

S.9 (Senate as passed version)
Section by section summary

Section # and issue	Important language	Comments
1 (findings)	[See bill]	Most of language is general and the Senate did not focus on this section.
2 (amending 13 V.S.A. § 1304, cruelty to a child)	<p>§ 1304. CRUELTY TO CHILDREN UNDER 10 BY ONE OVER 16 <u>A CHILD</u></p> <p>A person over the age of 16 years <u>of age</u>, having the custody, charge or care of a child under 10 years of age, who willfully <u>willfully</u> assaults, ill treats, neglects, or abandons or exposes such the child, or causes or procures such the child to be assaulted, ill treated, neglected, <u>or</u> abandoned or exposed, in a manner to cause such the child unnecessary suffering, or to endanger his or her health, shall be imprisoned not more than two years or fined not more than \$500.00, or both.</p>	13 V.S.A. § 1304 is an existing criminal statute that penalizes cruelty to a child. However, it is vague and it is unclear how often it is currently used. The Senate amended this law to remove unclear and outdated language. The Senate’s goal was that the amended 13 V.S.A. § 1304 will serve as a lower (misdemeanor) level offense that applies to a broad range of conduct, and that the new crime of Failure to Protect a Child will serve as a felony-level offense that will only apply to a narrow range of more egregious behavior.
3 (creating new crime of 13 V.S.A. § 1304a, failure to protect a child)	<p>§ 1304a. <u>FAILURE TO PROTECT A CHILD</u></p> <p><u>(a) A person having the custody or care of a child commits the crime of failure to protect a child if:</u></p> <p><u>(1) the person knows, or reasonably should have known that the child is in danger of:</u></p> <p><u>(A) death;</u></p> <p><u>(B) serious bodily injury as defined in section 1021 of this title;</u></p> <p><u>(C) lewd or lascivious conduct with a child in violation of section 2602 of this title;</u></p> <p><u>(D) sexual exploitation of children in violation of chapter 64 of this title; or</u></p> <p><u>(E) sexual assault in violation of chapter 72 of this title; and</u></p> <p><u>(2) the person fails to act to prevent a child from suffering any of the possible outcomes as set forth in subdivision (1) of this subsection; and</u></p> <p><u>(3) the person’s failure to act is a proximate cause of the child suffering any of the possible outcomes as set forth in subdivision (1) of this subsection.</u></p>	<p>This section creates a new crime that will only apply to a limited range of conduct. The elements include:</p> <ol style="list-style-type: none"> 1. a person having the custody or care of a child; 2. knows or reasonably should have known that that child was in danger of suffering death, serious bodily injury, or sexual crimes; 3. fails to take any action to prevent that danger; and 4. that failure to act is a proximate cause of the child’s injury. <p>The Senate substantially narrowed the scope of this new crime as compared to the “as introduced” version, for example removing drug-related crimes, adding the proximate cause requirement, limiting the circumstances the crime might apply</p>

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	<p><u>(b) It shall be an affirmative defense to this section, if proven by a preponderance of the evidence, that:</u></p> <p><u>(1) the defendant failed to act because of a reasonable fear that he or she or another person would suffer death, bodily injury, or serious bodily injury as defined in section 1021 of this title, or sexual assault in violation of chapter 72 of this title as a result of acting to prevent harm to the child; or</u></p> <p><u>(2) where the child’s injury or death resulted from a lack of medical treatment or care, the defendant made a reasonable decision to not seek medical care or to withhold medical treatment.</u></p> <p><u>(c) A person who violates this section shall be imprisoned not more than ten years or fined not more than \$20,000.00, or both.</u></p> <p><u>(d) The provisions of this section shall not limit or restrict prosecutions for any other offense arising out of the same incident or conduct.</u></p>	<p>to, and adding two affirmative defenses.</p> <p>The affirmative defenses apply:</p> <ol style="list-style-type: none"> 1. when an individual fails to act to protect a child because he or she is a battered spouse; or 2. when a parent or caregiver makes a reasonable decision not to provide medical care or treatment. <p>Domestic violence advocates expressed concerns that the new crime might be applied to victims of domestic violence who fail to protect their children because of a fear that they, or the child, might be harmed by an abusive partner. In response to those concerns, the Senate added:</p> <ol style="list-style-type: none"> 1. the affirmative defense; and 2. section 5 requiring the Judiciary to track prosecutions under the new law. <p>Note: The maximum sentence is up to 10 years because some of the harms, such as death, are so serious, but a court could impose less than 10 years.</p>
4 (amending 18 V.S.A. § 4236 concerning the manufacture of a regulated drug)	<p>§ 4236. MANUFACTURE OR CULTIVATION</p> <p><u>(a)(1) A person knowingly and unlawfully manufacturing or cultivating a regulated drug shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both.</u></p> <p><u>(2) A person who violates subdivision (1) of this subsection shall be imprisoned for not more than 30 years or fined not more than \$1,500,000.00, or both, if:</u></p> <p><u>(A) the regulated drug is methamphetamine; and</u></p> <p><u>(B) a child is actually present at the site of methamphetamine manufacture or attempted manufacture.</u></p> <p><u>(b) This section shall not apply to the cultivation of marijuana.</u></p>	<p>This amendment to existing law will provide an enhanced sentence for producing meth when a child is present.</p> <p>Existing law provides for up to 20 years for manufacturing a “regulated” drug, which includes methamphetamine. The amendment will add another 10 years, for a possible maximum of 30 years, when the drug is meth, and it is manufactured when a child is present.</p>
5 (requiring a report	<u>The Judicial Branch shall track all prosecutions and convictions pursuant</u>	This section adds a requirement in session law

