



**To: Members of the House Human Services Committee**  
**From: Erin Maguire, President**  
**Date: March 24, 2015**  
**Subject: Testimony on S. 9**

The Vermont Council of Special Education Administrators represents Directors of Special Education and Directors of Student Support Services across Vermont. Our organization works to shape education policy to improve outcomes for all students while supporting students with disabilities throughout the state. It is within this context that we are interested in making comment regarding S.9.

VCSEA is grateful to Senators Ayer, Sears, Cummings, Flory, Kitchel, and Mullin for bringing forward a high quality piece of legislation to address the concerns that have been raised around child protection in Vermont in the recent past. The tragedies are not to be ignored and we are appreciative of the action being undertaken by our legislature.

Below are points of support within S.9 from VCSEA:

1. VCSEA supports the protection of children evident in S.9 regarding physical safety as well as emotional wellbeing.
2. VCSEA supports non-custodial parent and relative preference when considering where to place children.
3. VCSEA supports the consideration in S.9 given to the importance of appropriate levels of supervision for children.
4. VCSEA supports the careful consideration by Courts represented in S.9 of both post adoption contracts as well as temporary custody orders.
5. VCSEA supports ensuring that drugs and alcohol are considered harmful to a child's environment and are expected to be a part of decision with regard to the best interest of the child.
6. VCSEA supports the decreased standard within S.9 regarding the initiation of investigations specific to allegations that are present from reporters.
7. VCSEA supports the importance of confidentiality around information while also increasing the expectation that information is shared with reporters and other caregivers. In addition, the standard of withholding information by the Department in S.9 is specific to compromising the safety of the reporter or the child. This is a lower threshold than has previously been held and will improve the ability to collaborate.
8. VCSEA supports a return of legal custody only when there is not a danger to the physical health, mental health, welfare or safety of the child.

VCSEA supports much of the accountability articulated throughout this bill. We believe educators, parents and all caregivers should be required to ensure children are kept safe across our state.

**VCSEA Recommendation Regarding §1304:**

S9 is a dramatic improvement to our system in many ways. VCSEA is however concerned about using the negligence standard - where the educator "should have reasonably known" - in this context where a felony crime is committed as a result. In this age of information technology, educators come across thousands and thousands of

pieces of information regarding children every year. It is critical that we pay careful attention to the information, put the pieces together and watch carefully for any information that may indicate a report needs to be made.

That said, we do not believe it is appropriate to charge an educator with a felony based on the standard outlined in the bill. The way the bill is written, should an educator miss a section of an email during a rushed period between classes and neglect to return to the email, they may have committed a felony that comes with a penalty of significant jail time.

We do understand the reasons for the development of this crime. We support any kind of intentional disregard of information fitting the definitions be considered a felony.

VCSEA suggests a change to S.9 specifically for mandated reporters who are not related to or do not live with the child. That addition would be a requirement for the prosecution to demonstrate beyond a reasonable doubt that there was intentional disregard of information obtained in their role as care takers. Otherwise, the current misdemeanor crime is a sufficient motivator for purposes of mandated reporting for educators. The devastating events of the recent past were not results of a lack of reporting from educators. This is important to consider as we develop new public policy that is designed to address “exposed problems with Vermont’s system intended to protect children from abuse and neglect.”

### **VCSEA Recommendation Regarding Mental Health:**

While S9 is swift in it’s reaction to a lack of action, it takes little role in service provision to address the basic needs resulting in so many of the challenging circumstances referenced in the stories leading up to this bill. We offer the following position statement regarding mental health within the State of Vermont as a possible solution to the proactive needs of Vermont’s children:

VCSEA supports access to high quality mental health care for children and families. Given the increase in costs of special education services associated with rising mental health challenges for children, we encourage focused attention on this important topic. Coordinated services with community providers, designated agencies, and schools are critical to establishing and ensuring quality treatment and services. All children must have access to mental health services at the level of care required to address their needs. Medicaid, as well as private insurance carriers, must be required to provide coverage at a level commensurate with a child’s and families’ identified clinical need. This is true for any child with a mental health diagnosis but is particularly important for students who are reaching a severity where special education eligibility is present due to emotional and behavioral disabilities. The collaboration between mental health agencies, education agencies and insurance carriers must be a focus for the legislature, the administration, as well as agencies and local providers of all kinds. Collectively, we must resolve the inequity in regional capacity for mental health services for children and families across our state. This is important to ensure that all children have their needs met, waitlists of mental health services are a thing of the past, and families and children with mental health needs have an equitable level of care comparable to what we provide under our healthcare system.