

# Joint Legislative Child Protection Oversight Committee

June 30, 2016

# Overview

- Committee charge
- Related legislation enacted in 2016

# Committee Charge

2015 Act No. 60, § 23

- Committee Membership
  - Six legislative members appointed biennially:
    - Three House members, not all from the same party, appointed by the Speaker of the House; and
    - Three Senate members, not all from the same party, appointed by the Committee on Committees

# Committee Charge

## 2015 Act No. 60, § 23

- Committee Powers & Duties
  - Oversee VT's system for protecting children from abuse and neglect:
    - Evaluate the effectiveness of branches, departments, agencies, and people responsible for protecting children from abuse & neglect
    - Determine any deficiencies and causes of deficiencies in the system
    - Evaluate which programs are the most cost-effective
    - Determine whether there are variations in policies, procedures, practices, and outcomes and the causes and results of any variations
    - Evaluate whether licensed mandatory reporters should be required to certify completion of training on § 4913 requirements
    - Evaluate measures recommended by CHINS Working Group to ensure that the court or DCF continue to monitor reunited children and families
  - Committee may review and make recommendations to the House and Senate Committees on Appropriations regarding budget proposals related to protecting children from abuse and neglect

# Committee Charge

## 2015 Act No. 60, § 23

- Assistance
  - Committee has the administrative, technical, and legal support of the Office of Legislative Council
  
- Retaliation
  - A State, local, county, municipal department, or agency employee or person involved in child protection may not be subject to retaliation by his or her employer for testifying, providing information, or cooperating with this Committee

# Committee Charge

## 2015 Act No. 60, § 23

- Meetings
  - Committee must select a Chair, Vice Chair, and Clerk from its members and may adopt rules of procedure
  - Chair rotates biennially between Senators & House members
  - Quorum consists of five members
  - While the Legislature is in session, the Committee shall meet at the call of the Chair
  - During adjournment, the Committee may meet up to six times, or more frequently with approval of the Speaker of the House and the President Pro Tempore

# Committee Charge

2015 Act No. 60, § 23

- Reimbursement
  - Members are entitled to per diem compensation and reimbursement of expenses for attendance at meetings during adjournment
- Sunset
  - The Committee ceases to exist on June 1, 2018

# Legislation Enacted in 2016

- Act 92 (H.399): An act relating to DCF's registry review unit
- Act 109: An act relating to safety policies for employees delivering direct social or mental health services
- Act 116: An act relating to foster parents' rights and protections
- Act 153 (H.95): An act relating to jurisdiction over delinquency proceedings by the Family Division of the Superior Court
- Act 162 (S.154): An act relating to stalking, criminal threatening, and enhanced penalties for assault
- Act 170 (S.183): An act relating to permanency for children in the child welfare system
- Provisions in the Big Bill (Act 172)



# Act 109: An act relating to safety policies for employees delivering direct social or mental health services

- AHS, in consultation with each department of the Agency, must establish a written violence prevention and crisis response policy for the benefit of employees delivering direct social or mental health services
- The Secretary must ensure that contracts between AHS and certain providers whose employees deliver direct social or mental health services include the requirement that providers establish and maintain a written violence prevention and crisis response policy
- Policies must include:
  - measures a provider intends to take in response to incidents or threats of violence;
  - a system for centrally recording incidents or threats of violence;
  - the establishment of an employee training program about workplace violence and ways to reduce risks; and
  - the development and maintenance of a violence prevention and crisis response committee to monitor compliance with the policy and to provide assistance to employees delivering direct social or mental health services

# Act 116: An act relating to foster parents' rights and protections

- Establishes a Foster Parent Working Group to recommend legislation, rules, or policies pertaining to rights and protections for Vermont foster parents
- The Working Group is tasked with assessing:
  - foster parents' access to the Department for Children and Families (DCF);
  - access to records;
  - scheduling of court-ordered visits and appointments with DCF;
  - foster parent fear of reprisal for raising concerns about DCF; and
  - regional differences in Vermont's foster care system.
- The Group is required to submit its findings and recommendations to the Legislature by January 15, 2017

