

1 TO THE HONORABLE SENATE:

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

7 * * * Legislative Findings * * *

8 Sec. 1. LEGISLATIVE FINDINGS

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

14 (b) To protect Vermont’s children better from abuse and neglect, and to
15 address the increasing burden of drug abuse and other factors that are ripping
16 families apart, the General Assembly believes that our State’s child protection
17 system must be comprehensive, focused on the safety and best interests of
18 children, and properly funded. This system must ensure that:

19 (1) the dedicated frontline professionals who struggle to handle the
20 seemingly ever-increasing caseloads have the support, training, and resources
21 necessary to do their job;

1 (2) the most serious cases of abuse are thoroughly investigated and
2 prosecuted if appropriate;

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

5 (4) all participants in the child protection system, from the frontline
6 caseworker to the judge determining ultimate custody, work together to
7 prioritize the child’s safety and best interests;

8 (5) an effective oversight structure is established; and

9 (6) children who have suffered abuse and neglect can find safe,
10 nurturing, and permanent homes, whether with their custodial parents,
11 relatives, or other caring families and individuals.

12 (c) This act is only the beginning of what must be an ongoing process in
13 which the House and Senate Committees on Judiciary, the Senate Committee
14 on Health and Welfare, the House Committee on Human Services, in
15 consultation with the Senate and House Committees on Appropriations,
16 continue to enhance the statewide approach to the prevention of child abuse
17 and neglect.

18 ~~(d) In particular, the House and Senate Committees on Appropriations~~
19 ~~should seek to ensure that adequate resources are allocated to improve~~
20 ~~Vermont’s ability to prevent and address child abuse and neglect, including~~

1 ~~providing adequate support for guardians ad litem who work with children.~~

2 (Was there agreement among the committees to strike this provision?)

3 (e) In 2014, the tragic deaths of two children exposed problems with
4 Vermont's child protection system. The General Assembly believes that this
5 act will begin to address these problems, improve our State's system for
6 protecting our children, and help prevent future tragedies.

7 * * * Crimes and Criminal Procedure; Cruelty to a Child; Establishing A New
8 Crime of Failure to Protect a Child; Enhancing Penalties for
9 Manufacturing Methamphetamine When a Child is Present * * *

10 Sec. 2. 13 V.S.A. § 1304 is amended to read:

11 § 1304. ~~CRUELTY TO CHILDREN UNDER 10 BY ONE OVER 16 A~~
12 CHILD

13 A person over ~~the age of~~ 16 years of age, having the custody, ~~charge~~ or care
14 of a child ~~under 10 years of age~~, who ~~wilfully~~ willfully assaults, ~~ill treats~~,
15 neglects, or abandons ~~or exposes such~~ the child, or causes ~~or procures such~~ the
16 child to be assaulted, ~~ill treated~~, neglected, or abandoned ~~or exposed~~, in a
17 manner to cause ~~such~~ the child unnecessary suffering, or to endanger his or her
18 health, shall be imprisoned not more than two years or fined not more than
19 \$500.00, or both.

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

21 § 1304a. FAILURE TO PROTECT A CHILD

1 (a) A person having the custody or care of a child commits the crime of
2 failure to protect a child if:

3 (1) the person knows, or reasonably should have known that the child is
4 in danger of:

5 (A) death;

6 (B) serious bodily injury as defined in section 1021 of this title;

7 (C) lewd or lascivious conduct with a child in violation of section
8 2602 of this title;

9 (D) sexual exploitation of children in violation of chapter 64 of this
10 title; or

11 (E) sexual assault in violation of chapter 72 of this title; and

12 (2) the person fails to act to prevent a child from suffering any of the
13 possible outcomes as set forth in subdivision (1) of this subsection; and

14 (3) the person's failure to act is a proximate cause of the child suffering
15 any of the possible outcomes as set forth in subdivision (1) of this subsection.

16 (b) It shall be an affirmative defense to this section, if proven by a
17 preponderance of the evidence, that:

18 (1) the defendant failed to act because of a reasonable fear that he or she
19 or another person would suffer death, bodily injury, or serious bodily injury as
20 defined in section 1021 of this title, or sexual assault in violation of chapter 72
21 of this title as a result of acting to prevent harm to the child; or

1 (2) where the child’s injury or death resulted from a lack of medical
2 treatment or care, the defendant made a reasonable decision to not seek
3 medical care or to withhold medical treatment.

4 (c) A person who violates this section shall be imprisoned not more than
5 ten years or fined not more than \$20,000.00, or both.

6 (d) The provisions of this section shall not limit or restrict prosecutions for
7 any other offense arising out of the same incident or conduct.

