in
16 writing from the Department, the guardian ad litem, and the attorney for the
17 child.

18 (c) A postadoption contact agreement must be in writing and signed by
19 each parent and each intended adoptive parent entering into the agreement.

20 There may be separate agreements for each parent. The agreement shall
21 specify:

1 (1) the form of communication or contact to take place;

2 (2) the frequency of the communication or contact;

3 (3) if visits are agreed to, whether supervision shall be required, and if
4 supervision is required, what type of supervision shall be required;

5 (4) if written communication or exchange of information is agreed upon,
6 whether that will occur directly or through the Vermont Adoption Registry, set
7 forth in 15A V.S.A. § 6-103;

8 (5) if the Adoption Registry shall act as an intermediary for written
9 communication, that the signing parties will keep their addresses updated with
10 the Adoption Registry;

11 (6) that failure to provide contact due to the child’s illness or other good
12 cause shall not constitute grounds for an enforcement proceeding;

13 (7) that the right of the signing parties to change their residence is not
14 impaired by the agreement;

15 (8) an acknowledgment by the intended adoptive parents that the
16 agreement grants either or both parents the right to seek to enforce the
17 postadoption contact agreement;

18 (9) an acknowledgment that once the adoption is finalized, the court
19 shall presume that the adoptive parent’s judgment concerning the best interests
20 of the child is correct;

1 (10) the finality of the termination of parental rights and of the adoption
2 shall not be affected by implementation of the provisions of the postadoption
3 contact agreement; and

4 (11) a disagreement between the parties or litigation brought to enforce
5 or modify the agreement shall not affect the validity of the termination of
6 parental rights or the adoption.

7 (d) A copy of the order approving the postadoption contact agreement and
8 the postadoption contact agreement shall be filed with the Probate Division of
9 the Superior Court with the petition to adopt filed under 15A V.S.A. Article 3,
10 and, if the agreement specifies a role for the Adoption Registry, with the
11 Registry.

12 (e) The order approving a postadoption contact agreement shall be a
13 separate order from the final order terminating parental rights.

14 (f) The executed postadoption contact agreement shall become final upon
15 legal finalization of an adoption under 15A V.S.A. Article 3.

1 Sec. 11. 15A V.S.A. Article 9 is added to read:

2 ARTICLE 9. ENFORCEMENT, MODIFICATION, AND TERMINATION
3 OF POSTADOPTION CONTACT AGREEMENTS

4 § 9-101. ENFORCEMENT, MODIFICATION, AND TERMINATION OF
5 POSTADOPTION CONTACT AGREEMENTS

6 (a) An adoptive parent may petition the Court to modify or terminate a
7 postadoption contact agreement entered into under 33 V.S.A. § 5124 if the
8 adoptive parent believes the best interests of the child are being compromised
9 by the terms of the agreement. In an action brought under this section, the
10 burden of proof shall be on the adoptive parent to show by clear and
11 convincing evidence that the modification or termination of the agreement is in
12 the best interests of the child.

13 (b) A former parent may petition for enforcement of a postadoption contact
14 agreement entered into under 33 V.S.A. § 5124 if the adoptive parent is not in
15 compliance with the terms of the agreement. In an action brought under this
16 section, the burden of proof shall be on the former parent to show by a
17 preponderance of the evidence that enforcement of the agreement is in the best
18 interests of the child.

19 (c) A disagreement between the parties or litigation brought to enforce or
20 modify the agreement shall not affect the validity of the termination of parental
21 rights or the adoption.

1 (d) The Court shall not act on a petition to modify or enforce the agreement
2 unless the petitioner had in good faith participated or attempted to participate
3 in mediation or alternative dispute resolution proceedings to resolve the
4 dispute prior to bringing the petition for enforcement.

5 (e) Parties to the proceeding shall be the individuals who signed the
6 original agreement created under 33 V.S.A. § 5124. The adopted child, if 14
7 years of age or older, may also participate. The Department for Children and
8 Families shall not be required to be a party to the proceeding and the Court
9 shall not order further investigation or evaluation by the Department.

