

1 TO THE HOUSE OF REPRESENTATIVES:

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

8 * * * Legislative Findings * * *

9 Sec. 1. LEGISLATIVE FINDINGS

10 (a) In 2014, the tragic deaths of two children exposed problems with
11 Vermont’s system intended to protect children from abuse and neglect. This
12 act is intended to address these problems and implement the recommendations
13 of the Joint Legislative Committee on Child Protection created by 2014 Acts
14 and Resolves No. 179, Sec. C.109 and improve our State’s system for
15 protecting our children to help prevent future tragedies.

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

18 (c) To better protect Vermont’s children from abuse and neglect, and to
19 address the increasing burden of drug abuse and other factors that are ripping
20 families apart, the General Assembly believes that our State’s child protection

1 system must be **focused on the safety and best interests of children,**

2 comprehensive, and properly funded. This system must ensure that:

3 (1) the dedicated frontline professionals, **including guardians ad litem,**

4 who struggle to handle the seemingly ever-increasing caseloads have the

5 support, training, and resources necessary to do their job;

6 (2) **[moved up, formerly #6]** children who have suffered abuse and

7 neglect can find safe, nurturing, and permanent homes, whether with their

8 custodial parents, relatives, or other caring families and individuals;

9 (3) the most serious cases of abuse are thoroughly investigated and

10 prosecuted if appropriate;

11 (4) courts have the information and tools necessary to make the best

12 possible decisions;

13 (5) all participants in the child protection system, from the frontline

14 caseworker to the judge determining ultimate custody, work together to

15 prioritize the child's safety and best interests; and

16 (6) an effective oversight structure is established.

17 (d) This act is only the beginning of what must be an ongoing process in

18 which the House and Senate Committees on Judiciary, the Senate Committee

19 on Health and Welfare, the House Committee on Human Services, in

20 consultation with the Senate and House Committees on Appropriations,

1 continue to enhance the statewide approach to the prevention of child abuse
2 and neglect.

3 * * * Agency of Human Services; Evidence-Informed Models * * *

4 Sec. 2. AGENCY OF HUMAN SERVICES EVIDENCE-INFORMED
5 MODELS

6 The Secretary of Human Services shall identify and utilize
7 evidence-informed models of serving families that prioritize **child** safety and
8 prevention **of child abuse and neglect** through early interventions with high risk
9 families **that develop family strengths and reduce the impact of adverse**
10 **childhood experiences.** The Secretary shall make recommendations in the
11 FY2017 budget 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) “Risk of harm” means a significant danger that a child will suffer
18 serious harm by other than accidental means, which harm would be likely to
19 cause physical injury, **neglect, emotional maltreatment,** or sexual abuse,
20 including as the result of:

1 (A) a single, egregious act that has caused the child to be at
2 significant risk of serious physical injury;[Note – ongoing conversation about
3 this subsection]

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

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

8 (D) failing to provide supervision or care appropriate for the child’s
9 age or development due to use of illegal substances, or misuse of prescription
10 drugs or alcohol;

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

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

15 * * *

16 (17) “Serious physical injury” means any intentional or malicious
17 conduct by an adult that leaves a child with an injury or injuries that leave
18 significant and/or permanent bodily or psychological damage or disfigurement,
19 or that leaves a child without the ability to perform normal functions of daily
20 living.

* * * Confidentiality * * *

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

§ 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL
ACTION

(a) Any physician, surgeon, osteopath, chiropractor, or physician assistant licensed, certified, or registered under the provisions of Title 26, any resident physician, intern, or any hospital administrator in any hospital in this State, whether or not so registered, and any registered nurse, licensed practical nurse, medical examiner, emergency medical personnel as defined in 24 V.S.A. § 2651(6), dentist, psychologist, pharmacist, any other health care provider, child care worker, school superintendent, headmaster of an approved or recognized independent school as defined in 16 V.S.A. § 11, school teacher, student teacher, school librarian, school principal, school guidance counselor, and any other individual who is employed by a school district or an approved or recognized independent school, or who is contracted and paid by a school district or an approved or recognized independent school to provide student services, mental health professional, social worker, probation officer, any employee, contractor, and grantee of the Agency of Human Services who have contact with clients, police officer, camp owner, camp administrator, camp counselor, or member of the clergy who has reasonable cause to believe that any child has been abused or neglected shall report ~~or cause a report to be~~

1 **made** in accordance with the provisions of section 4914 of this title within
2 24 hours. As used in this subsection, “camp” includes any residential or
3 nonresidential recreational program.