8 Sec. 4. 18 V.S.A. § 4236 is amended to read:

9 § 4236. MANUFACTURE OR CULTIVATION

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

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

16 (A) the regulated drug is methamphetamine; and

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

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

1 Sec. 5. JUDICIAL BRANCH REPORT ON PROSECUTIONS,
2 CONVICTIONS, AND SENTENCES PURSUANT TO 13 V.S.A.
3 § 1304a

4 The Judicial Branch shall track all prosecutions and convictions pursuant to
5 13 V.S.A. § 1304a, and, on January 15, 2018, shall report to the House and
6 Senate Committees on Judiciary concerning:

7 (1) the number of arrests, prosecutions, and convictions pursuant to
8 13 V.S.A. § 1304a;

9 (2) the disposition of all cases prosecuted pursuant to 13 V.S.A.
10 § 1304a;

11 (3) the sentence imposed for all convictions pursuant to 13 V.S.A.
12 § 1304a;

13 (4) the number of times an affirmative defense pursuant to 13 V.S.A.
14 § 1304a(b)(1) was alleged or raised;

15 (5) the disposition of all cases in which an affirmative defense pursuant
16 to 13 V.S.A. § 1304a(b)(1) was alleged or raised;

17 (6) a comparison of the sentence imposed on any defendant found guilty
18 after raising an affirmative defense pursuant to 13 V.S.A. § 1304a(b)(1) and
19 any sentence imposed on the person alleged to have caused the defendant to
20 fear death, injury, or sexual assault; and

1 (ii) 13 V.S.A. chapter 60;

2 (iii) 13 V.S.A. chapter 64; and

3 (iv) 13 V.S.A. chapter 72; and

4 (2) may investigate:

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

6 (i) bodily injury, by other than accidental means, as defined in

7 13 V.S.A. § 1021; or

8 (ii) death; and

9 (B) potential violations of:

10 (i) 13 V.S.A. § 2601;

11 (ii) 13 V.S.A. § 2605;

12 (iii) 13 V.S.A. § 1304; and

13 (iv) 13 V.S.A. § 1304a.

14 (b) A ~~task force or specialized~~ special investigative unit organized and
15 operating under this section may accept, receive, and disburse in furtherance of
16 its duties and functions any funds, grants, and services made available by the
17 State of Vermont and its agencies, the federal government and its agencies, any
18 municipality or other unit of local government, or private or civic sources.
19 Any employee covered by an agreement establishing a special investigative
20 unit shall remain an employee of the donor agency.

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

1 State, including policies and practices concerning the referral of complaints,
2 the investigation of cases, and the supervision and management of special
3 investigative units. However, a sheriff's department in a county with a
4 population of ~~less~~ fewer than 8,000 residents shall upon application receive a
5 grant of up to \$20,000.00 for 50 percent of the yearly salary and employee
6 benefits costs of a part-time ~~specialized~~ special investigative unit investigator
7 which shall be paid to the department as time is billed on a per hour rate as
8 agreed by contract up to the maximum amount of the grant.

9 (d) The Board may adopt rules relating to grant eligibility criteria,
10 processes for applications, awards, and reports related to grants authorized
11 pursuant to this section. The Attorney General shall be the adopting authority.

12 * * * Adoption Act; Postadoption Contact Agreements * * *

13 Sec. 7. 15A V.S.A. § 1-109 is amended to read:

14 § 1-109. TERMINATION OF ORDERS AND AGREEMENTS FOR
15 VISITATION OR COMMUNICATION UPON ADOPTION

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

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

20 § 5124. POSTADOPTION CONTACT AGREEMENTS

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

6 (1) the child is in the custody of the Department for Children and
7 Families;

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

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

12 (b) The Court may approve the postadoption contact agreement if it
13 determines that the child’s best interests will be served by postadoption
14 communication or contact with either or both parents. In making a best
15 interests determination, the Court may look to:

16 (1) the length of time that the child has been under the actual care,
17 custody, and control of a person other than a parent;

18 (2) the desires of the child, the child’s parents; and the child’s intended
19 adoptive parents;

1 (3) the child’s relationship with and the interrelationships between the
2 child’s parents, the child’s intended adoptive parents, the child’s siblings, and
3 any other person with a significant relationship with the child;

4 (4) the willingness of the parents to respect the bond between the child
5 and the child’s intended adoptive parents;

6 (5) the willingness of the intended adoptive parents to respect the bond
7 between the child and the parents;

8 (6) the adjustment to the child’s home, school, and community;

9 (7) any evidence of abuse or neglect of the child;

10 (8) the recommendations of any guardian ad litem involved in the
11 proceeding and the Department.

12 (c) Before the Court orders postadoption communication or contact, the
13 Court must review all of the following, which will be made a part of the Court
14 record:

15 (1) a sworn affidavit by the parties to the agreement which affirmatively
16 states that the agreement was entered into knowingly and voluntarily and is not
17 the product of coercion, fraud, or duress and that the parties have not relied on
18 any representations other than those contained in the agreement;

19 (2) a written acknowledgment by each parent that the termination of
20 parental rights is irrevocable, even if the intended adoption is not finalized, the

1 adoptive parents do not abide by the postadoption contact agreement, or the
2 adoption is later dissolved;

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

5 (4) an agreement to the postadoption contact or communication in
6 writing from the Department, the guardian ad litem, and the attorney for the
7 child.

8 (d) A postadoption contact agreement must be in writing and signed by
9 each parent and each intended adoptive parent entering into the agreement.

10 There may be separate agreements for each parent. The agreement shall
11 specify the following:

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

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

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

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

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

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

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

5 (8) an acknowledgment by the intended adoptive parents that the
6 agreement grants either or both parents the right to seek to enforce the
7 postadoption contact agreement;

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

11 (10) the finality of the termination of parental rights and of the adoption
12 shall not be affected by implementation of the provisions of the postadoption
13 contact agreement; and

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

17 (e) A copy of the order approving the postadoption contact agreement and
18 the postadoption contact agreement shall be filed with the Probate Division of
19 the Superior Court with the petition to adopt filed under 15A V.S.A. Article 3,
20 and, if the agreement specifies a role for the Adoption Registry, with the
21 Registry.