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by the Judiciary on the application of the new crime in Sec. 3)	<p>to 13 V.S.A. § 1304a, and, on January 15, 2018, shall report to the House and Senate Committees on Judiciary concerning:</p> <p><u>(1) the number of arrests, prosecutions, and convictions pursuant to 13 V.S.A. § 1304a;</u></p> <p><u>(2) the disposition of all cases prosecuted pursuant to 13 V.S.A. § 1304a;</u></p> <p><u>(3) the sentence imposed for all convictions pursuant to 13 V.S.A. § 1304a; and</u></p> <p><u>(4) any other data or information that the Judicial Branch deems relevant.</u></p>	<p>that the court system will track, and report back to the Senates on, the application of the new crime. As noted above, in response to concerns from the domestic violence advocates the Senate added the affirmative defense mentioned above, and this section requiring the Judiciary to track prosecutions under the new law.</p>
6 (SIUs, amending 24 V.S.A. § 1940)	<p>§ 1940. TASK FORCES; SPECIALIZED SPECIAL INVESTIGATIVE UNITS; BOARDS; GRANTS</p> <p>(a) Pursuant to the authority established under section 1938 of this title, and in collaboration with law enforcement agencies, investigative agencies, victims' advocates, and social service providers, the Department of State's Attorneys and Sheriffs shall coordinate efforts to provide access in each region of the state <u>State</u> to special investigative units to investigate sex crimes, child abuse, domestic violence, or crimes against those with physical or developmental disabilities. The General Assembly intends that access to special investigative units be available to all Vermonters as soon as reasonably possible, but not later than July 1, 2009 which:</p> <p><u>(1) shall investigate:</u></p> <p><u>(A) an incident in which a child suffers, by other than accidental means, serious bodily injury as defined in 13 V.S.A. § 1021; and</u></p> <p><u>(B) potential violations of:</u></p> <p><u>(i) 13 V.S.A. § 2602; [lewd & lascivious conduct w/ a child]</u></p> <p><u>(ii) 13 V.S.A. chapter 60; [human trafficking]</u></p> <p><u>(iii) 13 V.S.A. chapter 64; and [sexual exploitation of child, which includes child pornography]</u></p> <p><u>(iv) 13 V.S.A. chapter 72; and [sexual assault]</u></p> <p><u>(2) may investigate:</u></p> <p><u>(A) an incident in which a child suffers:</u></p> <p><u>(i) bodily injury, by other than accidental means, as defined in 13 V.S.A. § 1021; or</u></p> <p><u>(ii) death; and</u></p>	<p>The summer study committee heard testimony that there was little consistency between different SIUs concerning the cases they accept and investigate, regional variation in what cases SIUs investigate, and differences between DCF's and law enforcement's definitions of the most serious cases.</p> <p>To address these issues, this bill does 3 things:</p> <ol style="list-style-type: none"> 1. limits the jurisdiction of SIUs to sex cases (adult or child) and the most serious child abuse cases; 2. clearly delineate the types of cases that SIUs must investigate and those they "may" investigate; and 3. encourages greater consistency statewide by giving funding priority to those SIUs that are striving to have policies that are consistent with other SIUs. <p>In addition, Sec. 11 adds similar language in Title 33 to make sure that DCF uses the same definitions and will refer the same types of cases to law enforcement and SIUs that SIUs are required to investigate.</p>