10 (f) The Court may order the communication or contact be terminated or
11 modified if the Court deems such termination or modification to be in the best
12 interests of the child. In making a best interests determination, the Court may
13 consider:

14 (1) the protection of the physical safety of the adopted child or other
15 members of the adoptive family;

16 (2) the emotional well-being of the adopted child;

17 (3) whether enforcement of the agreement undermines the adoptive
18 parent's parental authority; and

19 (4) whether, due to a change in circumstances, continued compliance
20 with the agreement would be unduly burdensome to one or more of the parties.

1 (g) A Court-imposed modification of the agreement may limit, restrict,
2 condition, or decrease contact between the former parents and the child, but in
3 no event shall a Court-imposed modification serve to expand, enlarge, or
4 increase the amount of contact between the former parents and the child or
5 place new obligations on the adoptive parents.

6 (h) No testimony or evidentiary hearing shall be required, although the
7 Court may, in its discretion, hold a hearing. A hearing held to enforce, modify,
8 or terminate an agreement for postadoption contact shall be confidential.
9 Documentary evidence or offers of proof may serve as the basis for the Court's
10 decision regarding enforcement, modification, or termination of an agreement.

11 (i) Failure to comply with the agreement or petitioning the Court to
12 enforce, modify, or terminate an agreement shall not form the basis for an
13 award of monetary damages.

14 (j) An agreement for postadoption contact or communication under
15 33 V.S.A. § 5124 shall cease to be enforceable on the date the adopted child
16 turns 18 years of age or upon dissolution of the adoption.

17 Sec. 12. 33 V.S.A. § 152 is amended to read:

18 § 152. ACCESS TO RECORDS

19 (a) The Commissioner may obtain from the Vermont Crime Information
20 Center the record of convictions of any person to the extent required by law or
21 the Commissioner has determined by rule that such information is necessary to

1 regulate a facility or individual subject to regulation by the Department or to
2 carry out the Department's child protection obligations under chapters 49–55
3 of this title. The Commissioner shall first notify the person whose record is
4 being requested.

5 * * *

6 Sec. 13. 33 V.S.A. § 6911 is amended to read:

7 § 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

8 (a) Information obtained through reports and investigations, including the
9 identity of the reporter, shall remain confidential and shall not be released
10 absent a court order, except as follows:

11 (1) The investigative report shall be disclosed only to: the
12 Commissioner or person designated to receive such records; persons assigned
13 by the Commissioner to investigate reports; the person reported to have
14 abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his
15 or her representative; the Office of Professional Regulation when deemed
16 appropriate by the Commissioner; the Secretary of Education when deemed
17 appropriate by the Commissioner; the Commissioner for Children and Families
18 or designee, for purposes of review of expungement petitions filed pursuant to
19 section 4916c of this title; a law enforcement agency; the State's Attorney, or
20 the Office of the Attorney General, when the Department believes there may
21 be grounds for criminal prosecution or civil enforcement action, or in the

1 course of a criminal or a civil investigation. When disclosing information
2 pursuant to this subdivision, reasonable efforts shall be made to limit the
3 information to the minimum necessary to accomplish the intended purpose of
4 the disclosure, and no other information, including the identity of the reporter,
5 shall be released absent a court order.

6 * * *

7 (c) The Commissioner or ~~the Commissioner's~~ designee may disclose
8 Registry information only to:

9 * * *

10 (5) the Commissioner for Children and Families; or ~~the Commissioner's~~
11 designee; for purposes related to:

12 (A) the licensing or registration of facilities and individuals regulated
13 by the Department for Children and Families; and

14 (B) the Department's child protection obligations under chapters
15 49-55 of this title.

