

1 S.185

2 Introduced by Senator Flory

3 Referred to Committee on

4 Date:

5 Subject: Court procedure; domestic relations

6 Statement of purpose of bill as introduced: This bill proposes to require the
7 Family Division of the Superior Court to order the specific placement of a
8 child in accordance with the recommendation of the Department for Children
9 and Families when terminating parental rights.

10 An act relating to termination of parental rights

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

12 Sec. 1. 33 V.S.A. § 5317 is amended to read:

13 § 5317. DISPOSITION HEARING

14 (a) Timeline. A disposition hearing shall be held no later than 35 days after
15 a finding that a child is in need of care and supervision.

16 (b) Hearing procedure. If disposition is contested, all parties shall have the
17 right to present evidence and examine witnesses. Hearsay may be admitted
18 and may be relied on to the extent of its probative value. If reports are
19 admitted, the parties shall be afforded an opportunity to examine those making
20 the reports, but sources of confidential information need not be disclosed.

1 (c) Standard of proof. If the Court terminates the parental rights of one or
2 both parents, the standard of proof on the issue of termination shall be clear
3 and convincing evidence. On all other issues, the standard of proof shall be a
4 preponderance of the evidence.

5 (d) Termination of parental rights. If the Commissioner or the attorney for
6 the child seeks an order at disposition terminating the parental rights of one or
7 both parents and transfer of legal custody ~~to the Commissioner without~~
8 limitation as to adoption consistent with the Department's recommendation
9 required by subdivision 5316(b)(6) of this title, the Court shall consider the
10 best interests of the child in accordance with section 5114 of this title.

11 (e) Further hearing. On its own motion or on the motion of a party, the
12 Court may schedule a further hearing to obtain reports or other information
13 necessary for the appropriate disposition of the case. The Court shall make an
14 appropriate order for the temporary care of the child pending a final disposition
15 order. The Court shall give scheduling priority to cases in which the child has
16 been removed from home.

17 Sec. 2. 33 V.S.A. § 5318 is amended to read:

18 § 5318. DISPOSITION ORDER

19 (a) Custody. At disposition, the Court shall make such orders related to
20 legal custody for a child who has been found to be in need of care and

1 supervision as the Court determines are in the best interest of the child,
2 including:

3 (1) An order continuing or returning legal custody to the custodial
4 parent, guardian, or custodian. Following disposition, the Court may issue a
5 conditional custody order for a fixed period of time not to exceed two years.
6 The Court shall schedule regular review hearings to determine whether the
7 conditions continue to be necessary.

8 (2) When the goal is reunification with a custodial parent, guardian, or
9 custodian, an order transferring temporary custody to a noncustodial parent, a
10 relative, or a person with a significant relationship with the child. The order
11 may provide for parent-child contact. Following disposition, the Court may
12 issue a conditional custody order for a fixed period of time not to exceed two
13 years. The Court shall schedule regular review hearings to evaluate progress
14 toward reunification and determine whether the conditions and continuing
15 jurisdiction of the Family Division of the Superior Court are necessary.

16 (3) An order transferring legal custody to a noncustodial parent and
17 closing the juvenile proceeding. The order may provide for parent-child
18 contact with the other parent. Any orders transferring legal custody to a
19 noncustodial parent issued under this section shall not be confidential and shall
20 be made a part of the record in any existing parentage or divorce proceeding
21 involving the child. On the motion of a party or on the Court's own motion,

1 the Court may order that a sealed copy of the disposition case plan be made
2 part of the record in a divorce or parentage proceeding involving the child.

3 (4) An order transferring legal custody to the Commissioner.

4 (5) An order terminating all rights and responsibilities of a parent ~~by and~~
5 transferring legal custody and all residual parental rights ~~to the Commissioner~~
6 ~~without limitation as to adoption~~ in accordance with the Department's
7 recommendation for legal custody as required by subdivision 5316(b)(6) of
8 this title.

9 (6) An order of permanent guardianship pursuant to 14 V.S.A. § 2664.

10 (7) An order transferring legal custody to a relative or another person
11 with a significant relationship with the child. The order may be subject to
12 conditions and limitations and may provide for parent-child contact with one or
13 both parents. The order shall be subject to periodic review as determined by
14 the Court.

15 (b) Case plan. If the Court orders the transfer of custody pursuant to
16 subdivision (a)(2); or (4), ~~or (5)~~ of this section, the Court shall establish a
17 permanency goal for the minor child and adopt a case plan prepared by the
18 Department which is designed to achieve the permanency goal. If the Court
19 determines that the plan proposed by the Department does not adequately
20 support the permanency goal for the child, the Court may reject the plan

1 proposed by the Department and order the Department to prepare and submit a
2 revised plan for court approval.

3 (c) Sixteen- to 17.5-year-olds. In the event that custody of a 16- to
4 17.5-year-old is transferred to the Department pursuant to a petition filed under
5 subsection 5309(d) of this title, services to the child and to his or her family
6 shall be provided through a coordinated effort by the Agencies of Human
7 Services and of Education and community-based interagency teams.

8 (d) Modification. A disposition order is a final order, which may only be
9 modified based on the stipulation of the parties or pursuant to a motion to
10 modify brought under section 5113 of this title.

11 (e) Findings. Whenever the Court orders the transfer of legal custody to a
12 noncustodial parent, a relative, or a person with a significant relationship with
13 the child, ~~such~~ the orders shall be supported by findings regarding the
14 suitability of that person to assume legal custody of the child and the safety
15 and appropriateness of the placement.

16 Sec. 3. EFFECTIVE DATE

17 This act shall take effect on passage.