

**Minor Guardianship Testimony House Judiciary Committee, January 14, 2014**  
**Trine Bech, Executive Director, Vermont Parent Representation Center, Inc.**  
**(VPRC)**

Thank you for inviting me to speak to the perspective of the families involved in minor guardianships. My name is Trine Bech, and I am the Executive Director of Vermont Parent Representation Center, Inc. a not for profit organization formed to support parents so that their children can remain safely at home. With me today is a VPRC Board member, Lane Dunn, who participated actively in the Minor Guardianship Study Committee, and Sandi Yandow, from K.I.N. – K.A.N. Vermont, a coalition of community based trained kinship navigators who provide peer-peer support for families involved in kinship care. Sandi was also a major contributor to the committee thanks to her 25 year tenure as a kinship advocate and lived experience as a kinship care provider.

Let me introduce myself to those of you who do not know my background and long interest and involvement in child and family system improvement in Vermont.

- Began as a social worker aid in London, England in 1969;
- Became an Attorney;
- Chaired the Vermont Family Proceedings Advisory Committee created by the legislature in the 1980s which resulted in the creation of the Family Court, the child support guidelines, and our current law on parental rights and responsibilities;
- Appointed by Governor Kunin as one of the first four Family Court Magistrates, where for 4 years we created a totally new process to insure that children were supported both emotionally and financially by their separated parents;
- Selected in 1995 to be an Annie E. Casey Foundation Fellow: spent a year in a leadership program looking at governmental decision making for abused and neglected children;
- Have spent all my professional time since 1995 at the intersection between the legal advocates and the social service providers in child welfare:
  - have been a consultant to the Child Welfare Commissioner in Rhode Island;
  - directed a permanency planning initiative of the Vermont Supreme Court in partnership with the Agency of Human Services under Con Hogan;
  - been a leader of the Delaware child welfare system as Deputy and Acting Commissioner, and
  - been the special assistant to the Commissioner of child welfare in Philadelphia working to improve how children can be more successful while in foster care as well as in exiting foster care.

As a result of my years in the child welfare systems I have become convinced that the best way to support children is to support their parents and strengthen their support systems. It is well understood that the state is not designed to be an effective parent, and that it is best for children to live at home if we can make it safe for them there. Vermont has been identified by federal foster care data as a state which needs more effective work at the front end of the system; i.e. we need to reinvigorate the effective supports that were in place for families struggling with the effects of poverty. We need to provide rental

subsidies and supportive housing programs to assist the homeless and precariously housed families; we need to prioritize parents in getting access to mental health and substance abuse treatment services; we need to recognize and strategize options to ameliorate the astonishing amounts of time it takes to do anything when you are poor and do not have resources, and you want to pay attention to your children. Transportation remains a barrier to access to treatment and services both in our large and our most rural counties. Our families want to be able to take care of their children. We need to stop blaming them when they do not meet our middle class expectations. The family depicted in the VPRC July Newsletter had the burden to prove they were fit. H-581 will change the burden and place it on those who want to separate children from their parents.

When I returned to Vermont in 2009 I saw that we had no better child welfare outcomes than the rest of the nation. In fact, our child welfare outcomes remain something that we should all be aware of and worry about. Despite many well-intentioned people doing the best they can under our current laws and strategies, Vermont

- continues to have one of the highest rates of state removal to foster care for young children; and
- once the states bring children into DCF custody, Vermont not been effective in returning our young children home to their parents. Vermont has also one of the highest rates of termination of parental rights for young children in the nation.

These data concerned many, and in 2009 we launched the Vermont Parent Representation Center, modeled on principles tested and honed in other places in the country. The Mission of VPRC is *To ensure through advocacy and support that children who can live safely with their parents have a real opportunity to do so*. Our Board and our work team include attorneys, social workers and peers with personal experience with the child welfare system. Our advocacy encouraged the Legislature to create the Minor Guardianship Committee to look at this minor guardianship law that should be a tool driven by families and not the state.

Having delivered direct services to families involved in open DCF cases where no CHINS petition had been filed, one of VPRC's major concerns was that DCF was using minor guardianships as a child protection tool. The parents reported and VPRC observed that they felt coerced and pressured to give consent to guardianship. Neither the parents nor the proposed guardians understood the difference between our formal abuse and neglect proceedings, Children in Need of Care and Supervision (CHINS) and minor guardianship other than what they were told by DCF: If they all agreed to minor guardianship, DCF would close their case and get out of their lives. They were afraid of what would happen to their children if they did not agree. The families uniformly did not understand the differences either in legal consequences and supports or the differences in economic services under CHINS and minor guardianship.