16 * * *

17 Sec. 14. 33 V.S.A. § 4916c is amended to read:

18 § 4916c. PETITION FOR EXPUNGEMENT FROM THE REGISTRY

19 (a)(1) ~~A~~ Except as provided in this subdivision, a person whose name has
20 been placed on the Registry prior to July 1, 2009 and has been listed on the
21 Registry for at least three years may file a written request with the

1 Commissioner, seeking a review for the purpose of expunging an individual
2 Registry record. A person whose name has been placed on the Registry on or
3 after July 1, 2009 and has been listed on the Registry for at least seven years
4 may file a written request with the Commissioner seeking a review for the
5 purpose of expunging an individual Registry record. The Commissioner shall
6 grant a review upon request.

7 (2) A person who is required to register as a sex offender on a state's sex
8 offender registry shall not be eligible to petition for expungement of his or her
9 Registry record during the period in which the person is subject to sex offender
10 registry requirements.

11 (b)(1) The person shall have the burden of proving that a reasonable person
12 would believe that he or she no longer presents a risk to the safety or
13 well-being of children.

14 (2) Factors to be considered by the The Commissioner shall include
15 consider the following factors in making his or her determination:

16 (1)(A) the nature of the substantiation that resulted in the person's name
17 being placed on the Registry;

18 (2)(B) the number of substantiations, ~~if more than one~~;

19 (3)(C) the amount of time that has elapsed since the substantiation;

20 (4)(D) the circumstances of the substantiation that would indicate
21 whether a similar incident would be likely to occur;

1 (1) shall investigate:

2 (A) an incident in which a child suffers, by other than accidental
3 means, serious bodily injury as defined in 13 V.S.A. § 1021; and

4 (B) potential violations of:

5 (i) 13 V.S.A. § 2602 (lewd or lascivious conduct with child);

6 (ii) 13 V.S.A. chapter 60 (human trafficking);

7 (iii) 13 V.S.A. chapter 64 (sexual exploitation of children); and

8 (iv) 13 V.S.A. chapter 72 (sexual assault); and

9 (2) may investigate:

10 (A) an incident in which a child suffers:

11 (i) bodily injury, by other than accidental means, as defined in
12 13 V.S.A. § 1021; or

13 (ii) death;

14 (B) potential violations of:

15 (i) 13 V.S.A. § 2601 (lewd and lascivious conduct);

16 (ii) 13 V.S.A. § 2605 (voyeurism); and

17 (iii) 13 V.S.A. § 1304 (cruelty to a child); and

18 (C) an incident involving potential domestic violence or crimes
19 against those with physical or developmental disabilities.

20 (b) A ~~task force or specialized~~ special investigative unit organized and
21 operating under this section may accept, receive, and disburse in furtherance of

1 its duties and functions any funds, grants, and services made available by the
2 State of Vermont and its agencies, the federal government and its agencies, any
3 municipality or other unit of local government, or private or civic sources.

4 Any employee covered by an agreement establishing a special investigative
5 unit shall remain an employee of the donor agency.

6 (c) A ~~Specialized~~ Special Investigative Unit Grants Board is created which
7 shall ~~be comprised of~~ comprise the Attorney General, the Secretary of
8 Administration, the Executive Director of the Department of State's Attorneys
9 and Sheriffs, the Commissioner of Public Safety, the Commissioner for
10 Children and Families, a representative of the Vermont Sheriffs' Association, a
11 representative of the Vermont Association of Chiefs of Police, the Executive
12 Director of the Center for Crime Victim Services, and the Executive Director
13 of the Vermont League of Cities and Towns. ~~Specialized~~ Special investigative
14 units organized and operating under this section ~~for the investigation of sex~~
15 ~~crimes, child abuse, elder abuse, domestic violence, or crimes against those~~
16 ~~with physical or developmental disabilities~~ may apply to the Board for a grant
17 or grants covering the costs of salaries and employee benefits to be expended
18 during a given year for the performance of unit duties as well as unit operating
19 costs for rent, utilities, equipment, training, and supplies. Grants under this
20 section shall be approved by a majority of the entire Board and shall not
21 exceed 50 percent of the yearly salary and employee benefit costs of the unit.