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	<p>(B) <u>potential violations of:</u> (i) 13 V.S.A. § 2601; [lewd & lascivious with adult] (ii) 13 V.S.A. § 2605; [voyeurism] (iii) 13 V.S.A. § 1304; and [cruelty to a child] (iv) 13 V.S.A. § 1304a. [new crime of failure to protect a child]</p> <p>[Note: bill language concerning grants not included here]</p>	
<p>7 (amending Title 15A to allow for postadoption contact agreements)</p>	<p>When a decree of adoption becomes final, except as provided in Article 4 of this title <u>and 33 V.S.A. § 5124</u>, any order or agreement for visitation or communication with the minor shall be unenforceable.</p>	<p>Adds reference in Title 15A to 33 V.S.A. § 5124, the postadoption contact agreement section created in Sec. 8 of S.9.</p>
<p>8 (creating 33 V.S.A. § 5124, the postadoption contact agreement section)</p>	<p><u>§ 5124. POSTADOPTION CONTACT AGREEMENTS</u> <u>(a) Either or both parents and each intended adoptive parent may enter into a postadoption contact agreement regarding communication or contact between either or both parents and the child after the finalization of an adoption by the intended adoptive parent or parents who are parties to the agreement. Such an agreement may be entered into if:</u> <u>(1) the child is in the custody of the Department for Children and Families;</u> <u>(2) an order terminating parental rights has not yet been entered; and</u> <u>(3) either or both parents agree to a voluntary termination of parental rights, including an agreement in a case which began as an involuntary termination of parental rights.</u> <u>(b) The Court may approve the postadoption contact agreement if it determines that the child’s best interests will be served by postadoption communication or contact with either or both parents. In making a best interests determination, the Court may look to:</u> <u>(1) the length of time that the child has been under the actual care, custody, and control of a person other than a parent;</u> <u>(2) the desires of the child, the child’s parents, and the child’s intended adoptive parents;</u> <u>(3) the child’s relationship with and the interrelationships between the child’s parents, the child’s intended adoptive parents, the child’s siblings, and any other person with a significant relationship with the child;</u></p>	<p>The summer study committee heard testimony from the Judiciary that allowing enforceable postadoption contact agreements could reduce the number of contested TPRs (termination of parental rights). Currently under VT law, except for stepparent adoptions, postadoption contact agreements become unenforceable when the adoption is finalized. 33 V.S.A. § 5124 allows for enforceable postadoption contact agreements when three criteria are met:</p> <ol style="list-style-type: none"> 1. the child is in DCF custody 2. the TPR hasn’t yet been entered 3. the parents agree to voluntarily terminate their rights <p>Judges in the Juvenile Court will look to the child’s best interests in making a determination of whether to approve the agreement. The finality of the TPR and the adoption are not affected by the implementation of the postadoption contact agreement. The bill sets out several factors courts should look to in making a best interest determination, requires the agreements set forth details of the arrangement, and requires the parties</p>