1 (f) The order approving a postadoption contact agreement shall be a
2 separate order from the final order terminating parental rights.

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

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

6 ARTICLE 9. ENFORCEMENT, MODIFICATION, AND TERMINATION

7 OF POSTADOPTION CONTACT AGREEMENTS

8 § 9-101. ENFORCEMENT, MODIFICATION, AND TERMINATION OF

9 POSTADOPTION CONTACT AGREEMENTS

10 (a) A postadoption contact agreement may be modified or terminated by
11 agreement of the parties. The parties shall file the modified postadoption
12 contact agreement with the Court that finalized the adoption. The Court shall
13 review the modified agreement pursuant to the requirements of 33 V.S.A.
14 § 5124(b), and, if approved, shall issue an order modifying the agreement.

15 (Senator Benning suggests adding this language to ensure agreements modified
16 by agreement of the parties are later enforceable by the Court)

17 (b) An adoptive parent may petition for review of a postadoption contact
18 agreement entered into under 33 V.S.A. § 5124 if the adoptive parent believes
19 the best interests of the child are being compromised by the terms of the
20 agreement.

1 (c) A former parent may petition for enforcement of a postadoption contact
2 agreement entered into under 33 V.S.A. § 5124 if the adoptive parent is not in
3 compliance with the terms of the agreement.

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

7 (e) The Court shall not act on a petition to modify or enforce the agreement
8 unless the petitioner had in good faith participated or attempted to participate
9 in mediation or alternative dispute resolution proceedings to resolve the
10 dispute prior to bringing the petition for enforcement.

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

16 (g) The Court may order the communication or contact be terminated or
17 modified if the Court deems such termination or modification to be in the best
18 interests of the child. In making a best interests determination, the Court may
19 consider:

1 (1) the protection of the physical safety of the adopted child or other
2 members of the adoptive family, or the emotional well-being of the adopted
3 child;

4 (2) whether enforcement of the agreement undermines the adoptive
5 parent’s parental authority; and

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

8 (h) A Court-imposed modification of a previously approved agreement
9 may limit, restrict, condition, or decrease contact between the former parents
10 and the child, but in no event shall a Court-imposed modification serve to
11 expand, enlarge, or increase the amount of contact between the birth parents
12 and the child or place new obligations on the adoptive parents.

13 (i) No testimony or evidentiary hearing shall be required, although the
14 Court may, in its discretion, hold a hearing. A hearing held to review an
15 agreement for postadoption contact will be confidential. Documentary
16 evidence or offers of proof may serve as the basis for the Court’s decision
17 regarding enforcement or modification of an agreement.

18 (j) In an action to enforce the agreement, the burden of proof shall be on
19 the former parent to show by a preponderance of the evidence that enforcement
20 of the agreement is in the best interests of the child.

1 (k) In an action to modify or terminate the agreement, the burden of proof
2 shall be on the adoptive parent to show by clear and convincing evidence that
3 the modification or termination of the agreement is in the best interests of the
4 child.

5 (l) Failure to comply with the agreement or petitioning the Court to
6 enforce, modify, or terminate an agreement shall not form the basis for an
7 award of monetary damages.

8 (m) An agreement for postadoption contact or communication under
9 33 V.S.A. § 5124 shall cease to be enforceable on the date the adopted child
10 turns 18 years of age, or upon dissolution of the adoption.

11 * * * Human Services; Child Welfare Services; Definitions;

12 Investigations; Referral to Law Enforcement* * *

13 Sec. 10. 33 V.S.A. § 4912 is amended to read

14 § 4912. DEFINITIONS

15 As used in this subchapter:

16 * * *

17 (6) “Harm” can occur by:

18 (A) Physical injury or emotional maltreatment.

19 (B) Failure to supply the child with adequate food, clothing, shelter,
20 or health care. As used in this subchapter, “adequate health care” includes any
21 medical or nonmedical remedial health care permitted or authorized under state

1 State law. Notwithstanding that a child might be found to be without proper
2 parental care under chapters 51 and 53 of this title, a parent or other person
3 responsible for a child’s care legitimately practicing his or her religious beliefs
4 who thereby does not provide specified medical treatment for a child shall not
5 be considered neglectful for that reason alone.

6 (C) Abandonment of the child.

7 (D) The possession, use, or sale of alcohol in a manner that harms or
8 creates a substantial risk of harm to the physical health, psychological growth
9 and development, or welfare of the child.

10 (E) The unlawful possession, use, manufacture, cultivation, or sale of
11 a regulated drug, as defined in 18 V.S.A. § 4201, in a manner that harms or
12 creates a substantial risk of harm to the physical health, psychological growth
13 and development, or welfare of the child.

14 * * *

15 (11) “Physical injury” means ~~death or permanent or temporary~~
16 ~~disfigurement or impairment of any bodily organ or function by other than~~
17 ~~accidental means~~ bodily injury or serious bodily injury as defined in 13 V.S.A.
18 § 1021 by other than accidental means. “Serious physical injury” means
19 serious bodily injury as defined in 13 V.S.A. § 1021 by other than accidental
20 means.