1 Preference shall be given to grant applications which include the participation
2 of the Department of Public Safety, the Department for Children and Families,
3 sheriffs' departments, community victims' advocacy organizations, and
4 municipalities within the region. Preference shall also be given to grant
5 applications which promote policies and practices that are consistent across the
6 State, including policies and practices concerning the referral of complaints,
7 the investigation of cases, and the supervision and management of special
8 investigative units. However, a sheriff's department in a county with a
9 population of ~~less~~ fewer than 8,000 residents shall upon application receive a
10 grant of up to \$20,000.00 for 50 percent of the yearly salary and employee
11 benefits costs of a part-time ~~specialized~~ special investigative unit investigator
12 which shall be paid to the department as time is billed on a per hour rate as
13 agreed by contract up to the maximum amount of the grant.

14 (d) The Board may adopt rules relating to grant eligibility criteria,
15 processes for applications, awards, and reports related to grants authorized
16 pursuant to this section. The Attorney General shall be the adopting authority.
17 Sec. 16. 33 V.S.A. § 4915b(e) is amended to read:

18 (e) ~~The Department shall report to and request assistance from law~~
19 ~~enforcement in the following circumstances:~~

20 (1) ~~investigations of child sexual abuse by an alleged perpetrator age~~
21 ~~10 or older;~~

1 by law, either express or implied, shall be imprisoned not more than one year
2 or fined not more than ~~\$1,000.00~~ \$2,000.00, or both.

3 Sec. 20. 13 V.S.A. § 1304 is amended to read:

4 § 1304. CRUELTY TO ~~CHILDREN UNDER 10 BY ONE OVER 16~~ A
5 CHILD

6 A person over ~~the age of 16 years~~ of age, having the custody, ~~charge~~ or care
7 of a child ~~under 10 years of age~~, who ~~willfully~~ willfully assaults, ~~ill treats~~,
8 neglects, ~~or~~ abandons or exposes ~~such~~ the child, or causes ~~or procures such the~~
9 child to be assaulted, ~~ill treated~~, neglected, abandoned, or exposed, in a manner
10 to cause ~~such the~~ child unnecessary suffering, or to endanger his or her health,
11 shall be imprisoned not more than two years or fined not more than ~~\$500.00~~
12 \$2,000.00, or both.

13 Sec. 21. 18 V.S.A. § 4236 is amended to read:

14 § 4236. MANUFACTURE OR CULTIVATION

15 (a)(1) A person knowingly and unlawfully manufacturing or cultivating a
16 regulated drug shall be imprisoned not more than 20 years or fined not more
17 than \$1,000,000.00, or both.

18 (2) A person who violates subdivision (1) of this subsection shall be
19 imprisoned for not more than 30 years or fined not more than \$1,500,000.00,
20 or both, if:

21 (A) the regulated drug is methamphetamine; and

1 (B) a child is actually present at the site of methamphetamine
2 manufacture or attempted manufacture.

3 (b) This section shall not apply to the cultivation of marijuana.

4 * * * Department for Children and Families; Policies * * *

5 Sec. 22. THE DEPARTMENT FOR CHILDREN AND FAMILIES;
6 POLICIES, PROCEDURES, AND PRACTICES

7 (a) The Commissioner for Children and Families shall:

8 (1) ensure that Family Services Division policies, procedures, and
9 practices are consistent with the best interests of the child and are consistent
10 with statute;

11 (2) ensure that Family Services Division policies, procedures, and
12 practices are consistent with each other and are applied in a consistent manner,
13 in all Department offices and in all regions of the State;

14 (3) by September 30, 2015, develop and implement a Family Services
15 Division policy requiring a six-month supervision period by the Department
16 after a child is returned to the home from which he or she was removed due to
17 abuse or neglect;

18 (4) develop metrics as to the appropriate case load for social workers in
19 the Family Services Division that take into account the experience and training
20 of a social worker, the number of families and the total number of children a
21 social worker is responsible for, and the acuity or difficulty of cases;

1 (5) ensure that all employees assigned to carry out investigations of
2 child abuse and neglect have training or experience in conducting
3 investigations and have a master’s degree in social work or an equivalent
4 degree, or relevant experience;

