Vermont Parent Representation Center, Inc.
P.O. Box 4087
Burlington, VT 05406-4087
802-540-0200
info@vtprc.org
www.vtprc.org

To: Members of the House Human Services Committee
From: Trine Bech, Executive Director
Date: March 19, 2015
Subject: Testimony on S. 9

The Vermont Parent Representation Center, Inc. (VPRC) provides advocacy and legal and social support services to parents at risk of having their children removed. Our Mission is *"To ensure through advocacy and support that children who can live safely with their parents are afforded a real opportunity to do so."* A new program, the Rapid Intervention Pre-Natal Project, (RIPP), a collaboration with KIN-KAN Vermont and the VT FACES Network, serves pregnant and parenting women of young children, with treated or under-treated substance abuse and mental health concerns in Chittenden County. This program rose out of the Minor Guardianship Project in which we served all members of the family triad where a petition for minor guardianship had been filed in Probate Court, and our legislatively funded pre-CHINS petition parent legal advocacy and support pilot program. What we have learned from all of these programs, and over the last five years serving parents with opioid dependency, is that parents, whether actively using or in substance abuse recovery, need social supports and legal education and legal advocacy early in their pregnancy to prepare to be successful parents. What they need is preventive supports and advocacy to remove the multiple barriers expecting parents and parents of young children face.

It is from our lessons learned from the family advocacy and support perspective that we have many concerns with S.9 as passed by the Senate. What is happening now is that the state is removing very young infants from their parents often without providing parents any services at all. We are in a "rescue" mode, which is overwhelming our system, is very expensive, and often in situations where there is no evidence of either abuse or neglect. For example, in many of our RIPP families, parents may be on waiting lists for substance abuse services, or are successfully in treatment and may be homeless.

The goal of the bill S.9 is to improve Vermont's child protection responses.
I. What sections do you think are essential in meeting this goal?

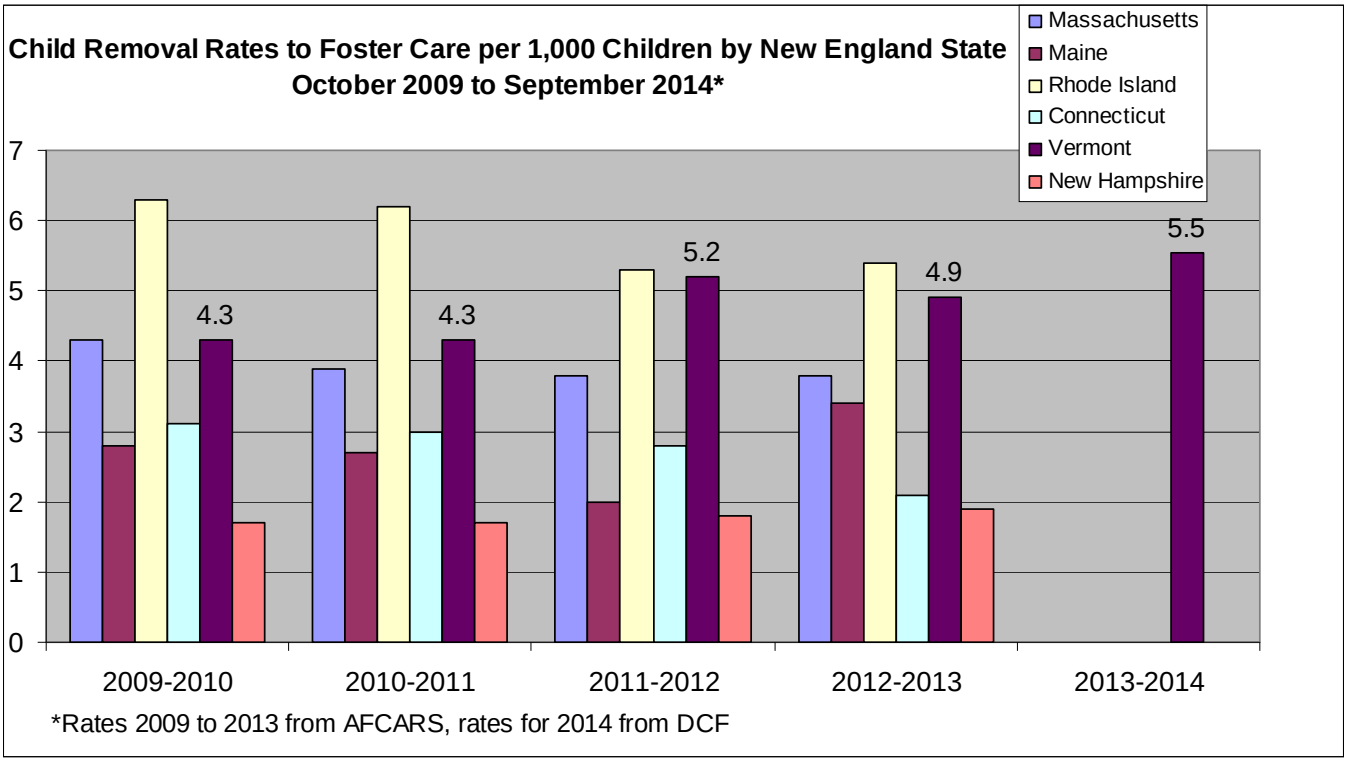
1. Study, legislative oversight and working group: S. 9 has many disconnected sections and we respectfully propose that it be divided up so that the sections can be voted on based on their respective merits. Sections 17, 18, 19, and 20 are proposed in order to study and to look at our child protection system and find more workable solutions. We support all of those. We believe, however, that The Defender General's Office cannot represent both the interests of parents and the interests of children and kinship families are not represented at all. Thus we respectfully propose that a parent advocacy organization and a kinship provider be added to the membership of the Working Group to Recommend Improvements to CHINS Proceedings in Sec. 19 to insure advocacy for families that include**s** all family members.

