

**S.9 (child protection) – comparison of House & Senate versions**  
**Prepared for the Committee of Conference, May 2015**

Sec. No.	House	Senate	Comments
<b>Legislative Findings</b>			
House: 1	[Text not included because the language is substantially the same in both the House and Senate versions.]	[Text not included because the language is substantially the same in both the House and Senate versions.]	Language in both versions is substantially the same. The House adds a new (b), rearranges the order of (c)(1-6), and deletes subsection (d).
<b>Evidence-Informed Models</b>			
House: 2 Senate: 19	<u>The Secretary of Human Services shall identify and utilize evidence-informed models of serving families that prioritize <b>child</b> safety and prevention <b>of child abuse and neglect</b> through early interventions with high risk families that <b>develop family strengths and reduce the impact of adverse childhood experiences.</b> The Secretary shall make recommendations in the FY2017 budget that reflect the utilization of these models.</u>	<u>The Secretary of Human Services shall identify and utilize evidence-informed models of serving families that prioritize safety and prevention through early interventions with high risk families. The Secretary shall make recommendations in the FY2017 budget that reflect the utilization of these models.</u>	Differences are highlighted in yellow.
<b>Definitions in Title 33, Chapter 49 (33 V.S.A. § 4912)</b>			
House: 3 Senate: 10	[House removes.]	(1) “Abused or neglected child” means a child whose physical health, psychological growth and development, or welfare is harmed or is at substantial risk of harm by the acts or omissions of his or her parent or other person responsible for the child’s welfare. An “abused or neglected child” also means a child who is sexually abused or at substantial risk of sexual abuse by any person <u>and a child who has died as a result of abuse or neglect.</u>	House removes the Senate language; as a result the definition of this term will remain the same as it is in current law.

Sec. No.	House	Senate	Comments
	[House removes.]	(11) “Physical injury” means <del>death or permanent or temporary disfigurement or impairment of any bodily organ or function by other than accidental means</del> <u>any impairment of physical condition by other than accidental means.</u>	House removes the Senate language; as a result the definition of this term will remain the same as it is in current law.
	(14) “Risk of harm” means a significant danger that a child will suffer <del>serious harm</del> <u>serious harm</u> by other than accidental means, <del>which harm would be likely to cause physical injury, neglect, emotional maltreatment, or sexual abuse, including as the result of:</del> <u>which harm would be likely to cause serious physical injury, neglect, emotional maltreatment, or sexual abuse, including as the result of:</u> <u>(A) a single, egregious act that has caused the child to be at significant risk of serious physical injury;</u> <u>(B) the production or preproduction of methamphetamines when a child is actually present;</u> <u>(C) failing to provide supervision or care appropriate for the child’s age or development and as a result, the child is at significant risk of serious physical injury;</u> <u>(D) failing to provide supervision or care appropriate for the child’s age or development due to use of illegal substances, or misuse of prescription drugs or alcohol;</u> <u>(E) failing to supervise appropriately a child in a situation in which drugs, alcohol, or drug paraphernalia are accessible to the child; and</u> <u>(F) a registered sex offender or person substantiated for sexually abusing a child residing with or spending unsupervised time with a child.</u>	(14) “Risk of harm” means a significant danger that a child will suffer <del>serious harm</del> by other than by accidental means, <del>which harm would be likely to cause serious physical injury, neglect, emotional maltreatment, or sexual abuse, including as the result of:</del> <u>serious physical injury, neglect, emotional maltreatment, or sexual abuse, including as the result of:</u>  <u>(A) the production or preproduction of methamphetamines when a child is actually present;</u> <u>(B) leaving a child without developmentally appropriate supervision;</u>  <u>(C) not providing developmentally appropriate supervision or care for a child due to use of illegal substances, or misuse of prescription drugs or alcohol;</u>  <u>(D) failing to supervise appropriately a child in a situation in which drugs, alcohol, or drug paraphernalia are accessible to the child; and</u> <u>(E) a registered sex offender or person substantiated for sexually abusing a child residing with or spending unsupervised time with a child.</u>	Significant differences are highlighted in yellow, and include: 1. (A) in House version is new language. 2. (C) in House version and (B) in Senate version both concern a lack of developmentally appropriate supervision. However, the House language is tied to a significant risk of serious physical injury.

Sec. No.	House	Senate	Comments
	<p>(15) “Sexual abuse” consists of any act or acts by any person involving sexual molestation or exploitation of a child, including incest, prostitution, rape, sodomy, or any lewd and lascivious conduct involving a child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child. <u>Sexual abuse also includes the viewing, possession, or transmission of child pornography, with the exclusion of the exchange of images between mutually consenting minors, including the minor whose image is exchanged.</u></p>	<p><del>(15)(A) “Sexual abuse” consists of any act or acts by any person involving sexual molestation or exploitation of a child, including incest, prostitution, rape, sodomy, or any lewd and lascivious conduct involving a child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child</del> <u>means any conduct involving a child that constitutes a potential violation of:</u></p> <p><u>(i) lewdness and prostitution in violation of 13 V.S.A. chapter 59;</u></p> <p><u>(ii) human trafficking in violation of 13 V.S.A. chapter 60;</u></p> <p><u>(iii) obscenity in violation of 13 V.S.A. chapter 63, except for violations of 13 V.S.A. § 2802b;</u></p> <p><u>(iv) sexual exploitation of children in violation of 13 V.S.A. chapter 64; or</u></p> <p><u>(v) sexual assault in violation of 13 V.S.A. chapter 72.</u></p> <p><u>(B) In determining whether to accept a report as a valid allegation of sexual abuse pursuant to section 4915 of this title, or to take any other action, the Department need not establish every element of the crimes listed in subdivision (A), and need only establish that there is a valid allegation that the conduct described in the crimes listed in subdivision (A) is alleged to have occurred and that conduct involved a child.</u></p>	<p>House version retains the current definition of “sexual abuse,” but adds language pertaining to child pornography.</p> <p>Senate version strikes the current definition and cross references sexual crimes in T.13.</p>