21 * * *

1 involving or resulting in sexual abuse, and conduct by a person responsible for
2 a child's welfare involving or resulting in abandonment, child fatality,
3 malicious punishment, or abuse or neglect that causes serious ~~physical~~ bodily
4 injury as defined in 13 V.S.A. § 1021. The Department may conduct an
5 investigation of any report.

6 * * *

7 Sec. 12. 33 V.S.A. § 4915b(e) is amended to read:

8 (e) The Department;

9 (1) shall report to and request assistance from law enforcement in the
10 following circumstances:

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

13 ~~(2) investigations of serious physical abuse or neglect likely to result in~~
14 ~~criminal charges or requiring emergency medical care~~

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

17 (B) potential violations of:

18 (i) 13 V.S.A. § 2602;

19 (ii) 13 V.S.A. chapter 60;

20 (iii) 13 V.S.A. chapter 64; and

21 (iv) 13 V.S.A. chapter 72; and

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

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

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

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

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

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

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

14 (C) Any information disclosed under this subsection (2) shall not be
15 disseminated by the mandated reporter requesting the information. A person
16 who intentionally violates the confidentiality provisions of this section shall be
17 fined not more than \$2,000.00.

18 (D) In providing records under this subsection (2), the Department
19 may withhold information that could compromise the safety of the reporter or
20 the child or family who is the subject of the report.

21 * * *

1 Sec. 14. 33 V.S.A. § 4921 is amended to read:

2 § 4921. DEPARTMENT'S RECORDS OF ABUSE AND NEGLECT

3 (a) The Commissioner shall maintain all records of all investigations,
4 assessments, reviews, and responses initiated under this subchapter. The
5 Department may use and disclose information from such records in the usual
6 course of its business, including to assess future risk to children, to provide
7 appropriate services to the child or members of the child's family, or for other
8 legal purposes.

9 (b) The Commissioner shall promptly inform the parents, if known, or
10 guardian of the child that a report has been accepted as a valid allegation
11 pursuant to subsection 4915(b) of this title and the Department's response to
12 the report. The Department shall inform the parent or guardian of his or her
13 ability to request records pursuant to subsection (c) of this section. This
14 section shall not apply if the parent or guardian is the subject of the
15 investigation.

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

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

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

1 (d) ~~Upon request~~, Department records created under this subchapter shall
2 be disclosed to:

3 (1) the court, parties to the juvenile proceeding, and the child’s guardian
4 ad litem if there is a pending juvenile proceeding or if the child is in the
5 custody of the Commissioner;

6 (2) the Commissioner or person designated by the Commissioner to
7 receive such records;

8 (3) persons assigned by the Commissioner to conduct
9 investigations; and

10 (4) law enforcement officers engaged in a joint investigation with the
11 Department, an ~~assistant attorney general~~ Assistant Attorney General, or a
12 ~~state’s attorney~~; State’s Attorney.

13 ~~(5) other State agencies conducting related inquiries or proceedings; and~~

14 ~~(6) a Probate Division of the Superior Court involved in guardianship~~
15 ~~proceedings. The Probate Division of the Superior Court shall provide a copy~~
16 ~~of the record to the respondent, the respondent’s attorney, the petitioner, the~~
17 ~~guardian upon appointment, and any other individual, including the proposed~~
18 ~~guardian, determined by the Court to have a strong interest in the welfare of~~
19 ~~the respondent.~~

20 (e)(1) Upon request, relevant Department records created under this
21 subchapter ~~may~~ shall be disclosed to:

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

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

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

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

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

16 (F) Other State agencies conducting related inquiries or proceedings.

17 (G) The Child Protection Advocate appointed under section 8001 of
18 this title.

19 (H) A Probate Division of the Superior Court involved in
20 guardianship proceedings. The Probate Division of the Superior Court shall
21 provide a copy of the record to the respondent, the respondent's attorney, the

1 petitioner, the guardian upon appointment, and any other individual, including
2 the proposed guardian, determined by the Court to have a strong interest in the
3 welfare of the respondent.

4 (I) ~~other~~ Other governmental entities for purposes of child protection.

5 (2) Determinations of relevancy shall be made by the Department. In
6 providing records under this subsection (e), the Department may withhold
7 information that could compromise the safety of the reporter or the child or
8 family who is the subject of the report.

9 (3) In providing information under this section, the Department may
10 also provide other records related to its child protection activities for the child.

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

17 Sec. 15. 33 V.S.A. § 5110 is amended to read:

18 § 5110. CONDUCT OF HEARINGS

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

1 (b) The general public shall be excluded from hearings under the juvenile
2 judicial proceedings chapters, and only the parties, their counsel, witnesses,
3 persons accompanying a party for his or her assistance, and such other persons
4 as the Court finds to have a proper interest in the case or in the work of the
5 Court, including a foster parent or a representative of a residential program
6 where the child resides, may be admitted by the Court. An individual without
7 party status seeking inclusion in the hearing may petition the Court for
8 admittance by filing a request with the clerk of the Court. This subsection
9 shall not prohibit a victim’s exercise of his or her rights under sections 5233
10 and 5234 of this title, and as otherwise provided by law.

