

1 [Note: Changes to S.9 “as passed” by the Senate, and different options, are  
2 highlighted in yellow. Technical corrections that the committee did not  
3 discuss, but may want to consider including in any potential strike all  
4 amendment are highlighted in turquoise.]

5  
6 TO THE HOUSE OF REPRESENTATIVES:

7 The Committee on Human Services to which was referred Senate Bill No. 9  
8 entitled “An act relating to improving Vermont’s system for protecting  
9 children from abuse and neglect” respectfully reports that it has considered the  
10 same and recommends that the House propose to the Senate that the bill be  
11 amended by striking out all after the enacting clause and inserting in lieu  
12 thereof the following:

13 \* \* \* Legislative Findings \* \* \*

14 Sec. 1. LEGISLATIVE FINDINGS

15 (a) In 2014, the tragic deaths of two children exposed problems with  
16 Vermont’s system intended to protect children from abuse and neglect. This  
17 act is intended to address these problems and implement the recommendations  
18 of the Joint Legislative Committee on Child Protection created by 2014 Acts  
19 and Resolves No. 179, Sec. C.109.

20 (b) To better prevent child abuse and neglect, Vermont must invest in  
21 proven strategies to support and strengthen families.

1        (c) To better protect Vermont’s children from abuse and neglect, and to  
2        address the increasing burden of drug abuse and other factors that are ripping  
3        families apart, the General Assembly believes that our State’s child protection  
4        system must be **focused on the safety and best interests of children,**  
5        comprehensive, and properly funded. This system must ensure that:

6            (1) the dedicated frontline professionals, **including guardians ad litem,**  
7        who struggle to handle the seemingly ever-increasing caseloads have the  
8        support, training, and resources necessary to do their job;

9            (2) **[moved up, formerly #6]** children who have suffered abuse and  
10       neglect can find safe, nurturing, and permanent homes, whether with their  
11       custodial parents, relatives, or other caring families and individuals;

12           (3) the most serious cases of abuse are thoroughly investigated and  
13       prosecuted if appropriate;

14           (4) courts have the information and tools necessary to make the best  
15       possible decisions;

16           (5) all participants in the child protection system, from the frontline  
17       caseworker to the judge determining ultimate custody, work together to  
18       prioritize the child’s safety and best interests; and

19           (6) an effective oversight structure is established.

20        (d) This act is only the beginning of what must be an ongoing process in  
21       which the House and Senate Committees on Judiciary, the Senate Committee

1 on Health and Welfare, the House Committee on Human Services, in  
2 consultation with the Senate and House Committees on Appropriations,  
3 continue to enhance the statewide approach to the prevention of child abuse  
4 and neglect.

5 (e) In 2014, the tragic deaths of two children exposed problems with  
6 Vermont’s child protection system. The General Assembly believes that this  
7 act will begin to address these problems, improve our State’s system for  
8 protecting our children, and help prevent future tragedies.

9 \* \* \* Agency of Human Services; Evidence-Informed Models \* \* \*

10 Sec. 2. [option #1] AGENCY OF HUMAN SERVICES;

11 EVIDENCE-INFORMED MODELS

12 The Secretary of Human Services shall identify and utilize  
13 evidence-informed models of serving families that prioritize safety and  
14 prevention through early interventions with high risk families. The Secretary  
15 shall make recommendations in the FY2017 budget that reflect the utilization  
16 of these models.

17 Sec. 2. [option #2] AGENCY OF HUMAN SERVICES;

18 EVIDENCE-INFORMED MODELS

19 The Secretary of Human Services shall identify and utilize  
20 evidence-informed models, including the Strengthening Families Protective  
21 Factors Framework, of serving families that prioritize safety and prevention

1 through early interventions with high risk families. **Consideration of models**  
2 **should prioritize opportunities that reduce the impact of adverse childhood**  
3 **experiences.** The Secretary shall make recommendations in the FY2017  
4 budget that reflect the utilization of these models.

5 Sec. 2. **[option #3]** AGENCY OF HUMAN SERVICES;

6 EVIDENCE-INFORMED MODELS

7 The Secretary of Human Services shall identify and utilize  
8 evidence-informed models of serving families that prioritize safety and  
9 prevention through early interventions with high risk families **that build on**  
10 **strengths.** The Secretary shall make recommendations in the FY2017 budget  
11 that reflect the utilization of these models.

12 \* \* \* Human Services; Child Welfare Services; Definitions \* \* \*

13 Sec. 3. 33 V.S.A. § 4912 is amended to read:

14 § 4912. DEFINITIONS

15 As used in this subchapter:

16 \* \* \*

17 (14) **[option #1]** “Risk of harm” means a significant danger that a child  
18 will suffer ~~serious harm~~ by other than ~~by~~ accidental means, ~~which harm would~~  
19 ~~be likely to cause~~ serious physical injury, ~~neglect, emotional maltreatment,~~ or  
20 sexual abuse, including as the result of:

1           (A) the production or preproduction of methamphetamines when a  
2 child is actually present;

3           (B) leaving a child without developmentally appropriate supervision;

4           (C) not providing developmentally appropriate supervision or care  
5 for a child due to use of illegal substances, or misuse of prescription drugs or  
6 alcohol;

7           (D) failing to supervise appropriately a child in a situation in which  
8 drugs, alcohol, or drug paraphernalia are accessible to the child; and

9           (E) a registered sex offender or person substantiated for sexually  
10 abusing a child residing with or spending unsupervised time with a child.

11           (14) [option #2 – submitted by DCF, committee has not reviewed] “Risk  
12 of harm” means a significant danger that a child will suffer serious harm by  
13 other than accidental means, which harm would be likely to cause physical  
14 injury, neglect, emotional maltreatment, or sexual abuse, including as the  
15 result of:

16           (A) a single, egregious act that has caused the child to be at  
17 significant risk of serious physical injury;

18           (B) the production or preproduction of methamphetamines when a  
19 child is actually present;

20           (C) leaving a child without developmentally appropriate supervision  
21 and as a result, the child is at significant risk of serious physical injury;

1           (D) not providing developmentally appropriate supervision or care  
2           for a child due to use of illegal substances, or misuse of prescription drugs or  
3           alcohol;

4           (E) failing to supervise appropriately a child in a situation in which  
5           drugs, alcohol, or drug paraphernalia are accessible to the child; and

6           (F) a registered sex offender or person substantiated for sexually  
7           abusing a child residing with or spending unsupervised time with a child.

8                           \* \* \* Confidentiality \* \* \*

9           Sec. 4. 33 V.S.A. § 4913 is amended to read:

10           § 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL  
11           ACTION

12           (a) Any physician, surgeon, osteopath, chiropractor, or physician assistant  
13           licensed, certified, or registered under the provisions of Title 26, any resident  
14           physician, intern, or any hospital administrator in any hospital in this State,  
15           whether or not so registered, and any registered nurse, licensed practical nurse,  
16           medical examiner, emergency medical personnel as defined in 24 V.S.A.  
17           § 2651(6), dentist, psychologist, pharmacist, any other health care provider,  
18           child care worker, school superintendent, headmaster of an approved or  
19           recognized independent school as defined in 16 V.S.A. § 11, school teacher,  
20           student teacher, school librarian, school principal, school guidance counselor,  
21           and any other individual who is employed by a school district or an approved

1 or recognized independent school, or who is contracted and paid by a school  
2 district or an approved or recognized independent school to provide student  
3 services, mental health professional, social worker, probation officer, any  
4 employee, contractor, and grantee of the Agency of Human Services who have  
5 contact with clients, police officer, camp owner, camp administrator, camp  
6 counselor, or member of the clergy who has reasonable cause to believe that  
7 any child has been abused or neglected shall report ~~or cause a report to be~~  
8 ~~made~~ in accordance with the provisions of section 4914 of this title within  
9 24 hours. As used in this subsection, “camp” includes any residential or  
10 nonresidential recreational program.