Sec. No.	House	Senate	Comments
	<p>(17) “Serious physical injury” means any intentional or malicious conduct that leaves a child with an injury or injuries that leave significant or permanent bodily damage or disfigurement, or both, or that leaves a child without the ability to perform normal functions of daily living.</p>	<p>(17) “Serious physical injury” means, by other than accidental means:  (A) physical injury which creates any of the following:  (i) a substantial risk of death;  (ii) a substantial loss or impairment of the function of any bodily member or organ;  (iii) a substantial impairment of health; or  (iv) substantial disfigurement; or  (B) strangulation by intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person.</p>	<p>“Serious physical injury” is not defined in current law. House definition is taken from an existing DCF policy. Senate definition modeled on the definition of “serious bodily injury” in T.13.</p>
<b>Mandated Reporters &amp; Confidentiality</b>			
<p>House: 4 Senate: 12</p>	<p>33 V.S.A. § 4913  (a) [This subsection defines who is a mandated reporter.]   (b) [Definition of “camp”.]   (c) <del>Any mandated reporter who has reasonable cause to believe that any child has been abused or neglected</del> reasonably suspects abuse or neglect of a child shall report <del>or cause a report to be made</del> in accordance with the provisions of section 4914 of this title within 24 hours of the time information regarding the suspected abuse or neglect was first received or observed.   (d)(2) Upon request, the Commissioner shall</p>	<p>[Senate did not amend (a).]   [Senate did not amend this definition.]   [Senate did not amend the standard for reporting.]   [Language in House (d)(2) is nearly identical to</p>	<p>House modifies the existing law by breaking the long list of occupations into a list. No substantive changes as to those occupations, and therefore who is a mandated reporter, or as to the definition of “camp.”   Subsection (c) in House version changes the standard for reporting to “reasonably suspects” and adds language regarding the time frame for reporting.   Language in House (d)(2)</p>

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	<p><u>provide relevant information contained in the case records concerning a person’s report to a person who:</u>  <u>(A) made the report under subsection (a) of this section; and</u>  <u>(B) is engaged in an ongoing working relationship with the child or family who is the subject of the report.</u>  <u>(3) Any information disclosed under subdivision (2) of this subsection shall not be disseminated by the mandated reporter requesting the information. A person who intentionally violates the confidentiality provisions of this section shall be fined not more than \$2,000.00.</u>  <u>(4) In providing information under subdivision (2) of this subsection, the Department may withhold information that could:</u>  <u>(A) compromise the safety of the reporter or the child or family who is the subject of the report; or</u>  <u>(B) threaten the emotional well-being of the child.</u></p>	language in Senate (b)(2).]	is nearly identical to language in Senate (b)(2). Only substantive difference is that the House adds (B), concerning the emotional well-being of a child.
House: 4a Senate: n/a	<p>33 V.S.A. § 4914  Reports shall contain the name and address or other contact information of the reporter as well as the names and addresses of the child and the parents or other persons responsible for the child’s care, if known; the age of the child; the nature and extent of the child’s injuries together with any evidence of previous abuse and neglect of the child or the child’s siblings; and any other information that <b>the reporter believes</b> might be helpful in establishing the cause of the injuries or reasons for the neglect as well as in protecting the child and assisting the family.</p>	[Senate did not amend 33 V.S.A. § 4914.]	House adds a new section to require that mandated reporters should report any information that might be helpful in protecting the child, not just information the mandated reporter “believes might” be helpful.

Sec. No.	House	Senate	Comments
<p>House: 5 Senate: 13</p>	<p>33 V.S.A. § 4921, confidentiality requirements of DCF case records</p> <p>(c) [No change to existing law.]</p> <p>(d) [No substantive change to existing law, except moves the Probate Division from (d) to (e).]</p> <p>(e) [Provides that relevant records shall be provided upon request to service providers, certain mandated reporters, certain educators, foster care givers, Family Court, Probate Court, and other governmental entities.]</p> <p>[DCF makes the determination of what information is relevant, and DCF may withhold information that could:] <u>(3)(A) compromise the safety of the reporter or the child or family who is the subject of the report; or</u> <u>(B) threaten the emotional well-being of the child.</u></p>	<p>(c) Upon request, the redacted investigation file shall be disclosed to:</p> <p>(1) the child’s parents, foster parent, or guardian, absent good cause shown by the Department, provided that the child’s parent, foster parent, or guardian is not the subject of the investigation; <del>and</del></p> <p>(2) the person alleged to have abused or neglected the child, as provided for in subsection 4916a(d) of this title; <u>and</u> <u>(3) the parents of a child residing in a home with a person alleged to have abused or neglected a child.</u></p> <p>(d) <u>Upon request</u>, Department records created under this subchapter shall be disclosed to: [The Court, parties to the juvenile proceeding, GAL, investigator, law enforcement, State’s attorney, or assistant attorney general.]</p> <p>(e) [Same as House, except includes provisions that Probate Division and Family Court could provide copies of records to the parties absent good cause shown. Also Senate version authorized other State agencies conducting related inquiries or to receive information under (e).]</p> <p>[Scope of relevant information DCF can withhold is limited to “information that could compromise the safety of the reporter or the child or family who is the subject of the report.”]</p>	<p>House removes (c)(3) of the Senate bill, which entitled parents of children living in a home with a person alleged to have abused or neglected another child to receive certain information.</p> <p>Under (d), House version reverts to existing law, which includes “upon request.”</p> <p>House removed provision that Family and Probate Courts shall provide copies of the records for the parties to a proceeding absent good cause shown. House bill authorizes DCF to withhold information that could “threaten the emotional well-being of the child.”</p>