11 (c) There shall be no publicity given by any person to any proceedings
12 under the authority of the juvenile judicial proceedings chapters except with
13 the consent of the child, the child’s guardian ad litem, and the child’s parent,
14 guardian, or custodian. A person who violates this provision may be subject to
15 contempt proceedings pursuant to Rule 16 of the Vermont Rules for Family
16 Proceedings.

17 * * * Juvenile Proceedings; General Provisions; Children in Need of Care or
18 Supervision; Request for an emergency care order * * *

19 Sec. 16. 33 V.S.A. § 5302 is amended to read:

20 § 5302. REQUEST FOR EMERGENCY CARE ORDER

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

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

9 (1) ~~Remove~~ The officer shall remove the child from the child's
10 surroundings, contact the Department, and deliver the child to a location
11 designated by the Department. The Department shall have the authority to
12 make reasonable decisions concerning the child's immediate placement, safety,
13 and welfare pending the issuance of an emergency care order.

14 (2) ~~Prepare~~ The officer or a social worker employed by the Department
15 for Children and Families shall prepare an affidavit in support of a request for
16 an emergency care order and provide the affidavit to the State's Attorney. The
17 affidavit shall include: the reasons for taking the child into custody; and to the
18 degree known, potential placements with which the child is familiar; the
19 names, addresses, and telephone number of the child's parents, guardian,
20 custodian, or care provider; the name, address, and telephone number of any
21 relative who has indicated an interest in taking temporary custody of the child.

1 The officer or social worker shall contact the Department and the Department
2 may prepare an affidavit as a supplement to the affidavit of the law
3 enforcement officer or social worker if the Department has additional
4 information with respect to the child or the family.

5 * * *

6 * * * Temporary Care Order; Custody * * *

7 Sec. 17. 33 V.S.A. § 5308 is amended to read:

8 § 5308. TEMPORARY CARE ORDER

9 (a) The Court shall order that legal custody be returned to the child's
10 custodial parent, guardian, or custodian unless the Court finds by a
11 preponderance of the evidence that a return home would be contrary to the best
12 interests of the ~~child's welfare~~ child because any one of the following exists:

13 (1) A return of legal custody could result in substantial danger to the
14 physical health, mental health, welfare, or safety of the child.

15 (2) The child or another child residing in the same household has been
16 physically or sexually abused by a custodial parent, guardian, or custodian, or
17 by a member of the child's household, or another person known to the
18 custodial parent, guardian, or custodian.

19 (3) The child or another child residing in the same household is at
20 substantial risk of physical or sexual abuse by a custodial parent, guardian, or
21 custodian, or by a member of the child's household, or another person known

1 to the custodial parent, guardian, or custodian. It shall constitute prima facie
2 evidence that a child is at substantial risk of being physically or sexually
3 abused if:

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

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

10 (4) The custodial parent, guardian, or guardian has abandoned the child.

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

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

19 (1) ~~A~~ a conditional custody order returning legal custody of the child to
20 the custodial parent, guardian, ~~or~~ custodian, noncustodial parent, relative, or a
21 person with a significant relationship with the child, subject to such conditions

1 and limitations as the Court may deem necessary and sufficient to protect the
2 child;

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

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

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

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

12 ~~custodial parent, if appropriate.~~

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

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

18 ~~(i) The care plan fails to meet the criteria set forth in subdivision~~

19 ~~(2)(A) of this subsection.~~

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

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

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

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

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

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

4 ~~(D) If the noncustodial parent's request for temporary custody is~~
5 ~~contested, the Court may continue the hearing and place the child in the~~
6 ~~temporary custody of the Department, pending further hearing and resolution~~
7 ~~of the custody issue. Absent good cause shown, the Court shall hold a further~~
8 ~~hearing on the issue within 30 days.~~

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

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

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

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

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

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

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

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

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

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

6 (4) an order transferring temporary legal custody of the child to the
7 Commissioner.

8 ~~(c)~~ (c) The Court shall consider orders and findings from other proceedings
9 relating to the custody of the child, the child's siblings, or children of any adult
10 in the same household as the child.

11 (d) In considering the suitability of a relative under this subdivision (3) an
12 order under subsection (b) of this section, the Court may order the Department
13 to conduct an investigation of a person seeking custody of the child, and the
14 suitability of that person's home, and file a written report of its findings with
15 the Court. The Court may place the child in the temporary custody of the
16 Department Commissioner, pending such investigation.

17 ~~(4) A temporary care order transferring temporary legal custody of the~~
18 ~~child to a relative who is not listed in subdivision (3)(A) of this subsection or a~~
19 ~~person with a significant relationship with the child, provided that the criteria~~
20 ~~in subdivision (3)(B) of this subsection are met. The Court may make such~~

1 ~~orders as provided in subdivision (3)(C) of this subsection to determine~~
2 ~~suitability under this subdivision.~~

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

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

7 (1) The order shall include:

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

11 (B) a A finding as to whether reasonable efforts were made to
12 prevent unnecessary removal of the child from the home. If the Court lacks
13 sufficient evidence to make findings on whether reasonable efforts were made
14 to prevent the removal of the child from the home, that determination shall be
15 made at the next scheduled hearing in the case but, in any event, no later than
16 60 days after the issuance of the initial order removing a child from the home.