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	<p><u>(4) the willingness of the parents to respect the bond between the child and the child’s intended adoptive parents;</u> <u>(5) the willingness of the intended adoptive parents to respect the bond between the child and the parents;</u> <u>(6) the adjustment to the child’s home, school, and community;</u> <u>(7) any evidence of abuse or neglect of the child; and</u> <u>(8) the recommendations of any guardian ad litem involved in the proceeding and the Department.</u> <u>(c) Before the Court orders postadoption communication or contact, the Court must review all of the following, which will be made a part of the Court record:</u> <u>(1) a sworn affidavit by the parties to the agreement which affirmatively states that the agreement was entered into knowingly and voluntarily and is not the product of coercion, fraud, or duress and that the parties have not relied on any representations other than those contained in the agreement;</u> <u>(2) a written acknowledgment by each parent that the termination of parental rights is irrevocable, even if the intended adoption is not finalized, the adoptive parents do not abide by the postadoption contact agreement, or the adoption is later dissolved;</u> <u>(3) an agreement to the postadoption contact or communication from the child to be adopted, if he or she is 14 years of age or older; and</u> <u>(4) an agreement to the postadoption contact or communication in writing from the Department, the guardian ad litem, and the attorney for the child.</u></p> <p>[(d) through (g) not reproduced]</p>	<p>to the agreement to make several acknowledgments which become part of the court record. A copy of the order approving the agreement and the agreement itself shall be filed with the Probate Division of the Superior Court. The order approving the agreement shall be separate from the order terminating parental rights.</p>
<p>9 (adding Article 9 to Title 15A providing for enforcement, modification, and termination of postadoption contact agreements)</p>	<p><u>§ 9-101. ENFORCEMENT, MODIFICATION, AND TERMINATION OF POSTADOPTION CONTACT AGREEMENTS</u> <u>(a) A postadoption contact agreement may be modified or terminated by agreement of the parties. The parties shall file the modified postadoption contact agreement with the Court that finalized the adoption. The Court shall review the modified agreement pursuant to the requirements of 33 V.S.A. § 5124(b), and, if approved, shall issue an order modifying the agreement.</u></p>	<p>This section provides for the enforcement, modification, or termination of postadoption contact agreements created in Title 33 to occur in the Probate Division of the Family Court. The former parents can seek to enforce the agreement, and the adoptive parents can petition the Court to modify or terminate the agreement if the agreement compromises the best interests of the</p>

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	<p>[(b) through (f) not reproduced]</p> <p><u>(g) The Court may order the communication or contact be terminated or modified if the Court deems such termination or modification to be in the best interests of the child. In making a best interests determination, the Court may consider:</u></p> <p><u>(1) the protection of the physical safety of the adopted child or other members of the adoptive family, or the emotional well-being of the adopted child;</u></p> <p><u>(2) whether enforcement of the agreement undermines the adoptive parent’s parental authority; and</u></p> <p><u>(3) whether, due to a change in circumstances, continued compliance with the agreement would be unduly burdensome to one or more of the parties.</u></p> <p><u>(h) A Court-imposed modification of a previously approved agreement may limit, restrict, condition, or decrease contact between the former parents and the child, but in no event shall a Court-imposed modification serve to expand, enlarge, or increase the amount of contact between the birth parents and the child or place new obligations on the adoptive parents.</u></p> <p><u>(i) No testimony or evidentiary hearing shall be required, although the Court may, in its discretion, hold a hearing. A hearing held to review an agreement for postadoption contact will be confidential. Documentary evidence or offers of proof may serve as the basis for the Court’s decision regarding enforcement or modification of an agreement.</u></p> <p><u>(j) In an action to enforce the agreement, the burden of proof shall be on the former parent to show by a preponderance of the evidence that enforcement of the agreement is in the best interests of the child.</u></p> <p><u>(k) In an action to modify or terminate the agreement, the burden of proof shall be on the adoptive parent to show by clear and convincing</u></p>	<p>child. Any modification of the agreement shall only serve to restrict the scope of communication or contact, not expand it. Disagreeing parties to an agreement must engage in mediation prior to bringing a petition.</p> <p>The Court may order changes to the agreement according to the best interests of the child. The bill sets forth factors the Court should consider in a best interest determination.</p>

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	<p><u>evidence that the modification or termination of the agreement is in the best interests of the child.</u></p> <p><u>(l) Failure to comply with the agreement or petitioning the Court to enforce, modify, or terminate an agreement shall not form the basis for an award of monetary damages.</u></p> <p><u>(m) An agreement for postadoption contact or communication under 33 V.S.A. § 5124 shall cease to be enforceable on the date the adopted child turns 18 years of age, or upon dissolution of the adoption.</u></p>	
<p>10 (amending definitions in 33 V.S.A. § 4912)</p>	<p>[Only parts of this section reproduced below]</p> <p>(11) “Physical injury” means death or permanent or temporary disfigurement or impairment of any bodily organ or function by other than accidental means <u>any impairment of physical condition by other than accidental means.</u></p> <p>(14) “Risk of harm” means a significant danger that a child will suffer serious harm by other than by accidental means, which harm would be likely to cause <u>serious physical injury, neglect, emotional maltreatment, or sexual abuse, including as the result of:</u></p> <p><u>(A) the production or preproduction of methamphetamines when a child is actually present;</u></p> <p><u>(B) leaving a child without developmentally appropriate supervision;</u></p> <p><u>(C) not providing developmentally appropriate supervision or care for a child due to use of illegal substances, or misuse of prescription drugs or alcohol;</u></p> <p><u>(D) failing to supervise appropriately a child in a situation in which drugs, alcohol, or drug paraphernalia are accessible to the child; and</u></p> <p><u>(E) a registered sex offender or person substantiated for sexually abusing</u></p>	<p>The summer study committee found that law enforcement and social workers often used different definitions and that, as a result, they sometimes are not always “speaking the same language,” and that key terms were not adequately defined in Title 33. To address these issues, S.9:</p> <p>Amends the definition of “physical injury” (the term used in T.33) to be similar to (but narrower than) “bodily injury” (the term used in T.13).</p> <p>Amends the definition of “risk of harm” to include behavior tied to substance abuse, which the summer study committee heard was one of the major reasons behind the increase in child abuse and neglect cases statewide.</p>