Sec. No.	House	Senate	Comments
House: 6 Senate: 14	<p>33 V.S.A. § 5110, conduct of hearings</p> <p>(b) The general public shall be excluded from hearings under the juvenile judicial proceedings chapters, and only the parties, their counsel, witnesses, persons accompanying a party for his or her assistance, and such other persons as the Court finds to have a proper interest in the case or in the work of the Court, including a foster parent or a representative of a residential program where the child resides, may be admitted by the Court. <u>An individual without party status seeking inclusion in the hearing in accordance with this subsection may petition the Court for admittance by filing a request with the clerk of the Court.</u> This subsection shall not prohibit a victim’s exercise of his or her rights under sections 5233 and 5234 of this title, and as otherwise provided by law.</p>	[Text not included because the language is the same except for the highlighted language.]	House adds language to clarify that the judge retains discretion to admit or deny access to an individual who petitions the Court for inclusion.
<b>Emergency Care Order - Affidavit</b>			
House: 7 Senate: 15	<p>33 V.S.A. § 5302</p> <p>[Text not included because House and Senate versions are the same.]</p>		House & Senate versions identical.
<b>Temporary care order; “custody hierarchy”</b>			
House: 8 Senate: 16	<p>33 V.S.A. § 5308</p> <p style="text-align: center;">* * *</p> <p>(b) Upon a finding that <del>any of the conditions set forth in subsection (a) of this section exists</del> <u>a return home would be contrary to the best interests of the child</u>, the Court may issue such temporary orders related to the legal custody of the child as it deems necessary and sufficient <u>to protect the welfare and safety of the child, including</u>, in order of preference:</p> <p style="text-align: center;">* * *</p> <p>(e)(3) <u>If legal custody of a child is transferred to the Commissioner, the Commissioner shall provide the</u></p>	[Text not included because substantially the same except for highlighted text.]	House and Senate versions substantially the same, except for fixing a duplicate word (“custodian”) in (a)(4), and the text in subsections (b) and (e)(3) that is highlighted.

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	<p><u>child with assistance and services.</u> In his or her discretion, the Commissioner may provide assistance and services to <u>other</u> children and families to the extent that funds permit, <del>notwithstanding subdivision (2)(B) of this subsection.</del></p>		
<b>Postadoption Contact Agreements</b>			
House: 9 Senate: 7	15A V.S.A. § 1-109 [Text not included because House and Senate versions are the same.]	[Text not included because House and Senate versions are the same.]	
House: 10 Senate: 8	<p>33 V.S.A. § 5124, postadoption contact agreements <u>(b) The Court shall approve the postadoption contact agreement if:</u> * * * <u>(1)(B)(ix) the recommendation of any guardian ad litem;</u> <u>(x) the recommendation of a therapist or mental health care provider working directly with the child;</u> <u>and</u> * * *</p> <p>[Language is reorganized, but substantially the same as the Senate version.]</p> <p><u>(e) The order approving a postadoption contact agreement shall be a separate order issued before and contingent upon the final order of voluntary termination of parental rights.</u></p>	<p><u>(b) The Court may approve the postadoption contact agreement if: ...</u> * * *</p> <p>[Subsection (e) in House is (f) in Senate version.] <u>(f) The order approving a postadoption contact agreement shall be a separate order from the final order terminating parental rights.</u></p>	<p>House version changes “may” to “shall” in the section requiring a judge to use a best interest determination before granting postadoption contact. House version is reorganized and adds two additional factors to be considered in determining if the best interests of the child will be served by the postadoption contact.</p> <p>House adds language in (e) (subsection (f) in Senate version) providing timing context for when orders approving a postadoption contact agreement shall be filed.</p>

Sec. No.	House	Senate	Comments
House: 11 Senate: 9	<p>15A V.S.A. § 9-101</p> <p>[House deletes Senate subsection (a).]</p> <p>[Text not included because House and Senate versions substantially similar.]</p>	<p><u>(a) A postadoption contact agreement may be modified or terminated by agreement of the parties. The parties shall file the modified postadoption contact agreement with the Court that finalized the adoption. The Court shall review the modified agreement pursuant to the requirements of 33 V.S.A. § 5124(b), and, if approved, shall issue an order modifying the agreement.</u></p>	<p>House removed Senate subsection (a).</p> <p>House reorganizes this section and clarifies that the adoptive parents may bring a petition to modify or terminate, and the former parents may bring an action to enforce an agreement.</p>
<b>Access to Records</b>			
House: 12 Senate: n/a	<p>33 V.S.A. § 152</p> <p>(a) The Commissioner may obtain from the Vermont Crime Information Center the record of convictions of any person to the extent <u>required by law</u> or the Commissioner has determined by rule that such information is necessary to regulate a facility or individual subject to regulation by the Department <u>or to carry out the Department's child protection obligations under chapters 49–59 of this title</u>. The Commissioner shall first notify the person whose record is being requested.</p>	<p>[Senate does not amend 33 V.S.A. § 152.]</p>	<p>Grants access to criminal conviction records for purposes of carrying out DCF's child protection obligations. See the requirement in Sec. 22(b)(3) that DCF conduct criminal background checks on household members when a child is returned to the home.</p>