2. **Section 14 33 V.S.A. §5110: CONDUCT OF HEARINGS:** VPRC believes that opening up hearings to people who do not have party status is a good first step to opening up the process. The Court, however, must have some standards for opening up the proceedings.

II What is missing:

1. Preventive Services to Avoid Removals:
From our experience with the culture in DCF, CHINS court proceedings, and our review of the data, including the alarming rate recently at which very young children are removed from their mothers, Vermont has not been reticent to remove children from their parents when there is an identified safety concern. In response to the two tragic deaths, DCF is now filing for custody of children at a much higher rate even than in previous years. The entry rate into foster care in Vermont compared to the rest of New England was high even before Vermont's entry rate substantially increased in the last 6 months. The increase in the rates went from 4.6 to 6.5 per 1,000 children. See Chart 1 below.[1]

Chart 1.

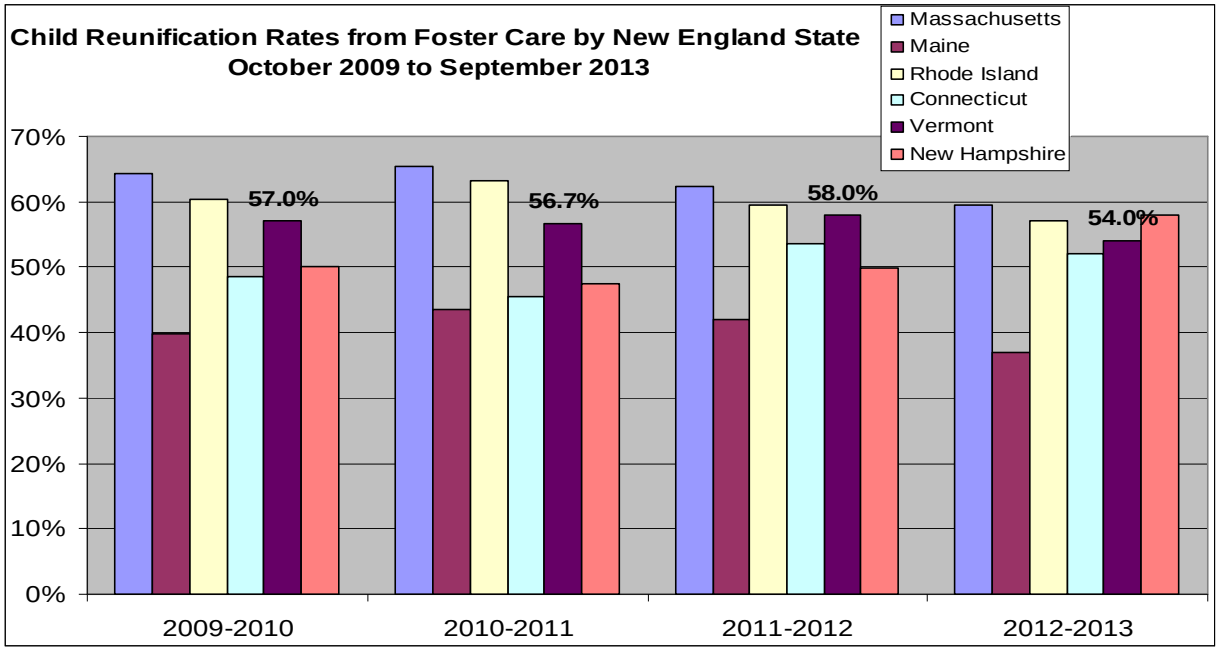


The next question I would like to address under this section is "How do children exit from foster care? Do too many children exit to reunification?

Chart 2. shows that not only has Vermont had over the years one of the highest rates of removal to foster care in New England reunification is occurring at similar rates of other New England states. The rate of reunification in Vermont has not increased in the last five years. Our two horrific child deaths occurred in part because the children were reunified without the court, DCF or the other parties having accurate information. That could be remedied, not by changing how kids come into custody but how kids leave custody. Unlike most other states, Vermont has no current legal requirement that a hearing be held or that the Court approve reunification before a child, who is in DCF custody, returns home.

[1] All data is from the Adoption and Foster Care Analysis Systems (AFCARS) and every state seeking federal foster care funding must provide this to the federal government every 6 months.

Chart 2:



The next question is what happens to the children who are not reunified?

Vermont not only removes children at a very high rate, but terminates parental rights of young children at a higher rate than all the other New England states and most of the nation. See Chart 3 and Chart 4. Since 2005, the rate of TPRs of young children ranked in the top five in the nation. Despite the fact that Vermont is rated as one of the states with the highest child well-being by Annie E. Casey Foundation's Kids Count, as is New Hampshire, we remove children and terminate parental rights at a much higher rate than New Hampshire. Vermont's rate of termination of parental rights should be seen not as a failure of the families but as a failure by the child welfare system to provide effective supports and programs to address the needs of the families it serves.

Chart 3.