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

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

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

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

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

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

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

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

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

1 (4) In providing information under subdivision (2) of this subsection, the
2 Department may withhold information that could compromise the safety of the
3 reporter or the child or family who is the subject of the report. [Note – ongoing
4 discussion]

5 * * *

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

7 § 4921. DEPARTMENT'S RECORDS OF ABUSE AND NEGLECT

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

14 (b) The Commissioner shall promptly inform the parents, if known, or
15 guardian of the child that a report has been accepted as a valid allegation
16 pursuant to subsection 4915(b) of this title and the Department's response to
17 the report. The Department shall inform the parent or guardian of his or her
18 ability to request records pursuant to subsection (c) of this section. This
19 section shall not apply if the parent or guardian is the subject of the
20 investigation.

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

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

5 (2) the person alleged to have abused or neglected the child, as provided
6 for in subsection 4916a(d) of this title.

7 (d) Upon request, Department records created under this subchapter shall
8 be disclosed to:

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

12 (2) the Commissioner or person designated by the Commissioner to
13 receive such records;

14 (3) persons assigned by the Commissioner to conduct investigations;

15 (4) law enforcement officers engaged in a joint investigation with the
16 Department, an ~~assistant attorney general~~ Assistant Attorney General, or a
17 ~~state's attorney~~; State's Attorney and;

18 (5) other State agencies conducting related inquiries or proceedings;

19 and

20 (6) ~~a Probate Division of the Superior Court involved in guardianship~~
21 ~~proceedings. The Probate Division of the Superior Court shall provide a copy~~

1 ~~of the record to the respondent, the respondent's attorney, the petitioner, the~~
2 ~~guardian upon appointment, and any other individual, including the proposed~~
3 ~~guardian, determined by the Court to have a strong interest in the welfare of~~
4 ~~the respondent. [Repealed.]~~

5 (e)(1) Upon request, relevant Department records **or information** created
6 under this subchapter ~~may~~ shall be disclosed to:

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

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

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

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

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

1 (F) A Family Division of the Superior Court involved in any
2 proceeding in which custody of a child or parent-child contact is at issue.

3 (G) A Probate Division of the Superior Court involved in
4 guardianship proceedings. The Probate Division of the Superior Court shall
5 provide a copy of the record to the respondent, the respondent's attorney, the
6 petitioner, the guardian upon appointment, and any other individual, including
7 the proposed guardian, determined by the Court to have a strong interest in the
8 welfare of the respondent.

9 (H) ~~other~~ Other governmental entities for purposes of child
10 protection.

11 (2) Determinations of relevancy shall be made by the Department.

12 (3) In providing records or information under this subsection (e), the
13 Department may withhold information that could compromise the safety of the
14 reporter or the child or family who is the subject of the report. [Note – ongoing
15 discussion]

16 (4) In providing records or information under this section, the
17 Department may also provide other records related to its child protection
18 activities for the child.

19 (5) Any persons or agencies authorized to receive confidential
20 information under this section may share such information with other persons
21 or agencies authorized to receive confidential information under this section

1 for the purposes of providing services and benefits to the children and families
2 those persons or agencies mutually serve.

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

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

10 § 5110. CONDUCT OF HEARINGS

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

13 (b) The general public shall be excluded from hearings under the juvenile
14 judicial proceedings chapters, and only the parties, their counsel, witnesses,
15 persons accompanying a party for his or her assistance, and such other persons
16 as the Court finds to have a proper interest in the case or in the work of the
17 Court, including a foster parent or a representative of a residential program
18 where the child resides, may be admitted by the Court. An individual without
19 party status seeking inclusion in the hearing may petition the Court for
20 admittance by filing a request with the clerk of the Court. This subsection

1 shall not prohibit a victim's exercise of his or her rights under sections 5233
2 and 5234 of this title, and as otherwise provided by law.

3 (c) There shall be no publicity given by any person to any proceedings
4 under the authority of the juvenile judicial proceedings chapters except with
5 the consent of the child, the child's guardian ad litem, and the child's parent,
6 guardian, or custodian. A person who violates this provision may be subject to
7 contempt proceedings pursuant to Rule 16 of the Vermont Rules for Family
8 Proceedings.