Sec. No.	House	Senate	Comments
House: 13 Senate: n/a	33 V.S.A. § 6911 [Authorizes Commissioner of DAIL to disclose Adult Protection Registry records to DCF for purposes of reviewing petitions for expungement from the child abuse registry.]	[Senate does not amend 33 V.S.A. § 6911.]	Grants DCF access to Adult Protection Registry records when reviewing petitions for expungement from the Child Abuse Registry.
House: 14 Senate: n/a	33 V.S.A. § 4916c, expungement from registry <u>(a)(2) A person who is required to register as a sex offender on a state’s sex offender registry shall not be eligible to petition for expungement of his or her Registry record during the period in which the person is subject to sex offender registry requirements.</u>  <u>(b)(2) Factors to be considered by the The Commissioner shall <del>include</del> consider the following factors in making his or her determination:</u> (A) the nature of the substantiation that resulted in the person’s name being placed on the Registry; (B) the number of substantiations, <del>if more than one</del> ; (C) the amount of time that has elapsed since the substantiation; (D) the circumstances of the substantiation that would indicate whether a similar incident would be likely to occur; (E) any activities that would reflect upon the person’s changed behavior or circumstances, such as therapy, employment, or education; <del>and</del> (F) references that attest to the person’s good moral character; <u>and</u> (G) <u>any other information that the Commissioner deems relevant.</u>	[Senate does not amend 33 V.S.A. § 4916c.]	Amends the statute governing expungement from the Child Abuse Registry to prohibit registered sex offenders from eligibility for expungement. Modifies the list of factors the Commissioner shall consider in his/her expungement determination to clarify that one substantiation is sufficient for consideration.

Sec. No.	House	Senate	Comments
<b>SIU's; DCF Reporting to Law Enforcement</b>			
<p>House: 15 Senate: 6</p>	<p>24 V.S.A. § 1940. <del>TASK FORCES; SPECIALIZED</del> <u>SPECIAL INVESTIGATIVE UNITS; BOARDS; GRANTS</u></p> <p>(a) Pursuant to the authority established under section 1938 of this title, and in collaboration with law enforcement agencies, investigative agencies, victims' advocates, and social service providers, the Department of State's Attorneys and Sheriffs shall coordinate efforts to provide access in each region of the <del>state</del> <u>State</u> to special investigative units <del>to investigate sex crimes, child abuse, domestic violence, or crimes against those with physical or developmental disabilities.</del> The General Assembly intends that access to special investigative units be available to all Vermonters as soon as reasonably possible, but not later than July 1, 2009 <u>which:</u></p> <p><u>(1) shall investigate:</u></p> <p><u>(A) an incident in which a child suffers, by other than accidental means, serious bodily injury as defined in 13 V.S.A. § 1021; and</u></p> <p><u>(B) potential violations of:</u></p> <p><u>(i) 13 V.S.A. § 2602 (lewd or lascivious conduct with child);</u></p> <p><u>(ii) 13 V.S.A. chapter 60 (human trafficking);</u></p> <p><u>(iii) 13 V.S.A. chapter 64 (sexual exploitation of children); and</u></p> <p><u>(iv) 13 V.S.A. chapter 72 (sexual assault); and</u></p> <p><u>(v) 13 V.S.A. § 1379 (sexual abuse of a vulnerable adult); and</u></p> <p><u>(2) may investigate:</u></p> <p><u>(A) an incident in which a child suffers:</u></p> <p><u>(i) bodily injury, by other than accidental means, as defined in 13 V.S.A. § 1021; or</u></p> <p><u>(ii) death;</u></p>	<p>24 V.S.A. § 1940 is amended to read:</p> <p>§ 1940. <del>TASK FORCES; SPECIALIZED</del> <u>SPECIAL INVESTIGATIVE UNITS; BOARDS; GRANTS</u></p> <p>(a) Pursuant to the authority established under section 1938 of this title, and in collaboration with law enforcement agencies, investigative agencies, victims' advocates, and social service providers, the Department of State's Attorneys and Sheriffs shall coordinate efforts to provide access in each region of the <del>state</del> <u>State</u> to special investigative units <del>to investigate sex crimes, child abuse, domestic violence, or crimes against those with physical or developmental disabilities.</del> The General Assembly intends that access to special investigative units be available to all Vermonters as soon as reasonably possible, but not later than July 1, 2009 <u>which:</u></p> <p><u>(1) shall investigate:</u></p> <p><u>(A) an incident in which a child suffers, by other than accidental means, serious bodily injury as defined in 13 V.S.A. § 1021; and</u></p> <p><u>(B) potential violations of:</u></p> <p><u>(i) 13 V.S.A. § 2602;</u></p> <p><u>(ii) 13 V.S.A. chapter 60;</u></p> <p><u>(iii) 13 V.S.A. chapter 64; and</u></p> <p><u>(iv) 13 V.S.A. chapter 72; and</u></p> <p><u>(2) may investigate:</u></p> <p><u>(A) an incident in which a child suffers:</u></p> <p><u>(i) bodily injury, by other than accidental means, as defined in 13 V.S.A. § 1021; or</u></p> <p><u>(ii) death; and</u></p>	<p>Differences highlighted in yellow. Only substantive changes are that the House adds language that SIUs:</p> <ol style="list-style-type: none"> <li>1. shall investigate violations of 13 V.S.A. § 1379 (sexual abuse of a vulnerable adult);</li> <li>2. may investigate an incident involving potential domestic violence or crimes against those with physical or developmental disabilities.</li> </ol> <p>The House also deletes the Senate cross reference to 13 V.S.A. § 1304a, the failure to protect crime.</p>