11 (b)(1) The Commissioner shall inform the person who made the report  
12 under subsection (a) of this section:

13 ~~(1)(A)~~ whether the report was accepted as a valid allegation of abuse or  
14 neglect;

15 ~~(2)(B)~~ whether an assessment was conducted and, if so, whether a need  
16 for services was found; and

17 ~~(3)(C)~~ whether an investigation was conducted and, if so, whether it  
18 resulted in a substantiation.

19 (2) Upon request, the Commissioner shall provide relevant information  
20 contained in the case records concerning a person’s report to a person who:

21 (A) made the report under subsection (a) of this section; and

1           (B) is engaged in an ongoing working relationship with the child or  
2 family who is the subject of the report.

3           (3) Any information disclosed under subdivision (2) of this subsection  
4 shall not be disseminated by the mandated reporter requesting the information.

5 A person who intentionally violates the confidentiality provisions of this  
6 section shall be fined not more than \$2,000.00.

7           (4) In providing information under subdivision (2) of this subsection, the  
8 Department may withhold information that could compromise the safety of the  
9 reporter or the child or family who is the subject of the report.

10                               \* \* \*

11           Sec. 5. 33 V.S.A. § 4921 is amended to read:

12           § 4921. DEPARTMENT’S RECORDS OF ABUSE AND NEGLECT

13           (a) The Commissioner shall maintain all records of all investigations,  
14 assessments, reviews, and responses initiated under this subchapter. The  
15 Department may use and disclose information from such records in the usual  
16 course of its business, including to assess future risk to children, to provide  
17 appropriate services to the child or members of the child’s family, or for other  
18 legal purposes.

19           (b) The Commissioner shall promptly inform the parents, if known, or  
20 guardian of the child that a report has been accepted as a valid allegation  
21 pursuant to subsection 4915(b) of this title and the Department’s response to



1 the report. The Department shall inform the parent or guardian of his or her  
2 ability to request records pursuant to subsection (c) of this section. This  
3 section shall not apply if the parent or guardian is the subject of the  
4 investigation.

5 (c) Upon request, the redacted investigation file shall be disclosed to:

6 (1) the child's parents, foster parent, or guardian, absent good cause  
7 shown by the Department, provided that the child's parent, foster parent, or  
8 guardian is not the subject of the investigation; ~~and~~

9 (2) the person alleged to have abused or neglected the child, as provided  
10 for in subsection 4916a(d) of this title; and

11 (3) the parents of a child residing in a home with a person alleged to  
12 have abused or neglected a child.

13 (d) **Upon request,** Department records created under this subchapter shall  
14 be disclosed to:

15 (1) the ~~court~~ Court, parties to the juvenile proceeding, and the child's  
16 guardian ad litem if there is a pending juvenile proceeding or if the child is in  
17 the custody of the Commissioner;

18 (2) the Commissioner or person designated by the Commissioner to  
19 receive such records;

20 (3) persons assigned by the Commissioner to conduct  
21 investigations; and

1 (4) law enforcement officers engaged in a joint investigation with the  
2 Department, an ~~assistant attorney general~~ Assistant Attorney General, or a  
3 ~~state's attorney;~~ State's Attorney.

4 (5) ~~other State agencies conducting related inquiries or proceedings; and~~  
5 [Repealed.]

6 (6) ~~a Probate Division of the Superior Court involved in guardianship~~  
7 ~~proceedings. The Probate Division of the Superior Court shall provide a copy~~  
8 ~~of the record to the respondent, the respondent's attorney, the petitioner, the~~  
9 ~~guardian upon appointment, and any other individual, including the proposed~~  
10 ~~guardian, determined by the Court to have a strong interest in the welfare of~~  
11 ~~the respondent.~~ [Repealed.]

12 (e)(1) Upon request, relevant Department records created under this  
13 subchapter ~~may~~ shall be disclosed to:

14 (A) ~~service providers working with a person or child who is the~~  
15 ~~subject of the report; and~~ A person, agency, or organization, including a  
16 multidisciplinary team empaneled under section 4917 of this title, authorized to  
17 diagnose, care for, treat, or supervise a child or family who is the subject of a  
18 report or record created under this subchapter, or who is responsible for the  
19 child's health or welfare.

20 (B) Health and mental health care providers working directly with the  
21 child or family who is the subject of the report or record.

1           (C) Educators working directly with the child or family who is the  
2           subject of the report or record.

3           (D) Licensed or approved foster care givers for the child.

4           (E) Mandated reporters as defined by section 4913 of this subchapter,  
5           making a report in accordance with the provisions of section 4914 of this  
6           subchapter and engaging in an ongoing working relationship with the child or  
7           family who is the subject of the report.

8           (F) Other State agencies conducting related inquiries or proceedings.

9           (G) A Family Division of the Superior Court involved in custody  
10          proceedings for a child who is the subject of a CHINS proceeding. [Removed  
11          requirement that absent good cause shown by the Court, the Court shall  
12          provide copies to parties to the proceeding.]

13          (H) A Probate Division of the Superior Court involved in  
14          guardianship proceedings. The Probate Division of the Superior Court shall,  
15          absent good cause shown by the Court, provide a copy of the record to the  
16          respondent, the respondent's attorney, the petitioner, the guardian upon  
17          appointment, and any other individual, including the proposed guardian,  
18          determined by the Court to have a strong interest in the welfare of the  
19          respondent.

20          (I) ~~other~~ Other governmental entities for purposes of child protection.

1 (2) Determinations of relevancy shall be made by the Department. In  
2 providing records under this subsection (e), the Department may withhold  
3 information that could compromise the safety of the reporter or the child or  
4 family who is the subject of the report.

5 (3) In providing information under this section, the Department may  
6 also provide other records related to its child protection activities for the child.

7 (4) Any persons or agencies authorized to receive confidential  
8 information under this section may share such information with other persons  
9 or agencies authorized to receive confidential information under this section  
10 for the purposes of providing services and benefits to the children and families  
11 those persons or agencies mutually serve.

12 (f) Any records or reports disclosed under this section and information  
13 relating to the contents of those records or reports shall not be disseminated by  
14 the receiving persons or agencies to any persons or agencies, other than to  
15 those persons or agencies authorized to receive information pursuant to this  
16 section. A person who intentionally violates the confidentiality provisions of  
17 this section shall be fined not more than \$2,000.00.

18 Sec. 6. 33 V.S.A. § 5110 is amended to read:

19 § 5110. CONDUCT OF HEARINGS

20 (a) Hearings under the juvenile judicial proceedings chapters shall be  
21 conducted by the Court without a jury and shall be confidential.

1 (b) The general public shall be excluded from hearings under the juvenile  
2 judicial proceedings chapters, and only the parties, their counsel, witnesses,  
3 persons accompanying a party for his or her assistance, and such other persons  
4 as the Court finds to have a proper interest in the case or in the work of the  
5 Court, including a foster parent or a representative of a residential program  
6 where the child resides, may be admitted by the Court. An individual without  
7 party status seeking inclusion in the hearing may petition the Court for  
8 admittance by filing a request with the clerk of the Court. This subsection  
9 shall not prohibit a victim’s exercise of his or her rights under sections 5233  
10 and 5234 of this title, and as otherwise provided by law.

11 (c) There shall be no publicity given by any person to any proceedings  
12 under the authority of the juvenile judicial proceedings chapters except with  
13 the consent of the child, the child’s guardian ad litem, and the child’s parent,  
14 guardian, or custodian. A person who violates this provision may be subject to  
15 contempt proceedings pursuant to Rule 16 of the Vermont Rules for Family  
16 Proceedings.

1       \* \* \* Juvenile Proceedings; General Provisions; Children in Need of Care or  
2                   Supervision; Request for an Emergency Care Order \* \* \*

3       Sec. 7. 33 V.S.A. § 5302 is amended to read:

4       § 5302. REQUEST FOR EMERGENCY CARE ORDER

5           (a) If an officer takes a child into custody pursuant to ~~subdivision~~ section  
6       5301(1) ~~or (2)~~ of this title, the officer shall immediately notify the child's  
7       custodial parent, guardian, or custodian and release the child to the care of the  
8       child's custodial parent, guardian, or custodian unless the officer determines  
9       that the child's immediate welfare requires the child's continued absence from  
10      the home.