9 * * * Juvenile Proceedings; General Provisions; Children in Need of Care or
10 Supervision; Request for an Emergency Care Order * * *

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

12 § 5302. REQUEST FOR EMERGENCY CARE ORDER

13 (a) If an officer takes a child into custody pursuant to ~~subdivision~~ section
14 5301(1) ~~or (2)~~ of this title, the officer shall immediately notify the child's
15 custodial parent, guardian, or custodian and release the child to the care of the
16 child's custodial parent, guardian, or custodian unless the officer determines
17 that the child's immediate welfare requires the child's continued absence from
18 the home.

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

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

6 (2) ~~Prepare~~ The officer or a social worker employed by the Department
7 for Children and Families shall prepare an affidavit in support of a request for
8 an emergency care order and provide the affidavit to the State's Attorney. The
9 affidavit shall include: the reasons for taking the child into custody; and to the
10 degree known, potential placements with which the child is familiar; the
11 names, addresses, and telephone number of the child's parents, guardian,
12 custodian, or care provider; the name, address, and telephone number of any
13 relative who has indicated an interest in taking temporary custody of the child.
14 The officer or social worker shall contact the Department and the Department
15 may prepare an affidavit as a supplement to the affidavit of the law
16 enforcement officer or social worker if the Department has additional
17 information with respect to the child or the family.

18 * * *

1 * * * Temporary Care Order; Custody * * *

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

3 § 5308. TEMPORARY CARE ORDER

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

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

10 (2) The child or another child residing in the same household has been
11 physically or sexually abused by a custodial parent, guardian, or custodian, or
12 by a member of the child’s household, or another person known to the
13 custodial parent, guardian, or custodian.

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

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

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

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

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

11 (b) Upon a finding that ~~any of the conditions set forth in subsection (a) of~~
12 ~~this section exists~~ a return home would be contrary to the best interests of the
13 child, the Court may issue such temporary orders related to the legal custody of
14 the child as it deems necessary and sufficient **to protect the welfare and safety**
15 **of the child**, including, ~~in order of preference:~~

16 (1) ~~A~~ a conditional custody order returning **or granting** legal custody of
17 the child to the custodial parent, guardian, ~~or~~ custodian, noncustodial parent,
18 relative, or a person with a significant relationship with the child, subject to
19 such conditions and limitations as the Court may deem necessary and sufficient
20 ~~to protect the child;~~

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

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

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

9 ~~(iii) the child's need for a continuing relationship with the~~

10 ~~eustodial parent, if appropriate.~~

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

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

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

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

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

5 ~~(iv) The child or another child residing in the same household as~~
6 ~~the noncustodial parent is at substantial risk of physical or sexual abuse by the~~
7 ~~noncustodial parent or a member of the noncustodial parent's household, or~~
8 ~~another person known to the noncustodial parent. It shall constitute prima facie~~
9 ~~evidence that a child is at substantial risk of being physically or sexually~~
10 ~~abused if:~~

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

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

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

20 ~~(D) If the noncustodial parent's request for temporary custody is~~
21 ~~contested, the Court may continue the hearing and place the child in the~~

1 ~~temporary custody of the Department, pending further hearing and resolution~~
2 ~~of the custody issue. Absent good cause shown, the Court shall hold a further~~
3 ~~hearing on the issue within 30 days.~~

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

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

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

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

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

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

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

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

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

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

1 (4) an order transferring temporary legal custody of the child to the
2 Commissioner.

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

6 (d) In considering ~~the suitability of a relative under this subdivision (3) an~~
7 order under subsection (b) of this section, the Court may order the Department
8 to conduct an investigation of a person seeking custody of the child, and the
9 suitability of that person’s home, and file a written report of its findings with
10 the Court. The Court may place the child in the temporary custody of the
11 ~~Department~~ Commissioner, pending such investigation.

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

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

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

1 (1) The order shall include:

2 (A) ~~a A finding that remaining in the home is contrary to the child's~~
3 ~~welfare~~ best interests of the child and the facts upon which that finding is
4 based; ~~and.~~

5 (B) a A finding as to whether reasonable efforts were made to
6 prevent unnecessary removal of the child from the home. If the Court lacks
7 sufficient evidence to make findings on whether reasonable efforts were made
8 to prevent the removal of the child from the home, that determination shall be
9 made at the next scheduled hearing in the case but, in any event, no later than
10 60 days after the issuance of the initial order removing a child from the home.