Sec. No.	House	Senate	Comments
	<p>(B) potential violations of:            (i) 13 V.S.A. § 2601 (<b>lewd and lascivious conduct</b>);            (ii) 13 V.S.A. § 2605 (<b>voyeurism</b>); and            (iii) 13 V.S.A. § 1304 (<b>cruelty to a child</b>); and            (C) <b>an incident involving potential domestic violence or crimes against those with physical or developmental disabilities.</b></p> <p>(b) – (d) [Concerns the organization and funding of SIUs. Same in both House and Senate versions.]</p>	<p>(B) potential violations of:            (i) 13 V.S.A. § 2601;            (ii) 13 V.S.A. § 2605;            (iii) 13 V.S.A. § 1304; and            (iv) 13 V.S.A. § 1304a.</p>	<p>Subsections (b), (c) and (d) are the same in both House and Senate versions.</p>
<p>House: 16 Senate: n/a</p>	<p>33 V.S.A. § 4915b</p> <p>[Language concerning what DCF reports to law enforcement is currently in this statute. The House version strikes this language, and amends 33 V.S.A. § 4915 instead.]</p>	<p>[The Senate version amended this statute. The text from the Senate version is below for ease of comparison.]</p>	<p>House removes language pertaining to what DCF reports to law enforcement from § 4915b, and places in § 4915.</p>
<p>House: 17 Senate: 11</p>	<p>Sec. 17. 33 V.S.A. § 4915 is amended to read:            § 4915. ASSESSMENT AND INVESTIGATION            * * *</p> <p>(g) The Department shall report to and <b>receive</b> assistance from law enforcement in the following circumstances:            (1) <b>investigations of child sexual abuse by an alleged perpetrator 10 years of age or older;</b>            (2) <b>investigations of serious physical abuse or neglect requiring emergency medical care, resulting in death, or likely to result in criminal charges; and</b>            (3) <b>situations potentially dangerous to the child or Department worker.</b>            (h) <b>The Department shall report to the appropriate special investigations unit any valid allegation ... concerning</b> an incident in which a child suffers, by other than accidental means:            (1) <b>serious bodily injury as defined in 13 V.S.A. §</b></p>	<p>Sec. 11. 33 V.S.A. § 4915b(e) is amended to read:</p> <p>(e) The Department:            (1) shall report to and request assistance from law enforcement in the following circumstances:            (1) <del>investigations of child sexual abuse by an alleged perpetrator age 10 or older;</del>            (2) <del>investigations of serious physical abuse or neglect likely to result in criminal charges or requiring emergency medical care</del></p> <p>(A) <u>an incident in which a child suffers, by other than accidental means, serious bodily injury as defined in 13 V.S.A. § 1021; and</u></p>	<p>Differences are highlighted, and significant ones include:            1. Senate struck language in (1) and (2), and House unstruck this language.            2. House requires law enforcement to provide assistance in situations potentially dangerous to a child or social worker. The Senate version states that DCF “may report and request assistance from law enforcement” in such situations.            3. House differentiates between situations in</p>

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	<p>1021; and  <u>(2) potential violations of:</u>  <u>(A) 13 V.S.A. § 2602 (lewd or lascivious conduct with child);</u>  <u>(B) 13 V.S.A. chapter 60 (human trafficking);</u>  <u>(C) 13 V.S.A. chapter 64 (sexual exploitation of children); and</u>  <u>(D) 13 V.S.A. chapter 72 (sexual assault).</u></p>	<p><u>(B) potential violations of:</u>  <u>(i) 13 V.S.A. § 2602;</u>  <u>(ii) 13 V.S.A. chapter 60;</u>  <u>(iii) 13 V.S.A. chapter 64; and</u>  <u>(iv) 13 V.S.A. chapter 72; and</u></p> <p><u>(3) may report to and request assistance from law enforcement when appropriate, including:</u>  <u>(A) an incident in which a child suffers:</u>  <u>(i) bodily injury, by other than accidental means, as defined in 13 V.S.A. § 1021; or</u>  <u>(ii) death; and</u>  <u>(B) potential violations of:</u>  <u>(i) 13 V.S.A. § 2601;</u>  <u>(ii) 13 V.S.A. § 2605;</u>  <u>(iii) 13 V.S.A. § 1304; and</u>  <u>(iv) 13 V.S.A. § 1304a.</u>  <del>(3)(C)</del> <u>situations potentially dangerous to the child or Department worker.</u></p>	<p>which DCF “shall” report to law enforcement, and situations in which DCF “shall” report to an SIU. In the later situation, only “valid allegations” (i.e. allegations DCF has “accepted” as warranting an assessment or investigation) need be reported, and only if non-accidental.                      4. Senate includes language regarding incidents DCF “may” report to law enforcement; House does not.</p>
<p>House: 18-21                      Senate: n/a</p>	<p>[Sections 18, 19, 20, and 21 deleted.]</p>		