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	<p><u>a child residing with or spending unsupervised time with a child.</u></p> <p><u>(15)(A) “Sexual abuse” consists of any act or acts by any person involving sexual molestation or exploitation of a child, including incest, prostitution, rape, sodomy, or any lewd and lascivious conduct involving a child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child means any conduct involving a child that constitutes a potential violation of:</u></p> <p><u>(i) lewdness and prostitution in violation of 13 V.S.A. chapter 59;</u></p> <p><u>(ii) human trafficking in violation of 13 V.S.A. chapter 60;</u></p> <p><u>(iii) obscenity in violation of 13 V.S.A. chapter 63, except for violations of 13 V.S.A. § 2802b;</u></p> <p><u>(iv) sexual exploitation of children in violation of 13 V.S.A. chapter 64; or</u></p> <p><u>(v) sexual assault in violation of 13 V.S.A. chapter 72.</u></p> <p><u>(B) In determining whether to accept a report as a valid allegation of sexual abuse pursuant to section 4915 of this title, or to take any other action, the Department need not establish every element of the crimes listed in subdivision (A), and need only establish that there is a valid allegation that the conduct described in the crimes listed in subdivision (A) is alleged to have occurred and that conduct involved a child.</u></p> <p><u>(17) “Serious physical injury” means, by other than accidental means:</u></p> <p><u>(A) physical injury which creates any of the following:</u></p> <p><u>(i) a substantial risk of death;</u></p> <p><u>(ii) a substantial loss or impairment of the function of any bodily member or organ;</u></p> <p><u>(iii) a substantial impairment of health; or</u></p> <p><u>(iv) substantial disfigurement; or</u></p> <p><u>(B) strangulation by intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person.</u></p>	<p>Amends the definition of “sexual abuse” to remove vague and confusing language, outdated terms no longer used in the penal law, and to make sure that “sexual abuse” includes every possible sexual crime (which is achieved by listing the various chapters below).</p> <p>In (B), the Senate also added clarifying language that DCF need not “prove” or establish all the elements of a possible sexual crime, but need only establish that there is a valid allegation that the conduct occurred.</p> <p>As noted above, T.33 uses the terms “physical injury” and “serious physical injury.” Despite the importance of the term “serious physical injury,” it is not currently defined in T.33. The Senate fixed this by adding a definition of “serious physical injury” that is the similar to “serious bodily injury” under T.13.</p>

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11 (amends 33 V.S.A. § 4915b, which sets forth what cases DCF must report to law enforcement)	[similar language to section 6]	This section supplements Sec. 6, which clarified the jurisdiction of SIUs. This section adds similar language to 33 V.S.A. § 4915b to make sure that DCF must report the same types of cases to law enforcement that SIUs are required to investigate, and that the DCF “may” report the same cases that SIUs can (but are not required to) investigate. The goal is that both law enforcement and DCF will be using similar definitions and “speaking the same language,” that DCF will report all the cases to law enforcement that should be reported, and that these cases will therefore be investigated appropriately.
12 (mandated reporters access to information in 33 V.S.A. § 4913)	<p><u>(2) Upon request, the Commissioner shall provide relevant information contained in the case records concerning a person’s report to a person who:</u></p> <p><u>(A) made the report under subsection (a) of this section; and</u></p> <p><u>(B) is engaged in an ongoing working relationship with the child or family who is the subject of the report.</u></p> <p><u>(3) Any information disclosed under this subdivision (2) shall not be disseminated by the mandated reporter requesting the information. A person who intentionally violates the confidentiality provisions of this section shall be fined not more than \$2,000.00.</u></p> <p><u>(4) In providing records under this subdivision (2), the Department may withhold information that could compromise the safety of the reporter or</u></p>	<p>The summer study committee heard testimony that mandated reporters did not have access to sufficient information. To address this, Sec. 12 expands the scope of the information certain mandated reporters are authorized to receive upon request. Under current law they are only entitled to know whether or not their report was accepted as a valid allegation and whether or not DCF conducted an investigation or an assessment as a result.</p> <p>Sec. 12 amends current law to allow mandated reporters with an ongoing working relationship with the child or family to request and receive relevant information concerning their report. DCF may withhold any information that could compromise the safety of the reporter or the child or family. Mandated reporters who receive information under this section shall be subject to a civil penalty (2k fine) if they disclose any confidential information they receive.</p>