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

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

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

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

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

2 (E) requiring the Department to make diligent efforts to locate the
3 noncustodial parent;

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

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

9 (3) If legal custody of a child is transferred to the Commissioner, the
10 Commissioner shall provide the child with assistance and services. In his or
11 her discretion, the Commissioner may provide assistance and services to other
12 children and families to the extent that funds permit, ~~notwithstanding~~
13 ~~subdivision (2)(B) of this subsection.~~

14 ~~(d) If a party seeks to modify a temporary care order in order to transfer~~
15 ~~legal custody of a child from the Commissioner to a relative or a person with a~~
16 ~~significant relationship with the child, the relative shall be entitled to~~
17 ~~preferential consideration under subdivision (b)(3) of this section, provided~~
18 ~~that a disposition order has not been issued and the motion is filed within~~
19 ~~90 days of the date that legal custody was initially transferred to the~~
20 ~~Commissioner. [Repealed.]~~

1 * * * Adoption Act; Postadoption Contact Agreements * * *

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

3 § 1-109. TERMINATION OF ORDERS AND AGREEMENTS FOR
4 VISITATION OR COMMUNICATION UPON ADOPTION

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

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

9 § 5124. POSTADOPTION CONTACT AGREEMENTS

10 (a) Either or both parents and each intended adoptive parent may enter into
11 a postadoption contact agreement regarding communication or contact between
12 either or both parents and the child after the finalization of an adoption by the
13 intended adoptive parent or parents who are parties to the agreement. Such an
14 agreement may be entered into if:

15 (1) the child is in the custody of the Department for Children and
16 Families;

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

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

21 (b) The Court may approve the postadoption contact agreement if:

- 1 (1)(A) it determines that the child’s best interests will be served by
2 postadoption communication or contact with either or both parents; and
- 3 (B) in making a best interests determination, it may look to:
- 4 (i) the age of the child;
- 5 (ii) the length of time that the child has been under the actual care,
6 custody, and control of a person other than a parent;
- 7 (iii) the desires of the child, the child’s parents; and the child’s
8 intended adoptive parents;
- 9 (iv) the child’s relationship with and the interrelationships
10 between the child’s parents, the child’s intended adoptive parents, the child’s
11 siblings, and any other person with a significant relationship with the child;
- 12 (v) the willingness of the parents to respect the bond between the
13 child and the child’s intended adoptive parents;
- 14 (vi) the willingness of the intended adoptive parents to respect the
15 bond between the child and the parents;
- 16 (vii) the adjustment to the child’s home, school, and community;
- 17 (viii) any evidence of abuse or neglect of the child;
- 18 (ix) the recommendations of any guardian ad litem involved in the
19 proceeding; and
- 20 (x) the recommendation of the Department;
- 21 (2) each of the following is made a part of the Court record:

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

6 (B) a written acknowledgment by each parent that the termination of
7 parental rights is irrevocable, even if the intended adoption is not finalized, the
8 adoptive parents do not abide by the postadoption contact agreement, or the
9 adoption is later dissolved;

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

12 (D) an agreement to the postadoption contact or communication in
13 writing from the Department, the guardian ad litem, and the attorney for the
14 child.

15 (d) A postadoption contact agreement must be in writing and signed by
16 each parent and each intended adoptive parent entering into the agreement.
17 There may be separate agreements for each parent. The agreement shall
18 specify:

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

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

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

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

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

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

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

13 (8) an acknowledgment by the intended adoptive parents that the
14 agreement grants either or both parents the right to seek to enforce the
15 postadoption contact agreement;

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

19 (10) the finality of the termination of parental rights and of the adoption
20 shall not be affected by implementation of the provisions of the postadoption
21 contact agreement; and

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

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

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

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

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

14 ARTICLE 9. ENFORCEMENT, MODIFICATION, AND TERMINATION
15 OF POSTADOPTION CONTACT AGREEMENTS

16 § 9-101. ENFORCEMENT, MODIFICATION, AND TERMINATION OF
17 POSTADOPTION CONTACT AGREEMENTS

18 (a) An adoptive parent may petition the Court to modify or terminate a
19 postadoption contact agreement entered into under 33 V.S.A. § 5124 if the
20 adoptive parent believes the best interests of the child are being compromised
21 by the terms of the agreement. In an action brought under this section, the

1 burden of proof shall be on the adoptive parent to show by clear and
2 convincing evidence that the modification or termination of the agreement is in
3 the best interests of the child.