11          (b) If the officer determines that the child's immediate welfare requires the  
12      child's continued absence from the home, ~~the officer shall:~~

13           (1) ~~Remove~~ The officer shall remove the child from the child's  
14      surroundings, contact the Department, and deliver the child to a location  
15      designated by the Department. The Department shall have the authority to  
16      make reasonable decisions concerning the child's immediate placement, safety,  
17      and welfare pending the issuance of an emergency care order.

18           (2) ~~Prepare~~ The officer or a social worker employed by the Department  
19      for Children and Families shall prepare an affidavit in support of a request for  
20      an emergency care order and provide the affidavit to the State's Attorney. The  
21      affidavit shall include: the reasons for taking the child into custody; and to the

1 degree known, potential placements with which the child is familiar; the  
2 names, addresses, and telephone number of the child’s parents, guardian,  
3 custodian, or care provider; the name, address, and telephone number of any  
4 relative who has indicated an interest in taking temporary custody of the child.  
5 The officer or social worker shall contact the Department and the Department  
6 may prepare an affidavit as a supplement to the affidavit of the law  
7 enforcement officer or social worker if the Department has additional  
8 information with respect to the child or the family.

9 \* \* \*

10 \* \* \* Temporary Care Order; Custody \* \* \*

11 Sec. 8. 33 V.S.A. § 5308 is amended to read:

12 § 5308. TEMPORARY CARE ORDER

13 (a) The Court shall order that legal custody be returned to the child’s  
14 custodial parent, guardian, or custodian unless the Court finds by a  
15 preponderance of the evidence that a return home would be contrary to the best  
16 interests of the ~~child’s welfare~~ child because any one of the following exists:

17 (1) A return of legal custody could result in substantial danger to the  
18 physical health, mental health, welfare, or safety of the child.

19 (2) The child or another child residing in the same household has been  
20 physically or sexually abused by a custodial parent, guardian, or custodian, or

1 by a member of the child’s household, or another person known to the  
2 custodial parent, guardian, or custodian.

3 (3) The child or another child residing in the same household is at  
4 substantial risk of physical or sexual abuse by a custodial parent, guardian, or  
5 custodian, or by a member of the child’s household, or another person known  
6 to the custodial parent, guardian, or custodian. It shall constitute prima facie  
7 evidence that a child is at substantial risk of being physically or sexually  
8 abused if:

9 (A) a custodial parent, guardian, or custodian receives actual notice  
10 that a person has committed or is alleged to have committed physical or sexual  
11 abuse against a child; and

12 (B) a custodial parent, guardian, or custodian knowingly or recklessly  
13 allows the child to be in the physical presence of the alleged abuser after  
14 receiving such notice.

15 (4) The custodial parent, guardian, or guardian has abandoned the child.

16 (5) The child or another child in the same household has been neglected  
17 and there is substantial risk of harm to the child who is the subject of the  
18 petition.

19 (b) Upon a finding that ~~any of the conditions set forth in subsection (a) of~~  
20 ~~this section exists~~ a return home would be contrary to the best interests of the  
21 child, the Court may issue such temporary orders related to the legal custody of



1 the child as it deems necessary and sufficient to protect the welfare and safety  
2 of the child, including, in order of preference:

3 (1) A a conditional custody order returning legal custody of the child to  
4 the custodial parent, guardian, or custodian, noncustodial parent, relative, or a  
5 person with a significant relationship with the child, subject to such conditions  
6 and limitations as the Court may deem necessary and sufficient to protect the  
7 child;

8 (1) [option #2] A a conditional custody order returning legal custody of  
9 the child to the custodial parent, guardian, or custodian, noncustodial parent,  
10 relative, or a person with a significant relationship with the child, subject to  
11 such conditions and limitations as the Court may deem necessary and sufficient  
12 to protect the child. the welfare and safety of the child;

13 ~~(2)(A) An order transferring temporary legal custody to a noncustodial~~  
14 ~~parent. Provided that parentage is not contested, upon a request by a~~  
15 ~~noncustodial parent for temporary legal custody and a personal appearance of~~  
16 ~~the noncustodial parent, the noncustodial parent shall present to the Court a~~  
17 ~~care plan that describes the history of the noncustodial parent's contact with~~  
18 ~~the child, including any reasons why contact did not occur, and that addresses:~~

19 (i) ~~the child's need for a safe, secure, and stable home;~~

20 (ii) ~~the child's need for proper and effective care and control; and~~

1                   ~~(iii) the child's need for a continuing relationship with the~~  
2                   ~~eustodial parent, if appropriate.~~

3                   ~~(B) The Court shall consider court orders and findings from other~~  
4                   ~~proceedings related to the custody of the child.~~

5                   ~~(C) The Court shall transfer legal custody to the noncustodial parent~~  
6                   ~~unless the Court finds by a preponderance of the evidence that the transfer~~  
7                   ~~would be contrary to the child's welfare because any of the following exists:~~

8                   ~~(i) The care plan fails to meet the criteria set forth in subdivision~~  
9                   ~~(2)(A) of this subsection.~~

10                  ~~(ii) Transferring temporary legal custody of the child to the~~  
11                  ~~noncustodial parent could result in substantial danger to the physical health,~~  
12                  ~~mental health, welfare, or safety of the child.~~

13                  ~~(iii) The child or another child residing in the same household as~~  
14                  ~~the noncustodial parent has been physically or sexually abused by the~~  
15                  ~~noncustodial parent or a member of the noncustodial parent's household, or~~  
16                  ~~another person known to the noncustodial parent.~~

17                  ~~(iv) The child or another child residing in the same household as~~  
18                  ~~the noncustodial parent is at substantial risk of physical or sexual abuse by the~~  
19                  ~~noncustodial parent or a member of the noncustodial parent's household, or~~  
20                  ~~another person known to the noncustodial parent. It shall constitute prima facie~~

1 ~~evidence that a child is at substantial risk of being physically or sexually~~  
2 ~~abused if:~~

3 ~~(I) a noncustodial parent receives actual notice that a person~~  
4 ~~has committed or is alleged to have committed physical or sexual abuse against~~  
5 ~~a child; and~~

6 ~~(II) the noncustodial parent knowingly or recklessly allows the~~  
7 ~~child to be in the physical presence of the alleged abuser after receiving such~~  
8 ~~notice.~~

9 ~~(v) The child or another child in the noncustodial parent's~~  
10 ~~household has been neglected, and there is substantial risk of harm to the child~~  
11 ~~who is the subject of the petition.~~

12 ~~(D) If the noncustodial parent's request for temporary custody is~~  
13 ~~contested, the Court may continue the hearing and place the child in the~~  
14 ~~temporary custody of the Department, pending further hearing and resolution~~  
15 ~~of the custody issue. Absent good cause shown, the Court shall hold a further~~  
16 ~~hearing on the issue within 30 days.~~

17 ~~(3) An order transferring temporary legal custody of the child to a~~  
18 ~~relative, provided:~~

19 ~~(A) The relative seeking legal custody is a grandparent, great-~~  
20 ~~grandparent, aunt, great-aunt, uncle, great-uncle, stepparent, sibling, or~~  
21 ~~step-sibling of the child.~~

1           ~~(B) The relative is suitable to care for the child. In determining~~  
2           ~~suitability, the Court shall consider the relationship of the child and the relative~~  
3           ~~and the relative's ability to:~~

4                     ~~(i) Provide a safe, secure, and stable environment.~~

5                     ~~(ii) Exercise proper and effective care and control of the child.~~

6                     ~~(iii) Protect the child from the custodial parent to the degree the~~  
7           ~~Court deems such protection necessary.~~

8                     ~~(iv) Support reunification efforts, if any, with the custodial parent.~~

9                     ~~(v) Consider providing legal permanence if reunification fails.~~

10           (2) an order transferring temporary legal custody of the child to a  
11           noncustodial parent or to a relative;

12           (3) an order transferring temporary legal custody of the child to a person  
13           with a significant relationship with the child; or

14           (4) an order transferring temporary legal custody of the child to the  
15           Commissioner.

