



Vermont Kin As Parents

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H. 581 An Act Relating to the Guardianship of Minors

House Human Services Testimony, February 12, 2014

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The points I would like to address:

- Parents have the legal right to parent their children and the child has the right to be raised by his parents.
- Grandparents and other relatives are typically not eagerly waiting to be parents again, but will step up to the plate for the sake of the family members, particularly the children.
- Parents and guardians have responsibilities in a guardianship.
- All parties need to know what supports and services are available and how to access them, including legal support.

For ease, the relevant sections of the bill are on the next page. Attached is a chart that compares benefits and supports for children and families based on the legal relationship.

Sec. 2621 POLICY; PURPOSES

(1) It is presumed that the interests of minor children are best promoted in the child's own home. However, when parents are temporarily unable to care for their children, guardianship provides a process through which parents can arrange for family members or other parties to care for the children.

(6) It is in the best interests of all parties, including the children, the parents, and the proposed guardians to have a shared understanding about the length of time that they may expect the guardianship to last, the circumstances under which the parents will resume care for their children, the nature of supports and services that are available to assist them.

Sec. 2626 CONSENSUAL GUARDIANSHIP

(b) On or before the date of the hearing the proposed guardians shall file an agreement between the proposed guardian and the parents. The agreement shall address:

- (1) the guardian's responsibilities;
- (2) the expected duration of the guardianship; and
- (3) parent-child contact and parent involvement in decision making

(c) Vermont Rule of Probate Procedure 43 (relaxed rules of evidence in probate proceedings) shall apply to hearings in this section.

Sec. 2627 NON-CONSENSUAL GUARDIANSHIP

(a) If the petition requests a nonconsensual guardianship, the burden shall be on the proposed guardian to establish by clear and convincing evidence that the child is a child in need of guardianship as defined in subdivision 2622(2)(B) of this title.

(b) The Vermont Rules of Evidence shall apply to a hearing under this section.

Sec. 2632 TERMINATION

(a) A parent may file a motion to terminate a guardianship at any time. The motion shall be filed with the Probate Division that issued the guardianship order and served on all parties and interested persons.

(b) (1) If the motion to terminate is made with respect to a consensual guardianship established under section 2626 of this title, the Court shall grant the motion and terminate the guardianship unless the guardian files a motion to continue the guardianship with 30 days after the motion to terminate is served.

(2) If the guardian files a motion to continue the guardianship, the matter shall be set for hearing and treated as a nonconsensual guardianship proceeding under section 2627 of this title. The parent shall not be required to show a change in circumstances, and the Court shall not grant the motion to continue the guardianship unless the guardian establishes by clear and convincing evidence that the minor is a child in need of guardianship under subdivision 2622(2)(B).

Sec. 2634 DEPARTMENT FOR CHILDREN AND FAMILIES POLICY

(2) (line 16) The social worker shall make it clear that whether to file the petition is the family's choice.

(4) FSD has neither the statutory responsibility nor the staff capacity to provide assessment, case planning, or case monitoring services for minor guardianship cases.