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<p>13 (amends confidentiality requirements of DCF case records in 33 V.S.A. § 4921)</p>	<p>(c) Upon request, the redacted investigation file shall be disclosed to:</p> <p>(1) the child’s parents, foster parent, or guardian, absent good cause shown by the Department, provided that the child’s parent, foster parent, or guardian is not the subject of the investigation; and</p> <p>(2) the person alleged to have abused or neglected the child, as provided for in subsection 4916a(d) of this title; and</p> <p><u>(3) the parents of a child residing in a home with a person alleged to have abused or neglected a child.</u></p> <p>(d) Upon request, Department records created under this subchapter shall be disclosed to:</p> <p>(1) the court <u>Court</u>, parties to the juvenile proceeding, and the child’s guardian ad litem if there is a pending juvenile proceeding or if the child is in the custody of the Commissioner;</p> <p>(2) the Commissioner or person designated by the Commissioner to receive such records;</p> <p>(3) persons assigned by the Commissioner to conduct investigations; and</p> <p>(4) law enforcement officers engaged in a joint investigation with the Department, an assistant attorney general <u>Assistant Attorney General</u>, or a state’s attorney; <u>State’s Attorney</u>.</p> <p>(5) other State agencies conducting related inquiries or proceedings; and</p> <p>(6) a Probate Division of the Superior Court involved in guardianship proceedings. The Probate Division of the Superior Court shall provide a copy of the record to the respondent, the respondent’s attorney, the petitioner, the guardian upon appointment, and any other individual, including the proposed guardian, determined by the Court to have a strong interest in the welfare of the respondent.</p> <p>(e)(1) Upon request, relevant Department records created under this subchapter may <u>shall</u> be disclosed to:</p> <p>(A) service providers working with a person or child who is the</p>	<p>The summer study committee heard testimony from many different players in the child protection system that information was not being shared appropriately among the various individuals providing treatment, care, or services to a family.</p> <p>Sec. 13 amends current law to require DCF to:</p> <p>1) disclose the redacted investigation file, upon request, to the parents of a child that resides with a person substantiated for abuse or neglect of a child;</p> <p>2) automatically disclose case records to certain individuals, including the Juvenile Court, parties to a juvenile proceeding, law enforcement, and the Assistant Attorney General and State’s Attorney; and</p> <p>3) disclose records upon request to certain professionals providing services to a child or family, educators, other agencies conducted related inquiries, a Family Court involved in custody proceedings absent good cause shown; and a Probate Court involved in guardianship proceedings absent good cause shown.</p>

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	<p><u>subject of the report; and A person, agency, or organization, including a multidisciplinary team empaneled under section 4917 of this title, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record created under this subchapter, or who is responsible for the child’s health or welfare.</u></p> <p><u>(B) Health and mental health care providers working directly with the child or family who is the subject of the report or record.</u></p> <p><u>(C) Educators working directly with the child or family who is the subject of the report or record.</u></p> <p><u>(D) Licensed or approved foster care givers for the child.</u></p> <p><u>(E) Mandated reporters as defined by section 4913 of this subchapter, making a report in accordance with the provisions of section 4914 of this subchapter and engaging in an ongoing working relationship with the child or family who is the subject of the report.</u></p> <p><u>(F) Other State agencies conducting related inquiries or proceedings.</u></p> <p><u>(G) A Family Division of the Superior Court involved in custody proceedings for a child who is the subject of a CHINS proceeding. The Family Division of the Superior Court shall, absent good cause shown by the Court, provide a copy of the record to the parties to the custody proceeding.</u></p> <p><u>(H) A Probate Division of the Superior Court involved in guardianship proceedings. The Probate Division of the Superior Court shall, absent good cause shown by the Court, provide a copy of the record to the respondent, the respondent’s attorney, the petitioner, the guardian upon appointment, and any other individual, including the proposed guardian, determined by the Court to have a strong interest in the welfare of the respondent.</u></p> <p><u>(I) other Other governmental entities for purposes of child protection.</u></p> <p><u>(2) Determinations of relevancy shall be made by the Department. In providing records under this subsection (e), the Department may withhold information that could compromise the safety of the reporter or the child or family who is the subject of the report.</u></p> <p><u>(3) In providing information under this section, the Department may also provide other records related to its child protection activities for</u></p>	<p>DCF may withhold any information that could compromise the safety of the reporter or the child or family. DCF may also provide other records it deems relevant.</p>