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

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

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

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

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

8 (E) requiring the Department to make diligent efforts to locate the
9 noncustodial parent;

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

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

15 (3) In his or her discretion, the Commissioner may provide assistance
16 and services to children and families to the extent that funds permit,
17 notwithstanding subdivision (2)(B) of this subsection.

18 ~~(d) If a party seeks to modify a temporary care order in order to transfer~~
19 ~~legal custody of a child from the Commissioner to a relative or a person with a~~
20 ~~significant relationship with the child, the relative shall be entitled to~~
21 ~~preferential consideration under subdivision (b)(3) of this section, provided~~

1 ~~that a disposition order has not been issued and the motion is filed within~~
2 ~~90 days of the date that legal custody was initially transferred to the~~
3 ~~Commissioner.~~

4 **Sec. X. 33 V.S.A. § 5320a is added to read:**

5 **§ 5320a. REVIEW PRIOR TO REUNIFICATION**

6 At such time that the Department has placed a child with his or her parent,
7 guardian, or custodian in connection with a trial reunification, the Department
8 shall file with the Court a motion to modify the order of legal custody. The
9 hearing may be combined with a permanency hearing or postdisposition
10 review hearing. The court may transfer legal custody to the parent, guardian,
11 or custodian subject to conditions it deems necessary and sufficient to protect
12 the welfare and safety of the child for period of up to six months. At the end of
13 the conditional custody period, the Court shall determine whether its
14 jurisdiction should be continued or terminated based on a report of the
15 Department or the guardian ad litem regarding whether the conditions have
16 been met and the likelihood that the child can remain safely at home with no
17 conditions on the parent, guardian, or custodian. Upon a finding that
18 conditions on the parent, guardian, or custodian and continued jurisdiction of
19 the Court are no longer necessary, the Court shall find that permanency has
20 been achieved and shall order legal custody without conditions. Senate Health
21 and Welfare suggests adding this provision.

1 * * * Legislature; Establishing a Joint Legislative Child

2 Protection Oversight Committee * * *

3 Sec. 18. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT
4 COMMITTEE

5 (a) Creation. There is created a Joint Legislative Child Protection
6 Oversight Committee.

7 (b) Membership. The Committee shall be composed of the following 10 /
8 12 members, who shall be appointed each biennial session of the General
9 Assembly:

10 (1) Five current members of the House of Representatives, not all
11 from the same political party, who shall be appointed by the Speaker of
12 the House; and

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

15 (3) In addition to two members-at-large appointed from each chamber,
16 one appointment shall be made from the following committees:

17 (A) House Committee on Appropriations;

18 (B) Senate Committee on Appropriations;

19 House & Senate Education?

20 (C) House Committee on Judiciary;

21 (D) Senate Committee on Judiciary;

1 (E) House Committee on Human Services; and

2 (F) Senate Committee on Health and Welfare.

3 (c) Powers and duties.

4 (1) The Committee shall:

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

7 (i) evaluating whether the branches, departments, agencies, and
8 persons that are responsible for protecting children from abuse and neglect are
9 effective;

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

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

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

16 (v) determining how to improve data sharing between the courts,
17 treatment providers, Agency of Education, Department for Children and
18 Families, and other branches, departments, agencies, and persons involved in
19 protecting children from abuse and neglect, including: Health suggests deleting
20 all of (v) and moving it to Sec. 21.

21 (I) determining the data that should be shared between parties;

1 (II) investigating regulatory requirements and security

2 parameters;

3 (III) investigating the potential costs of creating a platform to

4 share data; and

5 (vi) making recommendations to address these issues and to

6 improve the system for protecting children from abuse and neglect.

7 (B) Exercise oversight over the Department for Children and

8 Families, including reviewing and making recommendations concerning the

9 Department's: Note: Gov. Ops. suggests deleting all of B (oversight over

10 DCF).

11 (i) strategic and operating plans;

12 (ii) policies, procedures, and practices;

13 (iii) staffing and employee issues, including hiring, training, and

14 retention;

15 (iv) organization; and

16 (v) budget.

17 (C) At least annually, report on the Committee's activities and

18 recommendations to the General Assembly.

19 (2) The Committee may:

20 (A) review and make recommendations to the House and Senate

21 Committees on Appropriations regarding:

1 (i) the Department for Children and Families' budget proposal and
2 appropriations; and

3 (ii) other budget proposals and appropriations relating to
4 protecting children from abuse and neglect; and

5 (B) review specific reports and cases concerning child abuse and
6 neglect as necessary to fulfill the Committee's powers and duties. Sen. Gov.

7 Ops. suggests replacing (B) with: review aggregate reports concerning child
8 abuse and neglect as necessary to fulfill the Committee's powers and duties

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

11 (e) Data and records. All State agencies and departments shall provide data
12 and records to the Committee upon request. Notwithstanding any other

13 provision of law to the contrary, the Committee may receive records that are
14 confidential, privileged, or the release of which is restricted under law. All

15 State agencies and departments shall provide such records to the Committee
16 upon request. Any such records obtained by the Committee shall be exempt

17 from public inspection and copying, shall be kept confidential by the

18 Committee, and shall not be disclosed. Sen. Gov. Ops. suggests replacing (e)

19 with: All State agencies and departments shall provide data and aggregated

20 information to the Committee upon request.