16           ~~(C)(c) The Court shall consider orders and findings from other proceedings~~  
17           ~~relating to the custody of the child, the child's siblings, or children of any adult~~  
18           ~~in the same household as the child.~~

19           (d) In considering the suitability of a relative under this subdivision (3) an  
20           order under subsection (b) of this section, the Court may order the Department  
21           to conduct an investigation of a person seeking custody of the child, and the

1 suitability of that person's home, and file a written report of its findings with  
2 the Court. The Court may place the child in the temporary custody of the  
3 ~~Department~~ Commissioner, pending such investigation.

4 ~~(4) A temporary care order transferring temporary legal custody of the~~  
5 ~~child to a relative who is not listed in subdivision (3)(A) of this subsection or a~~  
6 ~~person with a significant relationship with the child, provided that the criteria~~  
7 ~~in subdivision (3)(B) of this subsection are met. The Court may make such~~  
8 ~~orders as provided in subdivision (3)(C) of this subsection to determine~~  
9 ~~suitability under this subdivision.~~

10 ~~(5) A temporary care order transferring temporary legal custody of the~~  
11 ~~child to the Commissioner.~~

12 ~~(e)(e)~~ If the Court transfers legal custody of the child, the Court shall issue  
13 a written temporary care order.

14 (1) The order shall include:

15 (A) a A finding that remaining in the home is contrary to the ~~child's~~  
16 ~~welfare~~ best interests of the child and the facts upon which that finding is  
17 based; ~~and~~

18 (B) a A finding as to whether reasonable efforts were made to  
19 prevent unnecessary removal of the child from the home. If the Court lacks  
20 sufficient evidence to make findings on whether reasonable efforts were made  
21 to prevent the removal of the child from the home, that determination shall be

1 made at the next scheduled hearing in the case but, in any event, no later than  
2 60 days after the issuance of the initial order removing a child from the home.

3 (2) The order may include other provisions as may be ~~necessary for the~~  
4 ~~protection and welfare~~ in the best interests of the child, ~~such as including:~~

5 (A) establishing parent-child contact ~~under such and terms and~~  
6 ~~conditions as are necessary for the protection of the child.~~ and terms and  
7 conditions for that contact;

8 (B) requiring the Department to provide the child with services, if  
9 legal custody of the child has been transferred to the Commissioner;

10 (C) requiring the Department to refer a parent for appropriate  
11 assessments and services, including a consideration of the needs of children  
12 and parents with disabilities, provided that the child's needs are given primary  
13 consideration;

14 (D) requiring genetic testing if parentage of the child is at issue;

15 (E) requiring the Department to make diligent efforts to locate the  
16 noncustodial parent;

17 (F) requiring the custodial parent to provide the Department with  
18 names of all potential noncustodial parents and relatives of the child; and

19 (G) establishing protective supervision and requiring the Department  
20 to make appropriate service referrals for the child and the family, if legal  
21 custody is transferred to an individual other than the Commissioner.

1 (3) In his or her discretion, the Commissioner may provide assistance  
2 and services to children and families to the extent that funds permit,  
3 notwithstanding subdivision (2)(B) of this subsection.

4 ~~(d) If a party seeks to modify a temporary care order in order to transfer~~  
5 ~~legal custody of a child from the Commissioner to a relative or a person with a~~  
6 ~~significant relationship with the child, the relative shall be entitled to~~  
7 ~~preferential consideration under subdivision (b)(3) of this section, provided~~  
8 ~~that a disposition order has not been issued and the motion is filed within~~  
9 ~~90 days of the date that legal custody was initially transferred to the~~  
10 ~~Commissioner. [Repealed.]~~

11 \* \* \* Adoption Act; Postadoption Contact Agreements \* \* \*

12 Sec. 9. 15A V.S.A. § 1-109 is amended to read:

13 § 1-109. TERMINATION OF ORDERS AND AGREEMENTS FOR  
14 VISITATION OR COMMUNICATION UPON ADOPTION

15 When a decree of adoption becomes final, except as provided in Article 4 of  
16 this title and 33 V.S.A. § 5124, any order or agreement for visitation or  
17 communication with the minor shall be unenforceable.

18 Sec. 10. 33 V.S.A. § 5124 is added to read:

19 § 5124. POSTADOPTION CONTACT AGREEMENTS

20 (a) Either or both parents and each intended adoptive parent may enter into  
21 a postadoption contact agreement regarding communication or contact between

1 either or both parents and the child after the finalization of an adoption by the  
2 intended adoptive parent or parents who are parties to the agreement. Such an  
3 agreement may be entered into if:

4 (1) the child is in the custody of the Department for Children and  
5 Families;

6 (2) an order terminating parental rights has not yet been entered; and

7 (3) either or both parents agree to a voluntary termination of parental  
8 rights, including an agreement in a case which began as an involuntary  
9 termination of parental rights.

10 (b) The Court may approve the postadoption contact agreement if it  
11 determines that the child's best interests will be served by postadoption  
12 communication or contact with either or both parents. In making a best  
13 interests determination, the Court may look to:

14 (1) the length of time that the child has been under the actual care,  
15 custody, and control of a person other than a parent;

16 (2) the desires of the child, the child's parents; and the child's intended  
17 adoptive parents;

18 (3) the child's relationship with and the interrelationships between the  
19 child's parents, the child's intended adoptive parents, the child's siblings, and  
20 any other person with a significant relationship with the child;



1           (4) the willingness of the parents to respect the bond between the child  
2           and the child’s intended adoptive parents;

3           (5) the willingness of the intended adoptive parents to respect the bond  
4           between the child and the parents;

5           (6) the adjustment to the child’s home, school, and community;

6           (7) any evidence of abuse or neglect of the child; and

7           (8) the recommendations of any guardian ad litem involved in the  
8           proceeding and the Department.

9           (c) Before the Court orders postadoption communication or contact, the  
10          Court must review all of the following, which will be made a part of the Court  
11          record:

12           (1) a sworn affidavit by the parties to the agreement which affirmatively  
13           states that the agreement was entered into knowingly and voluntarily and is not  
14           the product of coercion, fraud, or duress and that the parties have not relied on  
15           any representations other than those contained in the agreement;

16           (2) a written acknowledgment by each parent that the termination of  
17           parental rights is irrevocable, even if the intended adoption is not finalized, the  
18           adoptive parents do not abide by the postadoption contact agreement, or the  
19           adoption is later dissolved;

20           (3) an agreement to the postadoption contact or communication from the  
21           child to be adopted, if he or she is 14 years of age or older; and

1           (4) an agreement to the postadoption contact or communication in  
2           writing from the Department, the guardian ad litem, and the attorney for the  
3           child.

4           (d) A postadoption contact agreement must be in writing and signed by  
5           each parent and each intended adoptive parent entering into the agreement.

6           There may be separate agreements for each parent. The agreement shall  
7           specify:

8                   (1) the form of communication or contact to take place;

9                   (2) the frequency of the communication or contact;

10                  (3) if visits are agreed to, whether supervision shall be required, and if  
11                  supervision is required, what type of supervision shall be required;

12                  (4) if written communication or exchange of information is agreed upon,  
13                  whether that will occur directly or through the Vermont Adoption Registry, set  
14                  forth in 15A V.S.A. § 6-103;

15                  (5) if the Adoption Registry shall act as an intermediary for written  
16                  communication, that the signing parties will keep their addresses updated with  
17                  the Adoption Registry;

18                  (6) that failure to provide contact due to the child's illness or other good  
19                  cause shall not constitute grounds for an enforcement proceeding;

20                  (7) that the right of the signing parties to change their residence is not  
21                  impaired by the agreement;

1           (8) an acknowledgment by the intended adoptive parents that the  
2           agreement grants either or both parents the right to seek to enforce the  
3           postadoption contact agreement;

4           (9) an acknowledgment that once the adoption is finalized, the court  
5           shall presume that the adoptive parent’s judgment concerning the best interests  
6           of the child is correct;

7           (10) the finality of the termination of parental rights and of the adoption  
8           shall not be affected by implementation of the provisions of the postadoption  
9           contact agreement; and

10           (11) a disagreement between the parties or litigation brought to enforce  
11           or modify the agreement shall not affect the validity of the termination of  
12           parental rights or the adoption.