4 (b) A former parent may petition for enforcement of a postadoption contact
5 agreement entered into under 33 V.S.A. § 5124 if the adoptive parent is not in
6 compliance with the terms of the agreement. In an action brought under this
7 section, the burden of proof shall be on the former parent to show by a
8 preponderance of the evidence that enforcement of the agreement is in the best
9 interests of the child.

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

13 (d) The Court shall not act on a petition to modify or enforce the agreement
14 unless the petitioner had in good faith participated or attempted to participate
15 in mediation or alternative dispute resolution proceedings to resolve the
16 dispute prior to bringing the petition for enforcement.

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

1 (f) The Court may order the communication or contact be terminated or
2 modified if the Court deems such termination or modification to be in the best
3 interests of the child. In making a best interests determination, the Court may
4 consider:

5 (1) the protection of the physical safety of the adopted child or other
6 members of the adoptive family, or the emotional well-being of the adopted
7 child; [Note – ongoing discussion]

8 (2) whether enforcement of the agreement undermines the adoptive
9 parent’s parental authority; and

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

12 (g) A Court-imposed modification of a previously approved agreement
13 may limit, restrict, condition, or decrease contact between the former parents
14 and the child, but in no event shall a Court-imposed modification serve to
15 expand, enlarge, or increase the amount of contact between the birth parents
16 and the child or place new obligations on the adoptive parents.

17 (h) No testimony or evidentiary hearing shall be required, although the
18 Court may, in its discretion, hold a hearing. A hearing held to review an
19 agreement for postadoption contact will be confidential. Documentary
20 evidence or offers of proof may serve as the basis for the Court’s decision
21 regarding enforcement or modification of an agreement.

1 (i) Failure to comply with the agreement or petitioning the Court to
2 enforce, modify, or terminate an agreement shall not form the basis for an
3 award of monetary damages.

4 (j) An agreement for postadoption contact or communication under
5 33 V.S.A. § 5124 shall cease to be enforceable on the date the adopted child
6 turns 18 years of age, or upon dissolution of the adoption.

7 Sec. 12. 33 V.S.A. § 152 is amended to read:

8 § 152. ACCESS TO RECORDS

9 (a) The Commissioner may obtain from the Vermont Crime Information
10 Center the record of convictions of any person to the extent required by law or
11 the Commissioner has determined by rule that such information is necessary to
12 regulate a facility or individual subject to regulation by the Department or to
13 carry out the Department’s child protection responsibilities under this title.

14 The Commissioner shall first notify the person whose record is being
15 requested.

16 * * *

17 Sec. 13. 33 V.S.A. § 6911 is amended to read:

18 § 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

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

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

17 * * *

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

20 * * *

1 (5) the Commissioner for Children and Families; or ~~the Commissioner's~~
2 designee; for purposes related to:

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

5 (B) the Department's child protection duties under this title.

6 * * *

7 Sec. 14. 33 V.S.A. § 4916c is amended to read:

8 § 4916c. PETITION FOR EXPUNGEMENT FROM THE REGISTRY

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

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

15 (G) any other information that the Commissioner deems relevant.

16 * * *

17 * * * Municipal and County Government; Special Investigative

18 Units; Mission and Jurisdiction * * *

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

20 § 1940. ~~TASK FORCES; SPECIALIZED~~ SPECIAL INVESTIGATIVE

21 UNITS; BOARDS; GRANTS

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

10 (1) shall investigate:

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

13 (B) potential violations of:

14 (i) 13 V.S.A. § 2602;

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

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

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

18 (2) may investigate:

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

20 (i) bodily injury, by other than accidental means, as defined in

21 13 V.S.A. § 1021; or

1 (ii) death;

2 (B) potential violations of:

3 (i) 13 V.S.A. § 2601;

4 (ii) 13 V.S.A. § 2605;

5 (iii) 13 V.S.A. § 1304; and

6 (iv) 13 V.S.A. § 1304a; and

7 (C) an incident involving potential domestic violence and crimes
8 against those with physical or developmental disabilities.