Sec. No.	House	Senate	Comments
<p>House: 22 Senate: 18</p>	<p>Session Law  <u>(a) The Commissioner for Children and Families shall:</u>            (1) ensure that Family Services Division policies, procedures, and practices are <b>consistent with the best interests of the child</b> and are consistent with statute;            (2) ensure that Family Services Division policies, procedures, and practices are consistent with each other and are applied in a consistent manner, in all Department offices and in all regions of the State;            (3) develop metrics as to the appropriate case load for social workers in the Family Services Division that take into account the experience and training of a social worker, the number of families and the total number of children a social worker is responsible for, and the acuity or difficulty of cases;  <u>(4) ensure that all Family Services Division employees receive training on:</u>  <u>(A) relevant policies, procedures, and practices; and</u>  <u>(B) the employees' legal responsibilities and obligations;</u>             (5) develop policies, procedures, and practices to:</p>	<p><b>DCF Policies</b>  <u>(a) The Commissioner for Children and Families shall:</u>            (1) ensure that policies, procedures, and practices are consistent, and are applied in a consistent manner, in all Department offices and in all regions of the State;            (2) ensure that policies, procedures, and practices are consistent with statute;            (3) develop metrics as to the appropriate case load for social workers in the Family Services Division that take into account the experience and training of a social worker, the number of families and the total number of children a social worker is responsible for, and the acuity or difficulty of cases;            (4) ensure that all employees assigned to carry out investigations have training or experience in conducting investigations and have a Master's degree in social work or an equivalent degree, or relevant experience;  <u>(5) determine how to improve data sharing between the Department, courts, treatment providers, the Agency of Education, and other branches, departments, agencies, and persons involved in protecting children from abuse and neglect, including:</u>  <u>(A) determine the data that should be shared between parties;</u>  <u>(B) investigate regulatory requirements and security parameters;</u>  <u>(C) investigate the potential costs of creating a platform to share data; and</u>  <u>(D) make recommendations to address these issues and to improve the system for protecting children from abuse and neglect.</u>            (6) develop policies, procedures, and practices to:</p>	<p>House version breaks out duties into "shall do" under (a), and "do within available resources" under (b).             House version added requirement that FSD employees receive certain training.             House version removed requirement that DCF determine how to improve data sharing in Senate version (a)(5).</p>

Sec. No.	House	Senate	Comments
	<p><u>(A) ensure the consistent sharing of information, in a manner that complies with statute, treatment providers, courts, State’s Attorneys, guardians ad litem, law enforcement, and other relevant parties;</u></p> <p><u>(B) encourage treatment providers and all agencies, departments, and other persons that support recovery to provide regular treatment progress updates to the Commissioner;</u></p> <p><u>(C) ensure that courts have all relevant information in a timely fashion, and that Department employees file paperwork and reports in a timely manner;</u></p> <p><u>(D) require that the Family Services Division assess a child’s safety if:</u>  <u>(i) the child remains in a home from which other children have been removed; or</u>  <u>(ii) the child remains in the custody of a parent or guardian whose parental rights as to another child have been terminated;</u></p> <p><u>(E) improve information sharing with mandatory reporters who have an ongoing relationship with a child;</u></p> <p><u>(F) ensure that mandatory reporters are informed that any confidential information they may receive cannot be disclosed to a person who is not authorized to receive that information;</u></p>	<p><u>(A) ensure the consistent sharing of information, in a manner that complies with statute, with law enforcement, treatment providers, courts, State’s Attorneys, guardians ad litem, and other relevant parties;</u></p> <p><u>(B) encourage law enforcement, treatment providers, and all agencies, departments, and other persons that support recovery to provide regular treatment progress updates to the Commissioner;</u></p> <p><u>(C) ensure that courts have all relevant information in a timely fashion, and that Department employees file paperwork and reports in a timely manner;</u></p> <p><u>(D) require increased monitoring of a child’s safety if:</u>  <u>(i) other children have been removed from the same home or the parent or guardian’s parental rights as to another child have been terminated; or</u>  <u>(ii) the child is returned to a home from which other children have been removed;</u></p> <p><u>(E) require that all persons living in a household, or that will have child care responsibilities, will be assessed for criminal history and potential safety risks whenever a child who has been removed from a home is returned to that home;</u></p> <p><u>(F) increase the number of required face-to-face meetings between social workers and children;</u></p> <p><u>(G) increase the number of required home visits and require unannounced home visits;</u></p> <p><u>(H) improve information sharing with mandatory reporters who have an ongoing relationship with a child;</u></p> <p><u>(I) ensure that mandatory reporters are informed that any confidential information they may receive cannot be disclosed to a person who is not authorized to receive that information;</u></p>	<p>Slight variation in House and Senate versions of (6)(D), requiring child safety assessments in certain instances. Note that House version also requires DCF to develop 6 month supervision period when child returned home under (a)(7).</p> <p>Note that (6)(E) – (G) in Senate version moved to “do within available resources under (b) in House version.</p>

Sec. No.	House	Senate	Comments
	<p><u>(G) ensure all parties authorized to receive confidential information are informed of their right to receive that information; and</u>  <u>(H) apply results-based accountability or other data-based quality measures to determine if children who receive services from the Family Services Division in different areas of the State have different outcomes and the reasons for those differences;</u>  <u>(6) ensure that all employees assigned to carry out investigations of child abuse and neglect have training or experience in conducting investigations and have a master’s degree in social work or an equivalent degree, or relevant experience; and</u>  <u>(7) by September 30, 2015, develop and implement a Family Services Division policy requiring a six-month supervision period by the Department after a child is returned to the home from which he or she was removed due to abuse or neglect.</u>  <u>(b) The Commissioner for Children and Families shall, within available resources, develop a plan to implement the following policies, procedures, and practices, including identifying potential costs to:</u>  <u>(1) increase the number of required face-to-face meetings between Family Services Division social workers and children;</u>  <u>(2) increase the number of required home visits and require unannounced home visits by Family Services Division social workers; and</u>  <u>(3) require that all persons living in a household, or that will have child care responsibilities, will be assessed for criminal history and potential safety risks whenever a child who has been removed from a home is returned to that home.</u></p>	<p><u>(J) ensure all parties authorized to receive confidential information are aware of their right to receive that information; and</u>  <u>(K) apply results-based accountability or other data-based quality measures to determine if children in different areas of the State have different outcomes and the reasons for those differences.</u></p>	<p>House version requires Commissioner to submit a written response by September 30th, 2015; Senate version requires Commissioner to submit written response by September 1, 2015.</p>