# Act 153 (H.95): An act relating to jurisdiction over delinquency proceedings in the Family Division of the Superior Court

- Makes incremental changes in how youth are adjudicated in Vermont:
  - July, 2016: 10-11 year olds charged with a Big 12 offense can only be charged and adjudicated in the Family Division.
  - January, 2017: 16 year olds who commit a misdemeanor or felony (not Big 12) must be charged in the FD. Misdemeanors shall be adjudicated in FD, but felony charges may be transferred to Criminal Division on motion.
  - January, 2018: 17 year olds are treated the same as 16 year olds.
  - July, 2018: extends youthful offender status from 17 year olds to 21 year olds.
- Amends jurisdiction of Family Division
- Gives DCF and the Family Division the authority to administer sanctions

# **Act 170 (S.183): An act relating to permanency for children in the child welfare system**

- Permanent guardianship statutes
- CHINS
- Juvenile delinquency

# Act 170 (S.183): permanent guardianship

- Narrows the requirements that must be met before a court will grant permanent guardianship
- Provides that a successor permanent guardian may be named in a permanent guardianship order
- Expands availability of postadoption contact agreements to children under conditional custody orders with relatives or other people with a significant relationship with the child

# Act 170 (S.183): CHINS/juvenile delinquency

- Shortens the presumptive duration of conditional custody orders issued under the CHINS and juvenile delinquency chapters from two years to six months
- Provides for protective supervision at the disposition stage of a CHINS proceeding
- Creates a mechanism to restore legal rights to a parent where an adoption is dissolved or the child has not been adopted three years after the parent's rights were terminated
- Clarifies that upon a finding that termination of parental rights is in the best interest of the child, the court is not required to rule out first permanent guardianship as an option

# Act 162 (S.154): Enhanced penalty for assault

- Currently covers law enforcement, firefighters, health care workers, and emergency medical personnel
- Moves list of protected individuals to a new definition: “protected professional”
- Adds employees, grantees, and contractors of the Department for Children and Families (DCF) to the list of individuals covered by the statute
- Provides that a person can also be convicted under the enhanced penalty statute if he or she assaulted the protected professional with the intent to prevent the person from performing his/her lawful duty

# Act 162 (S.154): Criminal threatening

- Creates a new misdemeanor crime of criminal threatening when a person knowingly:
  - threatens another person; and
  - as a result of the threat, places the victim in reasonable fear of death or serious bodily injury.
- Carries a penalty of not more than one year or not more than a \$1,000.00 fine, or both
- Provides for a heightened penalty if the person made the threat with the intent to prevent a person from reporting suspected child abuse or neglect to DCF.
- Provides an affirmative defense to a charge of criminal threatening if the person did not have the ability to carry out the threat.



# Act 162 (S.154): Safety Trainings Report

Requires the Department for Children and Families, in collaboration with the Vermont State Employees' Association, to conduct a review of the safety trainings available to the employees, contractors, and grantees of DCF and the employees of the State of Vermont and report back to the committees of jurisdiction.

# Act 92 (H.399): An act relating to DCF's registry review unit

- Requires that a person seeking a review of his or her substantiation for child abuse or neglect must notify DCF in writing upon resolution of his or her related court case.
- Clarifies that the review of the substantiation is not an evidentiary hearing where witnesses testify or people can be compelled to provide testimony.
- Provides that there is no right of expungement from the Child Protection Registry for a person who is also listed on Vermont's State Sex Offender Registry.
- Expungement determination:
  - Allows the Commissioner to consider any other information he or she deems relevant in considering the expungement petition
  - Provides that a petition can be expunged solely on the basis of the number of substantiations or the nature of a substantiation.

# Act 172: Appropriations for State Government