13           (e) A copy of the order approving the postadoption contact agreement and  
14           the postadoption contact agreement shall be filed with the Probate Division of  
15           the Superior Court with the petition to adopt filed under 15A V.S.A. Article 3,  
16           and, if the agreement specifies a role for the Adoption Registry, with the  
17           Registry.

18           (f) The order approving a postadoption contact agreement shall be a  
19           separate order from the final order terminating parental rights.

20           (g) The executed postadoption contact agreement shall become final upon  
21           legal finalization of an adoption under 15A V.S.A. Article 3.

1 Sec. 11. 15A V.S.A. Article 9 is added to read:

2 ARTICLE 9. ENFORCEMENT, MODIFICATION, AND TERMINATION

3 OF POSTADOPTION CONTACT AGREEMENTS

4 § 9-101. ENFORCEMENT, MODIFICATION, AND TERMINATION OF

5 POSTADOPTION CONTACT AGREEMENTS

6 (a) A postadoption contact agreement may be modified or terminated by  
7 agreement of the parties. The parties shall file the modified postadoption  
8 contact agreement with the Court that finalized the adoption. The Court shall  
9 review the modified agreement pursuant to the requirements of 33 V.S.A.  
10 § 5124(b), and, if approved, shall issue an order modifying the agreement.

11 (b) An adoptive parent may petition for review of a postadoption contact  
12 agreement entered into under 33 V.S.A. § 5124 if the adoptive parent believes  
13 the best interests of the child are being compromised by the terms of the  
14 agreement.

15 (c) A former parent may petition for enforcement of a postadoption contact  
16 agreement entered into under 33 V.S.A. § 5124 if the adoptive parent is not in  
17 compliance with the terms of the agreement.

18 (d) A disagreement between the parties or litigation brought to enforce or  
19 modify the agreement shall not affect the validity of the termination of parental  
20 rights or the adoption.

1       (e) The Court shall not act on a petition to modify or enforce the agreement  
2       unless the petitioner had in good faith participated or attempted to participate  
3       in mediation or alternative dispute resolution proceedings to resolve the  
4       dispute prior to bringing the petition for enforcement.

5       (f) Parties to the proceeding shall be the individuals who signed the original  
6       agreement created under 33 V.S.A. § 5124. The adopted child, if 14 years of  
7       age or older, may also participate. The Department for Children and Families  
8       shall not be required to be a party to the proceeding and the Court shall not  
9       order further investigation or evaluation by the Department.

10       (g) The Court may order the communication or contact be terminated or  
11       modified if the Court deems such termination or modification to be in the best  
12       interests of the child. In making a best interests determination, the Court may  
13       consider:

14               (1) the protection of the physical safety of the adopted child or other  
15       members of the adoptive family, or the emotional well-being of the adopted  
16       child;

17               (2) whether enforcement of the agreement undermines the adoptive  
18       parent's parental authority; and

19               (3) whether, due to a change in circumstances, continued compliance  
20       with the agreement would be unduly burdensome to one or more of the parties.

1       (h) A Court-imposed modification of a previously approved agreement  
2       may limit, restrict, condition, or decrease contact between the former parents  
3       and the child, but in no event shall a Court-imposed modification serve to  
4       expand, enlarge, or increase the amount of contact between the birth parents  
5       and the child or place new obligations on the adoptive parents.

6       (i) No testimony or evidentiary hearing shall be required, although the  
7       Court may, in its discretion, hold a hearing. A hearing held to review an  
8       agreement for postadoption contact will be confidential. Documentary  
9       evidence or offers of proof may serve as the basis for the Court's decision  
10       regarding enforcement or modification of an agreement.

11       (j) In an action to enforce the agreement, the burden of proof shall be on  
12       the former parent to show by a preponderance of the evidence that enforcement  
13       of the agreement is in the best interests of the child.

14       (k) In an action to modify or terminate the agreement, the burden of proof  
15       shall be on the adoptive parent to show by clear and convincing evidence that  
16       the modification or termination of the agreement is in the best interests of the  
17       child.

18       (l) Failure to comply with the agreement or petitioning the Court to  
19       enforce, modify, or terminate an agreement shall not form the basis for an  
20       award of monetary damages.

1        (m) An agreement for postadoption contact or communication under  
2        33 V.S.A. § 5124 shall cease to be enforceable on the date the adopted child  
3        turns 18 years of age, or upon dissolution of the adoption.

5        Sec. 12. 33 V.S.A. § 152 is amended to read: [committee has not reviewed]

6        § 152. ACCESS TO RECORDS

7        (a) The Commissioner may obtain from the Vermont Crime Information  
8        Center the record of convictions of any person to the extent required by law or  
9        the Commissioner has determined by rule that such information is necessary to  
10       regulate a facility or individual subject to regulation by the Department or for  
11       child protection pursuant to chapter 49 of this title. The Commissioner shall  
12       first notify the person whose record is being requested.

13     \* \* \*

14        Sec. 13. 33 V.S.A. § 6911 is amended to read: [submitted by DCF, committee  
15        has not reviewed]

16        § 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

17        (a) Information obtained through reports and investigations, including the  
18        identity of the reporter, shall remain confidential and shall not be released  
19        absent a court order, except as follows:

20                                (1) The investigative report shall be disclosed only to: the  
21        Commissioner or person designated to receive such records; persons assigned

1 by the Commissioner to investigate reports; the person reported to have  
2 abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his  
3 or her representative; the Office of Professional Regulation when deemed  
4 appropriate by the Commissioner; the Secretary of Education when deemed  
5 appropriate by the Commissioner; The Commissioner for Children and  
6 Families or designee, for purposes of review of expungement petitions filed  
7 pursuant section 4916c of this title; a law enforcement agency; the State's  
8 Attorney, or the Office of the Attorney General, when the Department believes  
9 there may be grounds for criminal prosecution or civil enforcement action, or  
10 in the course of a criminal or a civil investigation. When disclosing  
11 information pursuant to this subdivision, reasonable efforts shall be made to  
12 limit the information to the minimum necessary to accomplish the intended  
13 purpose of the disclosure, and no other information, including the identity of  
14 the reporter, shall be released absent a court order.

15 \* \* \*

16 (c) The Commissioner or ~~the Commissioner's~~ designee may disclose  
17 Registry information only to:

18 \* \* \*

19 (5) the Commissioner for Children and Families, or ~~the Commissioner's~~  
20 designee, for purposes related to:



1 (A) the licensing or registration of facilities and individuals regulated  
2 by the Department for Children and Families; and

3 (B) child protection pursuant to chapter 49 of this title.

4 \* \* \*

5 Sec. 14. 33 V.S.A. § 4916c is amended to read: [submitted by DCF;  
6 committee has not reviewed]

7 § 4916c. PETITION FOR EXPUNGEMENT FROM THE REGISTRY

8 (a)(1) ~~A~~ Except as provided in this subdivision, a person whose name has  
9 been placed on the Registry prior to July 1, 2009 and has been listed on the  
10 Registry for at least three years may file a written request with the  
11 Commissioner, seeking a review for the purpose of expunging an individual  
12 Registry record. A person whose name has been placed on the Registry on or  
13 after July 1, 2009 and has been listed on the Registry for at least seven years  
14 may file a written request with the Commissioner seeking a review for the  
15 purpose of expunging an individual Registry record. The Commissioner shall  
16 grant a review upon request.

17 (2) A person who is required to register as a sex offender on a state's sex  
18 offender registry shall not be eligible to petition for expungement of his or her  
19 Registry record during the period in which the person is subject to sex offender  
20 registry requirements.

