

1 H.121

2 Introduced by Representatives Fisher of Lincoln and Jewett of Ripton

3 Referred to Committee on

4 Date:

5 Subject: Judiciary; family and probate court; transfer of guardianship or
6 adoption proceedings

7 Statement of purpose: This bill proposes to permit the family or probate court
8 to transfer guardianship or adoption proceedings from probate to family court
9 if doing so would serve the best interests of a child or would otherwise best
10 serve the interests of justice. The bill permits a party to file a motion with
11 either court for such a transfer, and requires the probate court to provide notice
12 of the transfer motion option to all parties in any case involving guardianship
13 or custody of a child. A proceeding can only be transferred if the transferring
14 court has first communicated about it with the receiving court.

15 An act relating to transfer of guardianship or adoption proceedings from
16 probate to family court

17 It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 1. 4 V.S.A. § 454 is amended to read:

2 § 454. JURISDICTION

3 Notwithstanding any other provision of law to the contrary, the family court
4 shall have exclusive jurisdiction to hear and dispose of the following
5 proceedings filed or pending on or after October 1, 1990. The family court
6 shall also have exclusive jurisdiction to hear and dispose of any requests to
7 modify or enforce any orders issued by the district or superior court relating to
8 the following proceedings:

9 * * *

10 (18) Guardianship and adoption proceedings transferred to family court
11 pursuant to section 455 of this title.

12 Sec. 2. 4 V.S.A. § 455 is amended to read:

13 § 455. TRANSFER OF PROBATE PROCEEDINGS

14 (a) Any guardianship action filed in probate court pursuant to chapter 111,
15 subchapter 2, article 1 of Title 14 and any adoption action filed in probate court
16 pursuant to ~~chapter 9 of Title 15~~ Article 3 of Title 15A may be transferred to
17 the family court as provided in this section.

18 (b) The family court or probate court shall order the transfer of the
19 proceeding on motion of a party or on its own motion if it finds that:

20 (1) the identity of the parties, issues, and evidence are so similar in
21 nature to the parties, issues, and evidence in a proceeding pending in family

1 court that transfer of the probate action to family court would expedite
2 resolution of the issues or would best serve the interests of justice; or

3 (2) transfer of the proceedings would serve the best interests of the child
4 or would otherwise best serve the interests of justice.

5 (c) The probate court shall provide notice of the option to file a motion to
6 transfer under subsection (b) of this section to all parties in any case involving
7 guardianship or custody of a child.

8 (d) A proceeding shall not be transferred pursuant to this section unless the
9 court ordering the transfer has communicated with the receiving court
10 regarding the advisability of the transfer.