1 (f) Retaliation. No person who is an employee of the State of Vermont, or
2 of any State, local, county, or municipal department, agency, or person
3 involved in child protection, and who testifies before, supplies information to,
4 or cooperates with the Committee shall be subject to retaliation by his or her
5 employer. Retaliation shall include job termination, demotion in rank,
6 reduction in pay, alteration in duties and responsibilities, transfer, or a negative
7 job performance evaluation based on the person's having testified before,
8 supplied information to, or cooperated with the Committee.

9 (g) Meetings.

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

12 (2) The Committee shall select a Chair, Vice Chair, and Clerk from
13 among its members and may adopt rules of procedure. The Chair shall rotate
14 biennially between the House and the Senate members. A quorum shall consist
15 of six members.

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

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

4 (i) Sunset. On December 30, 2020, 2017 (Sen. Sears suggested 2017) this
5 section (creating the Joint Legislative Child Protection Oversight Committee)
6 is repealed and the Committee shall cease to exist.

7 * * * Establishing the Office of the Child Protection Advocate * * *

8 Sec. 19. 3 V.S.A. chapter 45, subchapter 4 is redesignated to read:

9 Subchapter 4. Departments, Divisions, Offices, and Boards

10 Sec. 20. 3 V.S.A. § 2284 is added to read:

11 § 2284. OFFICE OF THE CHILD PROTECTION ADVOCATE Sen. Gov.

12 Ops suggestions are not indicated below. Sen. Approps. was asked to look at
13 this section on 2/13/15. As a result, remove sec. 20 from bill?

14 (a) The Office of the Child Protection Advocate is created in the Agency of
15 Administration.

16 (b) The Office shall be headed by the Child Protection Advocate, who shall
17 be an individual with expertise and experience relevant to protecting children
18 from abuse and neglect. The Vermont Child Protection Advocate shall be
19 appointed:

20 (1) by the Governor subject to the advice and consent of the Senate; and

1 (2) for a term of four years and until his or her successor is appointed
2 and qualified.

3 (c) The Child Protection Advocate shall:

4 (1) investigate and resolve complaints on behalf of persons involved in
5 the child protection system;

6 (2) analyze and monitor the development and implementation of federal,
7 State, and local laws, and of regulations and policies relating to child
8 protection and to the Department for Children and Families, and make
9 recommendations as he or she deems appropriate;

10 (3) provide information to the public, agencies, legislators, and others
11 regarding problems and concerns of persons involved in the child protection
12 system, including recommendations relating to such problems and concerns;

13 (4) promote the development and involvement of citizen organizations
14 in the work of the Office and in protecting children from abuse and neglect;

15 (5) train persons and organizations in advocating for the interests of
16 children and persons involved in the protecting children from abuse and
17 neglect;

18 (6) develop and implement a reporting system to collect and analyze
19 information relating to complaints by persons involved in the child protection
20 system; and

1 (7) submit to the General Assembly and the Governor on or before
2 January 15 of each year a report on the Office’s activities and
3 recommendations.

4 (d) The Child Protection Advocate may:

5 (1) hire or contract with persons to fulfill the purposes of this chapter;

6 (2) have appropriate access to review the records of State agencies;

7 (3) pursue administrative, judicial, or other remedies on behalf of
8 persons involved in the child protection system;

9 (4) delegate to employees of the Office any part of his or her authority;

10 (5) adopt rules, policies, and procedures necessary to carry out the
11 provisions of this chapter, including prohibiting any employee or immediate
12 family member of any employee from having any interest which creates a
13 conflict of interest in carrying out the Advocate’s responsibilities under this
14 chapter;

15 (6) take any other action necessary to fulfill the purposes of this chapter.

16 (e) All State agencies shall comply with reasonable requests of the Child
17 Protection Advocate for records, information, and assistance.

18 (f) No civil liability shall attach to the Child Protection Advocate or any
19 employee of the Office of the Child Protection Advocate for good faith
20 performance of the duties imposed by this chapter.

1 (g) A person who intentionally hinders the Child Protection Advocate or a
2 representative of the Office of the Child Protection Advocate acting pursuant
3 to this chapter shall be imprisoned not more than one year or fined not more
4 than \$5,000.00, or both.

5 (h) A person who takes discriminatory, disciplinary, or retaliatory action
6 against any person for any communication made, or information disclosed, to
7 the Child Protection Advocate or to a representative of the Office of the Child
8 Protection Advocate to aid the Advocate in carrying out his or her duties,
9 unless the communication or disclosure was done maliciously or without good
10 faith, shall be imprisoned not more than one year or fined not more than
11 \$5,000.00, or both.

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

13 Sec. 21. THE DEPARTMENT FOR CHILDREN AND FAMILIES;

14 POLICIES, PROCEDURES, AND PRACTICES

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

16 (1) ensure that policies, procedures, and practices are consistent, and are
17 applied in a consistent manner, in all Department offices and in all regions of
18 the State;

19 (2) ensure that policies, procedures, and practices are consistent with
20 statute;

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

5 (4) ensure that all employees assigned to carry out investigations have
6 training or experience in conducting investigations and have a Master’s degree
7 in social work or an equivalent degree, or relevant experience;

8 (5) determine how to improve data sharing between the Department,
9 courts, treatment providers, the Agency of Education, and other branches,
10 departments, agencies, and persons involved in protecting children from abuse
11 and neglect, including:

12 (A) determine the data that should be shared between parties;

13 (B) investigate regulatory requirements and security parameters;

14 (C) investigate the potential costs of creating a platform to share
15 data; and

16 (D) make recommendations to address these issues and to improve
17 the system for protecting children from abuse and neglect. (Health & Welfare
18 would like to take this language, which is currently in the section on oversight
19 committee, and place in this section).