1 (b)(1) The person shall have the burden of proving that a reasonable person  
2 would believe that he or she no longer presents a risk to the safety or  
3 well-being of children.

4 (2) ~~Factors to be considered by the~~ The Commissioner shall ~~include~~  
5 consider the following factors in making his or her determination:

6 (1)(A) the nature of the substantiation that resulted in the person's name  
7 being placed on the Registry;

8 (2)(B) the number of substantiations, if more than one;

9 (3)(C) the amount of time that has elapsed since the substantiation;

10 (4)(D) the circumstances of the substantiation that would indicate  
11 whether a similar incident would be likely to occur;

12 (5)(E) any activities that would reflect upon the person's changed  
13 behavior or circumstances, such as therapy, employment, or education; and

14 (6)(F) references that attest to the person's good moral character.

15 (3) The nature or number of substations alone may be sufficient  
16 evidence to deny the petition.

17 \* \* \*

18

19 \* \* \* Municipal and County Government; Special Investigative

20 Units; Mission and Jurisdiction \* \* \*

21 Sec. 15. 24 V.S.A. § 1940 is amended to read:

1 § 1940. ~~TASK FORCES; SPECIALIZED~~ SPECIAL INVESTIGATIVE  
2 UNITS; BOARDS; GRANTS

3 (a) Pursuant to the authority established under section 1938 of this title, and  
4 in collaboration with law enforcement agencies, investigative agencies,  
5 victims' advocates, and social service providers, the Department of State's  
6 Attorneys and Sheriffs shall coordinate efforts to provide access in each region  
7 of the ~~state~~ State to special investigative units ~~to investigate sex crimes, child~~  
8 ~~abuse, domestic violence, or crimes against those with physical or~~  
9 ~~developmental disabilities. The General Assembly intends that access to~~  
10 ~~special investigative units be available to all Vermonters as soon as reasonably~~  
11 ~~possible, but not later than July 1, 2009~~ which:

12 (1) shall investigate:

13 (A) an incident in which a child suffers, by other than accidental  
14 means, serious bodily injury as defined in 13 V.S.A. § 1021; and

15 (B) potential violations of:

16 (i) 13 V.S.A. § 2602;

17 (ii) 13 V.S.A. chapter 60;

18 (iii) 13 V.S.A. chapter 64; and

19 (iv) 13 V.S.A. chapter 72; and

20 (2) may investigate:

21 (A) an incident in which a child suffers:

1                    (i) bodily injury, by other than accidental means, as defined in  
2                    13 V.S.A. § 1021; or

3                    (ii) death; and

4                    (B) potential violations of:

5                    (i) 13 V.S.A. § 2601;

6                    (ii) 13 V.S.A. § 2605;

7                    (iii) 13 V.S.A. § 1304; and

8                    (iv) 13 V.S.A. § 1304a.

9                    (b) A ~~task force or specialized~~ special investigative unit organized and  
10                    operating under this section may accept, receive, and disburse in furtherance of  
11                    its duties and functions any funds, grants, and services made available by the  
12                    State of Vermont and its agencies, the federal government and its agencies, any  
13                    municipality or other unit of local government, or private or civic sources.  
14                    Any employee covered by an agreement establishing a special investigative  
15                    unit shall remain an employee of the donor agency.

16                    (c) A ~~Specialized~~ Special Investigative Unit Grants Board is created which  
17                    shall ~~be comprised of~~ comprise the Attorney General, the Secretary of  
18                    Administration, the Executive Director of the Department of State's Attorneys  
19                    and Sheriffs, the Commissioner of Public Safety, the Commissioner for  
20                    Children and Families, a representative of the Vermont Sheriffs' Association, a  
21                    representative of the Vermont Association of Chiefs of Police, the Executive

1 Director of the Center for Crime Victim Services, and the Executive Director  
2 of the Vermont League of Cities and Towns. ~~Specialized~~ Special investigative  
3 units organized and operating under this section ~~for the investigation of sex~~  
4 ~~crimes, child abuse, elder abuse, domestic violence, or crimes against those~~  
5 ~~with physical or developmental disabilities~~ may apply to the Board for a grant  
6 or grants covering the costs of salaries and employee benefits to be expended  
7 during a given year for the performance of unit duties as well as unit operating  
8 costs for rent, utilities, equipment, training, and supplies. Grants under this  
9 section shall be approved by a majority of the entire Board and shall not  
10 exceed 50 percent of the yearly salary and employee benefit costs of the unit.  
11 Preference shall be given to grant applications which include the participation  
12 of the Department of Public Safety, the Department for Children and Families,  
13 sheriffs' departments, community victims' advocacy organizations, and  
14 municipalities within the region. Preference shall also be given to grant  
15 applications which promote policies and practices that are consistent across the  
16 State, including policies and practices concerning the referral of complaints,  
17 the investigation of cases, and the supervision and management of special  
18 investigative units. However, a sheriff's department in a county with a  
19 population of ~~less~~ fewer than 8,000 residents shall upon application receive a  
20 grant of up to \$20,000.00 for 50 percent of the yearly salary and employee  
21 benefits costs of a part-time ~~specialized~~ special investigative unit investigator

1 which shall be paid to the department as time is billed on a per hour rate as  
2 agreed by contract up to the maximum amount of the grant.

3 (d) The Board may adopt rules relating to grant eligibility criteria,  
4 processes for applications, awards, and reports related to grants authorized  
5 pursuant to this section. The Attorney General shall be the adopting authority.

6 Sec. 16. [option #1] 33 V.S.A. § 4915b(e) is amended to read:

7 (e) The Department:

8 (1) shall report to and request assistance from law enforcement in the  
9 following circumstances:

10 ~~(1) investigations of child sexual abuse by an alleged perpetrator age 10~~  
11 ~~or older;~~

12 ~~(2) investigations of serious physical abuse or neglect likely to result in~~  
13 ~~criminal charges or requiring emergency medical care~~

14 (A) an incident in which a child suffers, by other than accidental  
15 means, serious bodily injury as defined in 13 V.S.A. § 1021; and

16 (B) potential violations of:

17 (i) 13 V.S.A. § 2602;

18 (ii) 13 V.S.A. chapter 60;

19 (iii) 13 V.S.A. chapter 64; and

20 (iv) 13 V.S.A. chapter 72; and

1           (2) may report to and request assistance from law enforcement when  
2   appropriate, including:

3           (A) an incident in which a child suffers:

4                   (i) bodily injury, by other than accidental means, as defined in  
5   13 V.S.A. § 1021; or

6                   (ii) death; and

7           (B) potential violations of:

8                   (i) 13 V.S.A. § 2601;

9                   (ii) 13 V.S.A. § 2605;

10                   (iii) 13 V.S.A. § 1304; and

11                   (iv) 13 V.S.A. § 1304a.

12           ~~(3)~~(C) situations potentially dangerous to the child or Department  
13   worker.

14   Sec. 16. [option #2] 33 V.S.A. § 4915 is amended to read:

15   § 4915. ASSESSMENT AND INVESTIGATION

16   \* \* \*

17           (g) The Department shall report to and receive assistance from law  
18   enforcement in the following circumstances:

19                   (1) investigations of child sexual abuse by an alleged perpetrator age 10  
20   or older;

1           (2) investigations of serious physical abuse or neglect requiring  
2           emergency medical care, resulting in death, or likely to result in criminal  
3           charges; and

4           (3) situations potentially dangerous to the child or Department worker.

5           (h) The Department shall report to the appropriate special investigations  
6           unit any valid allegation concerning an incident in which a child suffers, by  
7           other than accidental means:

8           (1) serious bodily injury as defined in 13 V.S.A. § 1021; and

9           (2) potential violations of:

10           (A) 13 V.S.A. § 2602;

11           (B) 13 V.S.A. chapter 60;

12           (C) 13 V.S.A. chapter 64; and

13           (D) 13 V.S.A. chapter 72.