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	<p><u>the child.</u> <u>(f) Any records or reports disclosed under this section and information relating to the contents of those records or reports shall not be disseminated by the receiving persons or agencies to any persons or agencies, other than to those persons or agencies authorized to receive information pursuant to this section. A person who intentionally violates the confidentiality provisions of this section shall be fined not more than \$2,000.00.</u></p>	<p>Individuals who receive information under this section shall be subject to a civil penalty (2k fine) if they disclose any confidential information they receive.</p>
<p>14 (allows individuals without party status to petition for inclusion in a juvenile court hearing in 33 V.S.A. § 5110)</p>	<p>(b) The general public shall be excluded from hearings under the juvenile judicial proceedings chapters, and only the parties, their counsel, witnesses, persons accompanying a party for his or her assistance, and such other persons as the Court finds to have a proper interest in the case or in the work of the Court, including a foster parent or a representative of a residential program where the child resides, may be admitted by the Court. <u>An individual without party status seeking inclusion in the hearing may petition the Court for admittance by filing a request with the clerk of the Court.</u> This subsection shall not prohibit a victim’s exercise of his or her rights under sections 5233 and 5234 of this title, and as otherwise provided by law.</p>	<p>The summer study committee heard testimony that because Juvenile Court proceedings are closed to the public, there are times in which an individual with information about a child or family is forbidden access from a Court proceeding. Judges testified that they don’t always know who is present and would like to testify. In VT, juvenile proceedings are presumptively closed, but judges have discretion to open them to those parties with a legitimate interest in the proceedings. Sec. 14 provides a mechanism for individuals who would otherwise be excluded from a proceeding to petition the Court for access so the judge is aware of their presence and the fact that they would like to testify.</p>
<p>15 (emergency care orders and supporting affidavits in 33 V.S.A. § 5302)</p>	<p>[Note: (a) not included] (b) If the officer determines that the child’s immediate welfare requires the child’s continued absence from the home, the officer shall: (1) Remove <u>The officer shall remove</u> the child from the child’s surroundings, contact the Department, and deliver the child to a location designated by the Department. The Department shall have the authority to make reasonable decisions concerning the child’s immediate placement, safety, and welfare pending the issuance of an emergency care order.</p>	<p>Sec. 15 allows a social worker from DCF to prepare the affidavit in support of a request for an emergency care order when an officer removes a child from his or her home. This relatively minor change to existing law was requested by State’s Attorney to speed up the process. The “as introduced” version also contained language that allowed social workers to remove a child from a home on an emergency basis</p>