1 (6) develop policies, procedures, and practices to:

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

5 (B) encourage law enforcement, treatment providers, and all
6 agencies, departments, and other persons that support recovery to provide
7 regular treatment progress updates to the Commissioner;

8 (C) ensure that courts have all relevant information in a timely
9 fashion, and that Department employees file paperwork and reports in a timely
10 manner;

11 (D) require increased monitoring of a child’s safety if:

12 (i) other children have been removed from the same home or the
13 parent or guardian’s parental rights as to another child have been
14 terminated; or

15 (ii) the child is returned to a home from which other children have
16 been removed;

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

1 (F) increase the number of required face-to-face meetings between
2 social workers and children;

3 (G) increase the number of required home visits and require
4 unannounced home visits;

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

7 (I) ensure that mandatory reporters are informed that any confidential
8 information they may receive cannot be disclosed to a person who is not
9 authorized to receive that information; and

10 (J) adopt measures to ensure all parties authorized to receive
11 confidential information are aware of their right to receive that information,
12 including measures to notify individuals accused of abuse or neglect when
13 authorized parties have requested access to the case records documenting such
14 abuse or neglect; (Senate Health and Welfare recommends adding this)

15 (K) apply results-based accountability or other data-based quality
16 measures to determine if children in different areas of the State have different
17 outcomes and the reasons for those differences.

18 (L) using the results of the results-based accountability evaluation,
19 determine how to allocate Department resources most effectively for child
20 protection. (Senate Health and Welfare recommends adding this)

1 **(b) On or before ~~April 3, 2015~~ September 1, 2015, the Commissioner shall**
2 submit a written report to the House Committees on Human Services and on
3 Judiciary and to the Senate Committees on Health and Welfare and on
4 Judiciary on:

5 (1) The Commissioner’s response to the Vermont Citizen’s Advisory
6 Board (VCAB) Child Death Review Report dated November 7, 2014, and to
7 the Casey Family Programs report dated December, 2014, including:

8 (A) the Commissioner’s response to every recommendation in the
9 reports and:

10 (i) if the Commissioner agrees with a recommendation, an
11 explanation of any changes made in response to the recommendation;

12 (ii) if the Commissioner does not agree with a recommendation,
13 an explanation of why; and

14 (iii) any suggestions concerning other options to implement a
15 recommendation; and

16 (B) a description of any changes to the Department’s policies,
17 procedures, and practices made in response to the reports, including the
18 language of any new or amended policies and procedures.

19 (2) The Commissioner’s response to the issues in subsection (a) of this
20 section, including the language of any new or amended policies and
21 procedures.

1 (c) On or before April 3, 2015, the Commissioner shall report to the House
2 Committees on Human Services and on Judiciary and to the Senate
3 Committees on Health and Welfare and on Judiciary on the Commissioner's
4 specific legislative recommendations and appropriation requests for FY2016
5 based on the directives and reports under subsection (a) and subdivision (b)(1)
6 of this section. (Senate Health and Welfare recommends staggering DCF's
7 reporting requirement to give them more time to submit a full report)

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

9 Sec. 22. AGENCY OF HUMAN SERVICES; EVIDENCE-INFORMED
10 MODELS

11 The Secretary of Human Services shall identify and utilize
12 evidence-informed models of serving families that prioritize safety and
13 prevention through early interventions with high risk families. The Secretary
14 shall make recommendations in the FY2017 budget that reflect the utilization
15 of these models. (Note: Sen. Ayer wants similar language added to section on
16 oversight committee).

17 * * * Improvements to CHINS Proceedings * * *

18 Sec. 23. WORKING GROUP TO RECOMMEND IMPROVEMENTS TO
19 CHINS PROCEEDINGS

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

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

6 (1) the Chief Administrative Judge or designee;

7 (2) the Defender General or designee;

8 (3) the Attorney General or designee;

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

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

12 (6) a guardian ad litem who shall be appointed jointly by the President
13 Pro Tempore of the Senate and the Speaker of the House.

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

16 (1) the reasons that statutory time frames are not met and how to ensure
17 that statutory time frames are met in 90 percent of proceedings;

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

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

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

3 (5) the role of guardians as litem, and how to ensure their information is
4 presented to, and considered by, the court;

5 (6) how to ensure that once a child is returned to his or her family, the
6 court or the Department for Children and Families, may continue to monitor
7 the child and family where appropriate, and how to expedite a new proceeding
8 that concerns a family with repeated contacts with the child protection system;

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

12 (8) how and whether to provide financial assistance to individuals
13 seeking to mediate a dispute over a postadoption contact agreement; and
14 (Senate Health and Welfare recommends adding this)

15 (9) any other issue the Working Group determines is relevant to improve
16 the efficiency, timeliness, process, and results of CHINS proceedings.

17 (d) Assistance. The Working Group shall have the administrative,
18 technical, and legal assistance of the Office of the Attorney General. The
19 Working Group may consult with any persons necessary in fulfilling its powers
20 and duties.