Our CHINS process has as one of its stated purposes to *preserve the family and to separate a child from his or her parents only when necessary to protect the child from serious harm*. Unfortunately, this is not how our system now works for many families. Justice Robinson, joined by Justice Skoglund in a recent Vermont Supreme Court CHINS

case laid out the awesome power of the state and how our laws contemplate that we protect the parent child relationship by carefully considering what type of intervention is necessary. In over 80% of our CHINS cases, we are not dealing with abuse but reported child neglect as a consequence mostly of poverty. Justice Robinson pointed out that *“Removing a child from a loving, effective parent in the absence of a considered determination of harm and risk to the child on the basis of well supported findings is not in the child’s best interest.”* She then proceeded to call the State’s response of removing the child in that particular case *“draconian”*.

The CHINS case that caused Justices Robinson and Skoglund to be so upset is not an isolated one. Many children could be protected at home under a conditional custody order. Across the state children are being removed instead. Most of our families, despite much good work by many DCF workers, do not trust DCF and are afraid that DCF will remove their children, especially young children, and place them in pre-adoptive homes from which they never return. So when DCF is involved, families will agree to almost anything which gets DCF out of their lives.

This is the context in which we must look at minor guardianships. It should be a family driven tool and not a state driven child protection diversion. Parents should come to probate court because they want to be empowered to address their own issues.

H-581 as drafted is a very good one. VPRC, as a not for profit organization without public funding, supports this bill in its entirety. The bill spells out what is constitutionally necessary as stated by our Supreme Court. It has received careful consideration and compromise by a lot of good people and it is a vast improvement over what we have. The biggest issue for us was to make sure that the families understand what they are agreeing to, understand that they have legal options, understand the legal distinction between voluntary and involuntary guardianship, that they will have opportunities to work out their family issues together, and understand how the guardianship will come to an end. The bill does all that, assuming that there is a way to educate the families and give them a fair process.

The Minor Guardianship report had two parts: 1. the changes in the law, and 2. the supports needed to implement the law. The supports are stated in the purposes section of the H-581: *Family members can make better decisions about minor children when they understand the consequences of those decisions and are informed about the law and the available supports.* H-581 addresses the first part, but we have not heard anyone talking about the education and supports needed to make sure that the families are empowered. They must have the information to make the decisions necessary to make minor guardianships work, and for those who are also involved with DCF, to help them understand the distinction between a CHINS and a minor guardianship.

Out of home placement with kin, whether through CHINS or minor guardianship requires specialized legal education and supports. In 2012, VPRC, with K.I.N.K.A.N. Vermont as a collaborator, received a private foundation grant to test out what infrastructure pieces needed to be in place for the families in Minor Guardianship situations. We tested 11

families in Addison and Chittenden counties and created a pre hearing approach to educate and support the kinship triad; that is, the parents, proposed guardians and the children if age 14 and older. The triad members were educated about their legal options, what consenting to a minor guardianship entailed, informed about their roles and responsibilities, and what financial and social service supports were available to them. What we found is attached in a report to this testimony. The most striking is

- a. The families had all the same characteristics as those involved in a CHINS proceeding;
- b. All the mothers had substance abuse/mental health issues;
- c. 4 of 11 families had deep DCF involvement and had been directed by DCF to get minor guardianship or DCF would file a CHINS: a direct contravention to DCF's own policy;
- d. None of the parents we talked to understood the legal consequences of agreeing to minor guardianship or that their economic supports from the State could change by the guardianship, including ReachUp and Medicaid.

The education and supports to make minor guardianships work for the multigenerational kinship families are needed at three different stages: 1. before the guardianship takes effect, 2. during the guardianship and 3. to prepare for its ending. The education and supports must be outside of the DCF system because none of the families come into the guardianship process being accused by the state of child abuse or neglect and the voluntary process of guardianships does not require a finding of abuse or neglect. The supports should have a legal education component and a peer support component that work with the entire multi-generational triad so that family members are not pitted against each other. Creating bridges not wedges within the multigenerational family unit is the foundation of effective work in this field which will lead to healthy children.

Our request therefore, is that you advance this bill as written with a recommendation to appropriate a small amount of funds to a not for profit community based organization with expertise working with multigenerational families and the Probate Courts to provide the education and supports needed to make the law successful.

Thank you again for giving us this opportunity to give the involved families' perspective of the how the minor guardianship law can be a very effective tool for those who have the knowledge to make good decisions for themselves. Knowledge is power.