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. 33 V.S.A. § 4915b is amended to read:**

7 * * *

8 ~~(e) The Department shall report to and request assistance from law~~
9 ~~enforcement in the 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 ~~(3) situations potentially dangerous to the child or Department worker.~~

15 * * *

16 Sec. 16. 33 V.S.A. § 4915 is amended to read:

17 § 4915. ASSESSMENT AND INVESTIGATION

18 * * *

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

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

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

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

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

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

11 (2) potential violations of:

12 (A) 13 V.S.A. § 2602;

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

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

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

16 * * * Crimes and Criminal Procedure; Cruelty to a Child; Establishing a New

17 Crime of Failure to Protect a Child; Enhancing Penalties for

18 Manufacturing Methamphetamine When a Child is Present * * *

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

20 § 1304. ~~CRUELTY TO CHILDREN UNDER 10 BY ONE OVER 16~~ A

21 CHILD

1 A person over ~~the age of~~ 16 years of age, having the custody, ~~charge~~ or care
2 of a child ~~under 10 years of age~~, who ~~wilfully~~ willfully assaults, ~~ill treats~~,
3 neglects, or abandons ~~or exposes such~~ the child, or causes ~~or procures such~~ the
4 child to be assaulted, ~~ill treated~~, neglected, or abandoned ~~or exposed~~, in a
5 manner to cause ~~such~~ the child unnecessary suffering, or to endanger his or her
6 health, shall be imprisoned not more than two years or fined not more than
7 \$500.00, or both.

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

10 § 1304a. FAILURE TO PROTECT A CHILD

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

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

15 (A) death;

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

17 (C) lewd or lascivious conduct with a child in violation of section
18 2602 of this title;

19 (D) sexual exploitation of children in violation of chapter 64 of this
20 title; or

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

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

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

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

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

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

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

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

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

19 § 4236. MANUFACTURE OR CULTIVATION

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

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

7 (A) the regulated drug is methamphetamine; and

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

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

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

12 18 V.S.A. § 4236 is amended to read:

13 § 4236. MANUFACTURE OR CULTIVATION

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

18 (b) ~~This section shall not apply to the cultivation of marijuana~~ A person
19 knowingly and unlawfully manufacturing methamphetamine when a child is
20 actually present shall be imprisoned for not more than 30 years or fined not
21 more than \$1,500,000.00, or both.

1 Sec. X. 18 V.S.A. § 4236a

2 § 4236a. REGULATED DRUG IMPAIRMENT WHILE CARING FOR A
3 CHILD

4 A person impaired by a regulated drug, whether or not prescribed for the
5 person, while a child under 12 is in the person's care, custody, or control shall
6 be imprisoned for not more than two years or fined not more than \$500.00, or
7 both.

8 * * * Department for Children and Families; Policies * * *

9 Sec. 20. THE DEPARTMENT FOR CHILDREN AND FAMILIES;

10 POLICIES, PROCEDURES, AND PRACTICES

11 (a) The Commissioner for Children and Families shall, within available
12 resources:

13 (1) ensure that Family Services Division policies, procedures, and
14 practices are consistent with the best interest of the child and are consistent
15 with statute;

16 (2) ensure that Family Services Division policies, procedures, and
17 practices are consistent with each other and are applied in a consistent manner,
18 in all Department offices and in all regions of the State;

19 (3) by September 30, 2015, develop and implement a Family Services
20 Division policy requiring a 6 month supervision period by the Department after

1 a child is returned to the home from which he or she was removed due to
2 allegations of abuse or neglect;

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

7 (5) ensure that all employees assigned to carry out investigations of
8 child abuse and neglect have training or experience in conducting
9 investigations and have a master's degree in social work or an equivalent
10 degree, or relevant experience;

11 (6) ensure that all Family Services Division employees receive training
12 on:

13 (A) relevant policies, procedures, and practices; and

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

15 (7) develop policies, procedures, and practices to:

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

19 (B) encourage treatment providers and all agencies, departments, and
20 other persons that support recovery to provide regular treatment progress
21 updates to the Commissioner;

1 (C) ensure that courts have all relevant information in a timely
2 fashion, and that Department employees file paperwork and reports in a timely
3 manner;

4 (D) require that the Family Services Division monitor a child’s safety
5 if:

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

8 (ii) the child remains in the custody of a parent or guardian whose
9 parental rights as to another child have been terminated;

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

14 (F) increase the number of required face-to-face meetings between
15 Family Services Division social workers and children;

16 (G) increase the number of required home visits and require
17 unannounced home visits by Family Services Division social workers;

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

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

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

6 (K) apply results-based accountability or other data-based quality
7 measures to determine if children who receive series **from the Family Services**
8 **Division** in different areas of the State have different outcomes and the reasons
9 for those differences.