5 (6) ensure that all Family Services Division employees receive
6 training on:

7 (A) relevant policies, procedures, and practices; and

8 (B) the employees’ legal responsibilities and obligations;

9 (7) develop policies, procedures, and practices to:

10 (A) ensure the consistent sharing of information, in a manner that
11 complies with statute, treatment providers, courts, State’s Attorneys, guardians
12 ad litem, law enforcement, and other relevant parties;

13 (B) encourage treatment providers and all agencies, departments, and
14 other persons that support recovery to provide regular treatment progress
15 updates to the Commissioner;

16 (C) ensure that courts have all relevant information in a timely
17 fashion, and that Department employees file paperwork and reports in a timely
18 manner;

19 (D) require that the Family Services Division assess a child’s
20 safety if:

1 (i) the child remains in a home from which other children have
2 been removed; or

3 (ii) the child remains in the custody of a parent or guardian whose
4 parental rights as to another child have been terminated;

5 (E) require that all persons living in a household, or that will have
6 child care responsibilities, will be assessed for criminal history and potential
7 safety risks whenever a child who has been removed from a home is returned
8 to that home;

9 (F) increase the number of required face-to-face meetings between
10 Family Services Division social workers and children;

11 (G) increase the number of required home visits and require
12 unannounced home visits by Family Services Division social workers;

13 (H) improve information sharing with mandatory reporters who have
14 an ongoing relationship with a child;

15 (I) ensure that mandatory reporters are informed that any confidential
16 information they may receive cannot be disclosed to a person who is not
17 authorized to receive that information;

18 (J) ensure all parties authorized to receive confidential information
19 are informed of their right to receive that information; and

20 (K) apply results-based accountability or other data-based quality
21 measures to determine if children who receive services from the Family

1 Services Division in different areas of the State have different outcomes and
2 the reasons for those differences.

3 (b) On or before September 30, 2015, the Commissioner shall submit a
4 written response to the House Committees on Human Services and on
5 Judiciary and to the Senate Committees on Health and Welfare and on
6 Judiciary with the Commissioner's response to the issues in subsection (a) of
7 this section, including the language of any new or amended policies and
8 procedures.

9 * * * Legislature; Establishing a Joint Legislative Child

10 Protection Oversight Committee * * *

11 Sec. 23. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT
12 COMMITTEE

13 (a) Creation. There is created a Joint Legislative Child Protection
14 Oversight Committee.

15 (b) Membership. The Committee shall be composed of the following
16 eight members, who shall be appointed each biennial session of the General
17 Assembly:

18 (1) Four current members of the House of Representatives, not all
19 from the same political party, who shall be appointed by the Speaker of
20 the House; and

1 (2) Four current members of the Senate, not all from the same political
2 party, who shall be appointed by the Committee on Committees.

3 (3) In addition to one member-at-large appointed from each chamber,
4 one appointment shall be made from the following committees:

5 (A) House Committee on Education;

6 (B) Senate Committee on Education;

7 (C) House Committee on Judiciary;

8 (D) Senate Committee on Judiciary;

9 (E) House Committee on Human Services; and

10 (F) Senate Committee on Health and Welfare.

11 (c) Powers and duties.

12 (1) The Committee shall:

13 (A) Exercise oversight over Vermont’s system for protecting children
14 from abuse and neglect, including:

15 (i) evaluating whether the branches, departments, agencies, and
16 persons that are responsible for protecting children from abuse and neglect are
17 effective;

18 (ii) determining if there are deficiencies in the system and the
19 causes of those deficiencies;

20 (iii) evaluating which programs are the most cost-effective;

1 (iv) determining whether there is variation in policies, procedures,
2 practices, and outcomes between different areas of the State and the causes and
3 results of any such variation; and

4 (v) evaluating the measures recommended by the Working Group
5 to Recommend Improvements to CHINS Proceedings established in Sec. 24 of
6 this act to ensure that once a child is returned to his or her family, the court or
7 the Department for Children and Families may continue to monitor the child
8 and family where appropriate.