14           \* \* \* Crimes and Criminal Procedure; Cruelty to a Child; Establishing a New  
15           Crime of Failure to Protect a Child; Enhancing Penalties for  
16           Manufacturing Methamphetamine When a Child is Present \* \* \*

17           Sec. 17. 13 V.S.A. § 1304 is amended to read:

18           § 1304. ~~CRUELTY TO CHILDREN UNDER 10 BY ONE OVER 16 A~~  
19           CHILD

20           A person over ~~the age of~~ 16 years of age, having the custody, ~~charge~~ or care  
21           of a child ~~under 10 years of age~~, who ~~wilfully~~ willfully assaults, ~~ill treats~~,



1 neglects, or abandons ~~or exposes such~~ the child, or causes ~~or procures such~~ the  
2 child to be assaulted, ~~ill-treated,~~ neglected, or abandoned ~~or exposed,~~ in a  
3 manner to cause ~~such~~ the child unnecessary suffering, or to endanger his or her  
4 health, shall be imprisoned not more than two years or fined not more than  
5 \$500.00, or both.

6 **Sec. 18. 13 V.S.A. § 1304a is added to read: [from Rep. McFaun, committee**  
7 **has not discussed]**

8 § 1304a. FAILURE TO PROTECT A CHILD

9 (a) A person having the custody or care of a child commits the crime of  
10 failure to protect a child if:

11 (1) the person knows, or reasonably should have known that the child is  
12 in danger of:

13 (A) death;

14 (B) serious bodily injury as defined in section 1021 of this title;

15 (C) lewd or lascivious conduct with a child in violation of section  
16 2602 of this title;

17 (D) sexual exploitation of children in violation of chapter 64 of this  
18 title; or

19 (E) sexual assault in violation of chapter 72 of this title; and

20 (2) the person fails to act to prevent a child from suffering any of the  
21 possible outcomes as set forth in subdivision (1) of this subsection; and

1           (3) the person’s failure to act is a proximate cause of the child suffering  
2           any of the possible outcomes as set forth in subdivision (1) of this subsection.

3           (b) It shall be an affirmative defense to this section, if proven by a  
4           preponderance of the evidence, that:

5           (1) the defendant failed to act because of a reasonable fear that he or she  
6           or another person would suffer death, bodily injury, or serious bodily injury as  
7           defined in section 1021 of this title, or sexual assault in violation of chapter 72  
8           of this title as a result of acting to prevent harm to the child; or

9           (2) where the child’s injury or death resulted from a lack of medical  
10           treatment or care, the defendant made a reasonable decision to not seek  
11           medical care or to withhold medical treatment.

12           (c) A person who violates this section shall be imprisoned not more than  
13           two years or fined not more than \$500.00, or both.

14           (d) The provisions of this section shall not limit or restrict prosecutions for  
15           any other offense arising out of the same incident or conduct.

16           Sec. 19. 18 V.S.A. § 4236 is amended to read:

17           § 4236. MANUFACTURE OR CULTIVATION

18           (a)(1) A person knowingly and unlawfully manufacturing or cultivating a  
19           regulated drug shall be imprisoned not more than 20 years or fined not more  
20           than \$1,000,000.00, or both.

1           (2) A person who violates subdivision (1) of this subsection shall be  
2           imprisoned for not more than 30 years or fined not more than \$1,500,000.00,  
3           or both, if:

4                     (A) the regulated drug is methamphetamine; and

5                     (B) a child is actually present at the site of methamphetamine  
6           manufacture or attempted manufacture.

7           (b) This section shall not apply to the cultivation of marijuana.

8           Sec. 19. [option #2 from Rep. McFaun, committee has not discussed]

9           18 V.S.A. § 4236 is amended to read:

10          § 4236. MANUFACTURE OR CULTIVATION

11           (a) A person knowingly and unlawfully manufacturing or cultivating a  
12           regulated drug shall be imprisoned not more than 20 years or fined not more  
13           than \$1,000,000.00, or both. This subsection shall not apply to the cultivation  
14           of marijuana.

15                     (b) This section shall not apply to the cultivation of marijuana. A person  
16           knowingly and unlawfully manufacturing or cultivating a regulated drug, other  
17           than methamphetamine, when a child is actually present shall be imprisoned  
18           for not more than two years or fined not more than \$500.00, or both.

19                     (c) A person knowingly and unlawfully manufacturing methamphetamine  
20           when a child is actually present shall be imprisoned for not more than 30 years  
21           or fined not more than \$1,500,000.00, or both.

1                   \* \* \* Department for Children and Families; Policies \* \* \*

2           Sec. 20. THE DEPARTMENT FOR CHILDREN AND FAMILIES;  
3                   POLICIES, PROCEDURES, AND PRACTICES

4           (a) The Commissioner for Children and Families shall, within available  
5           resources:

6                   (1) [moved up from #2] ensure that policies, procedures, and practices  
7                   are consistent with the best interest of the child and are consistent with statute;

8                   (2) ensure that policies, procedures, and practices are consistent with  
9                   each other and are applied in a consistent manner, in all Department offices  
10                  and in all regions of the State;

11                  (3) by September 30, 2015, develop and implement a policy requiring a  
12                  6 month supervision period by the Department after a child is returned to the  
13                  home from which he or she was removed due to allegations of abuse or  
14                  neglect;

15                  (4) develop metrics as to the appropriate case load for social workers in  
16                  the Family Services Division that take into account the experience and training  
17                  of a social worker, the number of families and the total number of children a  
18                  social worker is responsible for, and the acuity or difficulty of cases;

19                  (5) ensure that all employees assigned to carry out investigations have  
20                  training or experience in conducting investigations and have a master's degree  
21                  in social work or an equivalent degree, or relevant experience;

1           (6) develop policies, procedures, and practices to:

2                   (A) ensure the consistent sharing of information, in a manner that  
3 complies with statute, treatment providers, courts, State’s Attorneys, guardians  
4 ad litem, law enforcement, and other relevant parties;

5                   (B) encourage treatment providers, law enforcement, and all  
6 agencies, departments, and other persons that support recovery to provide  
7 regular treatment progress updates to the Commissioner;

8                   (C) ensure that courts have all relevant information in a timely  
9 fashion, and that Department employees file paperwork and reports in a timely  
10 manner;

11                  (D) require increased monitoring of a child’s safety if:

12                    (i) the child remains in a home from which other children have  
13 been removed;

14                    (ii) the child is returned to a home from which other children have  
15 been removed; or

16                    (iii) the child remains in the custody of a parent or guardian whose  
17 parental rights as to another child have been terminated;

18                    (E) require that all persons living in a household, or that will have  
19 child care responsibilities, will be assessed for criminal history and potential  
20 safety risks whenever a child who has been removed from a home is returned  
21 to that home;

1           (F) increase the number of required face-to-face meetings between  
2 social workers and children;

3           (G) increase the number of required home visits and require  
4 unannounced home visits;

5           (H) improve information sharing with mandatory reporters who have  
6 an ongoing relationship with a child;

7           (I) ensure that mandatory reporters are informed that any confidential  
8 information they may receive cannot be disclosed to a person who is not  
9 authorized to receive that information;

10           (J) ensure all parties authorized to receive confidential information  
11 are **informed** of their right to receive that information; and

12           (K) apply results-based accountability or other data-based quality  
13 measures to determine if children in different areas of the State have different  
14 outcomes and the reasons for those differences.

15           (b) On or before September 1, 2015, the Commissioner shall submit a  
16 written **response** to the House Committees on Human Services and on  
17 Judiciary and to the Senate Committees on Health and Welfare and on  
18 Judiciary with the Commissioner's response to the issues in subsection (a) of  
19 this section, including the language of any new or amended policies and  
20 procedures.