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	<p>(2) Prepare <u>The officer or a social worker employed by the Department for Children and Families shall prepare an affidavit in support of a request for an emergency care order and provide the affidavit to the State’s Attorney. The affidavit shall include: the reasons for taking the child into custody; and to the degree known, potential placements with which the child is familiar; the names, addresses, and telephone number of the child’s parents, guardian, custodian, or care provider; the name, address, and telephone number of any relative who has indicated an interest in taking temporary custody of the child. The officer or social worker shall contact the Department and the Department may prepare an affidavit as a supplement to the affidavit of the law enforcement officer or social worker if the Department has additional information with respect to the child or the family</u></p>	<p>(currently only law enforcement officers are allowed to do so so). The Senate removed this language.</p>
<p>16 (temporary care orders and the “custody hierarchy” in 33 V.S.A. § 5308)</p>	<p>[Most of section, including all stricken text, is not reproduced below.]</p> <p>(a) [“Best interests” standard added, but the five factors in existing law retained.]</p> <p>(b) [Establishes a new, simplified, list of custody options]</p> <p>(1) A <u>a conditional custody order returning legal custody of the child to the custodial parent, guardian, or custodian, noncustodial parent, relative, or a person with a significant relationship with the child, subject to such conditions and limitations as the Court may deem necessary and sufficient to protect the child;</u></p> <p>(2) <u>an order transferring temporary legal custody of the child to a noncustodial parent or to a relative;</u></p> <p>(3) <u>an order transferring temporary legal custody of the child to a person with a significant relationship with the child; or</u></p> <p>(4) <u>an order transferring temporary legal custody of the child to the Commissioner.</u></p> <p>(c) <u>(c) The Court shall consider orders and findings from other proceedings relating to the custody of the child, the child’s siblings, or children of any adult in the same household as the child.</u></p>	<p>The summer study committee heard testimony that the custody “hierarchy” in 33 V.S.A. § 5308 was overly rigid and did not adequately protect children. To address these problems, Sec. 16 clarifies that the applicable standard is the “best interests” of the child, removes the long and detailed “hierarchy” and replaces the hierarchy with a simplified list of custody options for the Court.</p> <p>The Senate modified the “as introduced” version in response to feedback from the Judiciary and DCF. For example, the Committee added back in the five factors under (a) that give guidance to a court concerning how to determine “best interests” that the “as introduced” version had removed.</p>

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17 (creates a joint legislative oversight committee)	<p>[Most of section 17 not included below, only the committee’s duties.]</p> <p><u>(c) Powers and duties.</u> <u>(1) The Committee shall:</u> <u>(A) Exercise oversight over Vermont’s system for protecting children from abuse and neglect, including:</u> <u>(i) evaluating whether the branches, departments, agencies, and persons that are responsible for protecting children from abuse and neglect are effective;</u> <u>(ii) determining if there are deficiencies in the system and the causes of those deficiencies;</u> <u>(iii) evaluating which programs are the most cost-effective;</u> <u>(iv) determining whether there is variation in policies, procedures, practices, and outcomes between different areas of the State and the causes and results of any such variation; and</u> <u>(v) evaluating the measures recommended by the Working Group to Recommend Improvements to CHINS Proceedings established in Sec. 23 of this act to ensure that once a child is returned to his or her family, the court or the Department for Children and Families may continue to monitor the child and family where appropriate.</u></p>	<p>Creates a Legislative Oversight Committee of eight legislators who will oversee the system for protecting children. The Senate limited the “as introduced” language, removing language that would have allowed the Committee to review confidential records, and removing detailed language concerning oversight over DCF. This Committee will “die” after only 2-1/2 years, in December 2017.</p>
18 (DCF policies)	[See bill]	<p>This section, in session law, requires that DCF address many of the problems exposed during the summer hearings, including:</p> <ol style="list-style-type: none"> 1. ensure policies and practices are consistent across the State; 2. improve data sharing; 3. ensure courts have all information in a timely manner; and 4. require more face-to-face and home visits and unannounced visits. <p>The Commissioner of DCF is required to report on these changes, and DCF’s response to the VCAB report and recommendations, by September 1, 2015.</p>

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19 (adds session law)	<p><u>The Secretary of Human Services shall identify and utilize evidence-informed models of serving families that prioritize safety and prevention through early interventions with high risk families. The Secretary shall make recommendations in the FY2017 budget that reflect the utilization of these models.</u></p>	
20 (creates a CHINS working group)	<p>[See bill]</p>	<p>The summer study committee heard that CHINS proceedings are often delayed well beyond the statutory time frames, attorneys are sometimes not prepared or fail to appear, there are scheduling problems, and other issues. However, although there was consensus as to the problems, the parties disagreed as to the reasons. This section creates a working group composed of the Chief Admin. Judge, Defender General, A.G., DCF Commissioner, Executive Dir. of State’s Attorneys and Sheriffs, and a GAL to examine these problems and develop solutions. A report is due on November 1, 2015, after which the Group will cease to exist.</p>
21 (Effective dates)	<p><u>This act shall take effect on July 1, 2015, except for this section, Sec. 17 (Joint Legislative Child Protection Oversight Committee) and Sec. 18 (Department for Children and Families; policies, procedures, and practices) which shall take effect on passage.</u></p>	