Sec. No.	House	Senate	Comments
<b>Legislative Oversight Committee</b>			
House: 23 Senate: 17	<p><u>(a) Creation. There is created a Joint Legislative Child Protection Oversight Committee.</u></p> <p><u>(b) Membership. The Committee shall be composed of the following six members, who shall be appointed each biennial session of the General Assembly:</u></p> <p style="text-align: center;">* * *</p> <p><u>(c) Powers and duties.</u></p> <p style="text-align: center;">* * *</p> <p><u>(1)(A)(v) evaluating whether licensed mandatory reporters should be required to certify that they completed training on the requirements set forth under 33 V.S.A. § 4913; and</u></p> <p style="text-align: center;">* * *</p>	<p>[Text not included because substantially the same except for highlighted text.]</p>	<p>Language in House and Senate versions substantially the same, significant differences include:</p> <ol style="list-style-type: none"> <li>1. House decreases membership to six;</li> <li>2. House adds (v), concerning certification on training under 33 V.S.A. § 4913, the mandatory reporter statute.</li> </ol>
<b>CHINS Working Group</b>			
House: 24 Senate: 20	<p>[Text for subsection (a) not included because substantially the same in both the House and Senate versions.]</p> <p><u>(b) Membership. The Working Group shall be composed of the following members:</u></p> <p style="text-align: center;">* * *</p> <p><u>(6) a guardian ad litem who shall be appointed by the Chief Superior Judge.</u></p> <p><u>(c) Powers and duties. The Working Group shall study and make recommendations concerning:</u></p> <p><u>(1) how to ensure that statutory time frames are met in 90 percent of proceedings;</u></p> <p><u>(2) how to ensure that attorneys, judges, and guardians ad litem appear on time and are prepared;</u></p> <p><u>(3) how to monitor and improve the performance and work quality of attorneys, judges, and guardians ad litem;</u></p> <p><u>(4) how to ensure that there is a sufficient number of attorneys available to handle all CHINS cases, in</u></p>	<p><u>(b) Membership...</u></p> <p style="text-align: center;">* * *</p> <p><u>(6) a guardian ad litem who shall be appointed jointly by the President Pro Tempore of the Senate and the Speaker of the House.</u></p> <p><u>(c) Powers and duties. The Working Group shall study and make recommendations concerning:</u></p> <p><u>(1) the reasons that statutory time frames are not met and how to ensure that statutory time frames are met in 90 percent of proceedings;</u></p> <p><u>(2) how to ensure that attorneys, judges, and guardians ad litem appear on time and are prepared;</u></p> <p><u>(3) how to monitor and improve the performance and work quality of attorneys, judges, and guardians ad litem;</u></p> <p><u>(4) how to ensure that there is a sufficient number of</u></p>	

Sec. No.	House	Senate	Comments
	<p><u>all regions of the State, in a timely manner;</u>  <u>(5) the role of guardians ad litem, and how to ensure their information is presented to, and considered by, the court;</u>  <u>(6) how to expedite a new proceeding that concerns a family with repeated contacts with the child protection system;</u>  <u>(7) whether the adoption of American Bar Association standards for attorneys who work in the area of child abuse and neglect would be appropriate;</u>  <u>(8) the feasibility of creating a statewide Family Drug Treatment Court initiative to improve substance abuse treatment and child welfare outcomes;</u>  <u>(9) whether requiring a reunification hearing would improve child welfare outcomes;</u>  <u>(10) how and whether to provide financial assistance to individuals seeking to mediate a dispute over a postadoption contact agreement;</u>  <u>(11) how and whether to change the confidentiality requirements for juvenile judicial proceedings under 33 V.S.A. chapter 53;</u>  <u>(12) best practices regarding representation of children in juvenile judicial proceedings; and</u>  <u>(13) any other issue the Working Group determines is relevant to improve the efficiency, timeliness, process, and results of CHINS proceedings.</u>  <p style="text-align: center;">* * *</p> <u>(e) Report. On or before November 1, 2015, the Working Group shall provide a report on its findings and recommendations with respect to subdivisions (c)(1)–(5) of this section to the Joint Legislative Child Protection Oversight Committee, the House</u> </p>	<p><u>attorneys available to handle all CHINS cases, in all regions of the State, in a timely manner;</u>  <u>(5) the role of guardians as litem, and how to ensure their information is presented to, and considered by, the court;</u>  <u>(6) how to ensure that once a child is returned to his or her family, the court or the Department for Children and Families, may continue to monitor the child and family where appropriate, and how to expedite a new proceeding that concerns a family with repeated contacts with the child protection system;</u>  <u>(7) whether the adoption of American Bar Association standards for attorneys who work in the area of child abuse and neglect would be appropriate;</u>    <u>(8) how and whether to provide financial assistance to individuals seeking to mediate a dispute over a postadoption contact agreement; and</u>    <u>(9) any other issue the Working Group determines is relevant to improve the efficiency, timeliness, process, and results of CHINS proceedings.</u>  <p style="text-align: center;">* * *</p> <u>(e) Report. On or before November 1, 2015, the Working Group shall report its findings and recommendations to the Joint Legislative Child Protection Oversight Committee, the House Committees on Human Services and on Judiciary, and</u> </p>	