9 (B) At least annually, report on the Committee’s activities and
10 recommendations to the General Assembly.

11 (2) The Committee may review and make recommendations to the
12 House and Senate Committees on Appropriations regarding budget proposals
13 and appropriations relating to protecting children from abuse and neglect.

14 (d) Assistance. The Committee shall have the administrative, technical,
15 and legal assistance of the Office of Legislative Council.

16 (e) Retaliation. No person who is an employee of the State of Vermont, or
17 of any State, local, county, or municipal department, agency, or person
18 involved in child protection, and who testifies before, supplies information to,
19 or cooperates with the Committee shall be subject to retaliation by his or her
20 employer. Retaliation shall include job termination, demotion in rank,
21 reduction in pay, alteration in duties and responsibilities, transfer, or a negative

1 job performance evaluation based on the person's having testified before,
2 supplied information to, or cooperated with the Committee.

3 (f) Meetings.

4 (1) The member appointed from the Senate Committee on Health and
5 Welfare shall call the first meeting of the Committee.

6 (2) The Committee shall select a Chair, Vice Chair, and Clerk from
7 among its members and may adopt rules of procedure. The Chair shall rotate
8 biennially between the House and the Senate members. A quorum shall consist
9 of five members.

10 (3) When the General Assembly is in session, the Committee shall meet
11 at the call of the Chair. The Committee may meet six times during
12 adjournment, and may meet more often subject to approval of the Speaker of
13 the House and the President Pro Tempore of the Senate.

14 (g) Reimbursement. For attendance at meetings during adjournment of the
15 General Assembly, members of the Committee shall be entitled to per diem
16 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

17 (h) Sunset. On June 1, 2018 this section (creating the Joint Legislative
18 Child Protection Oversight Committee) is repealed and the Committee shall
19 cease to exist.

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* * * Improvements to CHINS Proceedings * * *

Sec. 24. WORKING GROUP TO RECOMMEND IMPROVEMENTS TO
CHINS PROCEEDINGS

(a) Creation. There is created a working group to recommend ways to improve the efficiency, timeliness, and process of Children in Need of Care or Supervision (CHINS) proceedings.

(b) Membership. The Working Group shall be composed of the following members:

(1) the Chief Administrative Judge or designee;

(2) the Defender General or designee;

(3) the Attorney General or designee;

(4) the Commissioner for Children and Families or designee;

(5) the Executive Director of State’s Attorneys and Sheriffs or designee; and

(6) a guardian ad litem who shall be appointed by the Chief Superior Judge.

(c) Powers and duties. The Working Group shall study and make recommendations concerning:

(1) how to ensure that statutory time frames are met in 90 percent of proceedings;

1 (2) how to ensure that attorneys, judges, and guardians ad litem appear
2 on time and are prepared;

3 (3) how to monitor and improve the performance and work quality of
4 attorneys, judges, and guardians ad litem;

5 (4) how to ensure that there is a sufficient number of attorneys available
6 to handle all CHINS cases, in all regions of the State, in a timely manner;

7 (5) the role of guardians ad litem, and how to ensure their information is
8 presented to, and considered by, the court;

9 (6) how to expedite a new proceeding that concerns a family with
10 repeated contacts with the child protection system;

11 (7) whether the adoption of American Bar Association standards for
12 attorneys who work in the area of child abuse and neglect would be
13 appropriate;

14 (8) the feasibility of creating a statewide Family Drug Treatment Court
15 initiative to improve substance abuse treatment and child welfare outcomes;

16 (9) whether requiring a reunification hearing would improve child
17 welfare outcomes;

18 (10) how and whether to provide financial assistance to individuals
19 seeking to mediate a dispute over a postadoption contact agreement; and

20 (11) any other issue the Working Group determines is relevant to
21 improve the efficiency, timeliness, process, and results of CHINS proceedings.

1 (Working Group to Recommend Improvements to CHINS Proceedings) which
2 shall take effect on passage.

3

4 (Committee vote: _____)

5

6

Representative _____

7

FOR THE COMMITTEE