1 Sec. 20. [option #2 from Rep. McFaun, committee has not discussed]

2 THE DEPARTMENT FOR CHILDREN AND FAMILIES;

3 POLICIES, PROCEDURES, AND PRACTICES

4 (a) The Commissioner for Children and Families shall, within available

5 resources:

6 (1) ensure that policies, procedures, and practices are consistent, and are  
7 applied in a consistent manner, in all Department offices and in all regions of  
8 the State;

9 (2) ensure that policies, procedures, and practices are consistent with  
10 statute;

11 (3) develop metrics as to the appropriate case load for social workers in  
12 the Family Services Division that take into account the experience and training  
13 of a social worker, the number of families and the total number of children a  
14 social worker is responsible for, and the acuity or difficulty of cases;

15 (4) ensure that all employees assigned to carry out investigations have  
16 training or experience in conducting investigations and have a master's degree  
17 in social work or an equivalent degree, or relevant experience;

18 (5) ensure that all employees receive training on:

19 (A) Family Services Division policies, procedures, and practices; and

20 (B) the employees' legal responsibilities and obligations;

1           (6) determine how to improve data sharing between the Department,  
2           courts, treatment providers, the Agency of Education, and other branches,  
3           departments, agencies, and persons involved in protecting children from abuse  
4           and neglect, including:

5           [Note: rest of section is the same, but renumbered]

6                   \* \* \* Legislature; Establishing a Joint Legislative Child

7                               Protection Oversight Committee \* \* \*

8           Sec. 21. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT  
9                               COMMITTEE

10           (a) Creation. There is created a Joint Legislative Child Protection  
11           Oversight Committee.

12           (b) Membership. The Committee shall be composed of the following  
13           eight members, who shall be appointed each biennial session of the General  
14           Assembly:

15                   (1) Four current members of the House of Representatives, not all  
16           from the same political party, who shall be appointed by the Speaker of  
17           the House; and

18                   (2) Four current members of the Senate, not all from the same political  
19           party, who shall be appointed by the Committee on Committees.

20                   (3) In addition to one member-at-large appointed from each chamber,  
21           one appointment shall be made from the following committees:



- 1           (A) House Committee on Education;
- 2           (B) Senate Committee on Education;
- 3           (C) House Committee on Judiciary;
- 4           (D) Senate Committee on Judiciary;
- 5           (E) House Committee on Human Services; and
- 6           (F) Senate Committee on Health and Welfare.

7           (c) Powers and duties.

8           (1) The Committee shall:

9           (A) Exercise oversight over Vermont’s system for protecting children  
10 from abuse and neglect, including:

11           (i) evaluating whether the branches, departments, agencies, and  
12 persons that are responsible for protecting children from abuse and neglect are  
13 effective;

14           (ii) determining if there are deficiencies in the system and the  
15 causes of those deficiencies;

16           (iii) evaluating which programs are the most cost-effective;

17           (iv) determining whether there is variation in policies, procedures,  
18 practices, and outcomes between different areas of the State and the causes and  
19 results of any such variation; and

20           (v) evaluating the measures recommended by the Working Group  
21 to Recommend Improvements to CHINS Proceedings established in Sec. 20 of

1 this act to ensure that once a child is returned to his or her family, the court or  
2 the Department for Children and Families may continue to monitor the child  
3 and family where appropriate.

4 (B) At least annually, report on the Committee’s activities and  
5 recommendations to the General Assembly.

6 (2) The Committee may review and make recommendations to the  
7 House and Senate Committees on Appropriations regarding budget proposals  
8 and appropriations relating to protecting children from abuse and neglect.

9 (d) Assistance. The Committee shall have the administrative, technical,  
10 and legal assistance of the Office of Legislative Council.

11 (e) Retaliation. No person who is an employee of the State of Vermont, or  
12 of any State, local, county, or municipal department, agency, or person  
13 involved in child protection, and who testifies before, supplies information to,  
14 or cooperates with the Committee shall be subject to retaliation by his or her  
15 employer. Retaliation shall include job termination, demotion in rank,  
16 reduction in pay, alteration in duties and responsibilities, transfer, or a negative  
17 job performance evaluation based on the person’s having testified before,  
18 supplied information to, or cooperated with the Committee.

19 (f) Meetings.

20 (1) The member appointed from the Senate Committee on Health and  
21 Welfare shall call the first meeting of the Committee.

1           (2) The Committee shall select a Chair, Vice Chair, and Clerk from  
2           among its members and may adopt rules of procedure. The Chair shall rotate  
3           biennially between the House and the Senate members. A quorum shall consist  
4           of five members.

5           (3) When the General Assembly is in session, the Committee shall meet  
6           at the call of the Chair. The Committee may meet six times during  
7           adjournment, and may meet more often subject to approval of the Speaker of  
8           the House and the President Pro Tempore of the Senate.

9           (g) Reimbursement. For attendance at meetings during adjournment of the  
10          General Assembly, members of the Committee shall be entitled to per diem  
11          compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

12          (h) Sunset. On December 30, 2017 this section (creating the Joint  
13          Legislative Child Protection Oversight Committee) is repealed and the  
14          Committee shall cease to exist.

1                   \* \* \* Improvements to CHINS Proceedings \* \* \*

2           Sec. 22. WORKING GROUP TO RECOMMEND IMPROVEMENTS TO  
3                   CHINS PROCEEDINGS

4           (a) Creation. There is created a working group to recommend ways to  
5           improve the efficiency, timeliness, and process of Children in Need of Care or  
6           Supervision (CHINS) proceedings.

7           (b) Membership. The Working Group shall be composed of the following  
8           members:

9                   (1) the Chief Administrative Judge or designee;

10                  (2) the Defender General or designee;

11                  (3) the Attorney General or designee;

12                  (4) the Commissioner for Children and Families or designee;

13                  (5) the Executive Director of State’s Attorneys and Sheriffs or  
14           designee; and

15                  (6) a guardian ad litem who shall be appointed by the Chief Superior  
16           Judge.

17           (c) Powers and duties. The Working Group shall study and make  
18           recommendations concerning:

19                   (1) [deleted] how to ensure that statutory time frames are met in 90  
20           percent of proceedings;

1           (2) how to ensure that attorneys, judges, and guardians ad litem appear  
2           on time and are prepared;

3           (3) how to monitor and improve the performance and work quality of  
4           attorneys, judges, and guardians ad litem;

5           (4) how to ensure that there is a sufficient number of attorneys available  
6           to handle all CHINS cases, in all regions of the State, in a timely manner;

7           (5) the role of guardians ad litem, and how to ensure their information is  
8           presented to, and considered by, the court;

9           (6) [deleted] how to expedite a new proceeding that concerns a family  
10          with repeated contacts with the child protection system;

11          (7) whether the adoption of American Bar Association standards for  
12          attorneys who work in the area of child abuse and neglect would be  
13          appropriate;

14          (8) the feasibility of creating a statewide Family Drug Treatment Court  
15          initiative to improve substance abuse treatment and child welfare outcomes;

16          (9) whether a reunification hearing to oversee the child's transition from  
17          Department custody to legal parent custody would improve child welfare  
18          outcomes;

19          (10) how and whether to provide financial assistance to individuals  
20          seeking to mediate a dispute over a postadoption contact agreement; and

1           (11) any other issue the Working Group determines is relevant to  
2           improve the efficiency, timeliness, process, and results of CHINS proceedings.

3           (d) Assistance. The Working Group shall have the administrative,  
4           technical, and legal assistance of the Office of the Attorney General. The  
5           Working Group may consult with any persons necessary in fulfilling its powers  
6           and duties.

7           (e) Report. On or before November 1, 2015, the Working Group shall  
8           report its findings and recommendations to the Joint Legislative Child  
9           Protection Oversight Committee, the House Committees on Human Services  
10           and on Judiciary, and the Senate Committees on Health and Welfare and on  
11           Judiciary.

12           (f) Meetings and sunset.

13           (1) The Attorney General or designee shall call the first meeting of the  
14           Working Group.

15           (2) The Working Group shall select a chair from among its members at  
16           the first meeting.

17           (3) The Working Group shall cease to exist on November 2, 2015.

18                           \*\*\* Miscellaneous Outstanding Issues \*\*\*

19           **Sec. 23. THE DEPARTMENT FOR CHILDREN AND FAMILIES**

20                           **POLICIES, PROCEDURES, AND PRACTICES**