10 (b) On or before **September 30**, 2015, the Commissioner shall submit a
11 written **response** to the House Committees on Human Services and on
12 Judiciary and to the Senate Committees on Health and Welfare and on
13 Judiciary with the Commissioner’s response to the issues in subsection (a) of
14 this section, including the language of any new or amended policies and
15 procedures.

16 * * * Legislature; Establishing a Joint Legislative Child
17 Protection Oversight Committee * * *

18 Sec. 21. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT
19 COMMITTEE

20 (a) Creation. There is created a Joint Legislative Child Protection
21 Oversight Committee.

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

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

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

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

11 (A) House Committee on Education;

12 (B) Senate Committee on Education;

13 (C) House Committee on Judiciary;

14 (D) Senate Committee on Judiciary;

15 (E) House Committee on Human Services; and

16 (F) Senate Committee on Health and Welfare.

17 (c) Powers and duties.

18 (1) The Committee shall:

19 (A) Exercise oversight over Vermont's system for protecting children
20 from abuse and neglect, including:

1 (i) evaluating whether the branches, departments, agencies, and
2 persons that are responsible for protecting children from abuse and neglect are
3 effective;

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

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

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

10 (v) evaluating the measures recommended by the Working Group
11 to Recommend Improvements to CHINS Proceedings established in Sec. 20 of
12 this act to ensure that once a child is returned to his or her family, the court or
13 the Department for Children and Families may continue to monitor the child
14 and family where appropriate.

15 (B) At least annually, report on the Committee's activities and
16 recommendations to the General Assembly.

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

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

1 (e) Retaliation. No person who is an employee of the State of Vermont, or
2 of any State, local, county, or municipal department, agency, or person
3 involved in child protection, and who testifies before, supplies information to,
4 or cooperates with the Committee shall be subject to retaliation by his or her
5 employer. Retaliation shall include job termination, demotion in rank,
6 reduction in pay, alteration in duties and responsibilities, transfer, or a negative
7 job performance evaluation based on the person's having testified before,
8 supplied information to, or cooperated with the Committee.

9 (f) Meetings.

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

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

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

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

4 (h) Sunset. On June 1, 2018 this section (creating the Joint Legislative
5 Child Protection Oversight Committee) is repealed and the Committee shall
6 cease to exist.

7 * * * Improvements to CHINS Proceedings * * *

8 Sec. 22. WORKING GROUP TO RECOMMEND IMPROVEMENTS TO
9 CHINS PROCEEDINGS

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

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

15 (1) the Chief Administrative Judge or designee;

16 (2) the Defender General or designee;

17 (3) the Attorney General or designee;

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

19 (5) the Executive Director of State’s Attorneys and Sheriffs or

20 designee; and

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

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

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

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

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

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

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

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

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

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

1 (9) whether a reunification hearing to oversee the child’s transition from
2 Department custody to legal parent custody would improve child welfare
3 outcomes;

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

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

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

12 (e) Report. On or before November 1, 2015, the Working Group shall
13 report its findings and recommendations to the Joint Legislative Child
14 Protection Oversight Committee, the House Committees on Human Services
15 and on Judiciary, and the Senate Committees on Health and Welfare and on
16 Judiciary.

17 (f) Meetings and sunset.

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

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

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

2 * * * Miscellaneous Outstanding Issues * * *

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

4 **POLICIES, PROCEDURES, AND PRACTICES**

5 The State recognizes that the child’s attorney and guardian ad litem are
6 important advocates for the child and therefore an important part of the safety
7 net for the child. Therefore, the Department shall be required to give 14 days’
8 notice to the child’s attorney and guardian ad litem of any proposed move of
9 the child from a current foster home. In the event of an emergency transfer of
10 the child due to allegations of abuse or neglect in the foster home, the
11 Department shall notify the child’s attorney and guardian ad litem within 24
12 hours of receiving the report of abuse or neglect.

1
2
3
4
5
6
7
8
9
10
11

* * * Effective Dates * * *

Sec. 24. EFFECTIVE DATES

This act shall take effect on July 1, 2015, except for this section, Sec. 21
(Joint Legislative Child Protection Oversight Committee) and Sec. 20
(Department for Children and Families; policies, procedures, and practices)
which shall take effect on passage.

(Committee vote: _____)

Representative _____

FOR THE COMMITTEE