Sec. No.	House	Senate	Comments
	<p><u>Committees on Human Services and on Judiciary, and the Senate Committees on Health and Welfare and on Judiciary. On or before November 1, 2016, the Working Group shall report its findings and recommendations with respect to subdivisions (c)(6)-(13) of this section to the same Committees.</u></p> <p><u>(f) Meetings and sunset.</u></p> <p><u>(1) The Attorney General or designee shall call the first meeting of the Working Group.</u></p> <p><u>(2) The Working Group shall select a chair from among its members at the first meeting.</u></p> <p><u>(3) The Working Group shall cease to exist on November 2, 2016.</u></p>	<p><u>the Senate Committees on Health and Welfare and on Judiciary.</u></p> <p style="text-align: center;">* * *</p> <p><u>(f) Meetings and sunset.</u></p> <p style="text-align: center;">* * *</p> <p><u>(3) The Working Group shall cease to exist on November 2, 2015.</u></p>	
<b>Effective Dates</b>			
<p>House: 25 Senate: 21</p>		<p><u>This act shall take effect on July 1, 2015, except for this section, Sec. 17 (Joint Legislative Child Protection Oversight Committee) and Sec. 18 (Department for Children and Families; policies, procedures, and practices) which shall take effect on passage.</u></p>	

Sec. No.	House	Senate	Comments
<b>Sections in Senate "As Passed" That Were Removed by House</b>			
House: n/a Senate: 2	[Removed by House.]	<p>13 V.S.A. § 1304. <del>CRUELTY TO CHILDREN UNDER 10 BY ONE OVER 16</del> <u>A CHILD</u></p> <p>A person over <del>the age of</del> 16 years <u>of age</u>, having the custody, <del>charge</del> or care of a child <del>under 10 years of age</del>, who <del>willfully</del> <u>willfully</u> assaults, <del>ill treats</del>, neglects, or abandons <del>or exposes such the</del> child, or causes <del>or procures such the</del> child to be assaulted, <del>ill treated</del>, neglected, <del>or abandoned or exposed</del>, in a manner to cause <del>such the</del> child unnecessary suffering, or to endanger his or her health, shall be imprisoned not more than two years or fined not more than \$500.00, or both.</p>	
House: n/a Senate: 3	[Removed by House.]	<p>13 V.S.A. § 1304a. <u>FAILURE TO PROTECT A CHILD</u></p> <p><u>(a) A person having the custody or care of a child commits the crime of failure to protect a child if:</u></p> <p><u>(1) the person knows, or reasonably should have known that the child is in danger of:</u></p> <p><u>(A) death;</u></p> <p><u>(B) serious bodily injury as defined in section 1021 of this title;</u></p> <p><u>(C) lewd or lascivious conduct with a child in violation of section 2602 of this title;</u></p> <p><u>(D) sexual exploitation of children in violation of chapter 64 of this title; or</u></p> <p><u>(E) sexual assault in violation of chapter 72 of this title; and</u></p> <p><u>(2) the person fails to act to prevent a child from suffering any of the possible outcomes as set forth in subdivision (1) of this subsection; and</u></p> <p><u>(3) the person's failure to act is a proximate cause of the child suffering any of the possible outcomes as set forth in subdivision (1) of this subsection.</u></p> <p><u>(b) It shall be an affirmative defense to this section, if</u></p>	

Sec. No.	House	Senate	Comments
		<p><u>proven by a preponderance of the evidence, that:</u>  <u>(1) the defendant failed to act because of a reasonable fear that he or she or another person would suffer death, bodily injury, or serious bodily injury as defined in section 1021 of this title, or sexual assault in violation of chapter 72 of this title as a result of acting to prevent harm to the child; or</u>  <u>(2) where the child's injury or death resulted from a lack of medical treatment or care, the defendant made a reasonable decision to not seek medical care or to withhold medical treatment.</u>  <u>(c) A person who violates this section shall be imprisoned not more than ten years or fined not more than \$20,000.00, or both.</u>  <u>(d) The provisions of this section shall not limit or restrict prosecutions for any other offense arising out of the same incident or conduct.</u></p>	
House: n/a Senate: 4	[Removed by House.]	<p>18 V.S.A. § 4236. MANUFACTURE OR CULTIVATION  <u>(a)(1) A person knowingly and unlawfully manufacturing or cultivating a regulated drug shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both.</u>  <u>(2) A person who violates subdivision (1) of this subsection shall be imprisoned for not more than 30 years or fined not more than \$1,500,000.00, or both, if:</u>  <u>(A) the regulated drug is methamphetamine; and</u>  <u>(B) a child is actually present at the site of methamphetamine manufacture or attempted manufacture.</u>  <u>(b) This section shall not apply to the cultivation of marijuana.</u></p>	

Sec. No.	House	Senate	Comments
House: n/a Senate: 5	[Removed by House.]	<p>JUDICIAL BRANCH REPORT ON PROSECUTIONS, CONVICTIONS, AND SENTENCES PURSUANT TO 13 V.S.A. § 1304a</p> <p><u>The Judicial Branch shall track all prosecutions and convictions pursuant to 13 V.S.A. § 1304a, and, on January 15, 2018, shall report to the House and Senate Committees on Judiciary concerning:</u></p> <p><u>(1) the number of arrests, prosecutions, and convictions pursuant to 13 V.S.A. § 1304a;</u></p> <p><u>(2) the disposition of all cases prosecuted pursuant to 13 V.S.A. § 1304a;</u></p> <p><u>(3) the sentence imposed for all convictions pursuant to 13 V.S.A. § 1304a; and</u></p> <p><u>(4) Any other data or information that the Judicial Branch deems relevant.</u></p>	