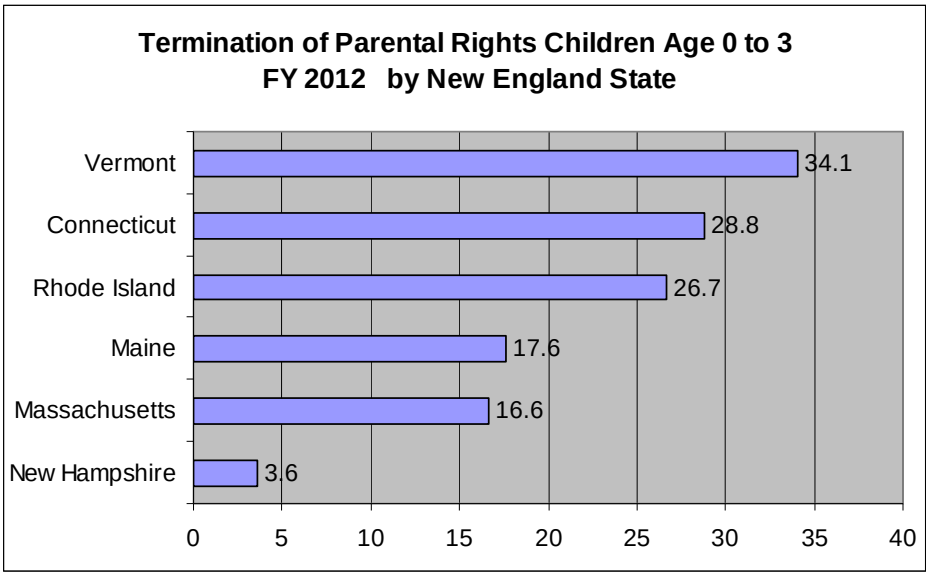
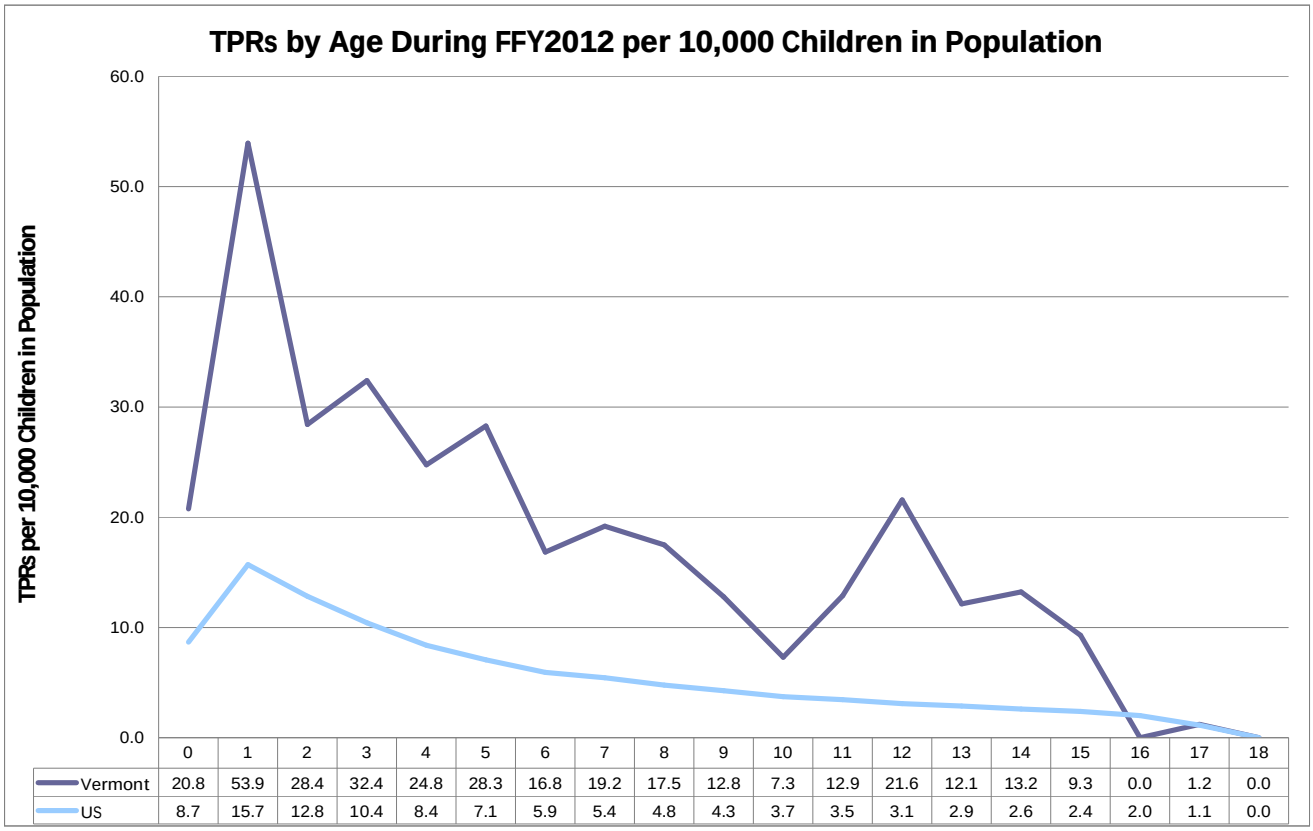


Chart 4



	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Vermont	20.8	53.9	28.4	32.4	24.8	28.3	16.8	19.2	17.5	12.8	7.3	12.9	21.6	12.1	13.2	9.3	0.0	1.2	0.0
US	8.7	15.7	12.8	10.4	8.4	7.1	5.9	5.4	4.8	4.3	3.7	3.5	3.1	2.9	2.6	2.4	2.0	1.1	0.0

The question has been asked: "Is it necessarily bad that we remove young children at such a high rate and terminate the parents' parental rights?" The answer has to be "yes", if removal is our only tool in the toolbox. Under current law, and in the proposed bill, the Court is required to make a finding that reasonable efforts were made by DCF to prevent unnecessary removal of the child from the home. (See 33 V.S.A. §5308(3)(c)(1)(B) [proposed (e)(1)(B)]). Currently there is rarely testimony regarding these reasonable efforts when the child is an infant because under current DCF Policy 51, page 4, DCF will not get involved until 30 days prior to the due date of the child. That is too late when the expectant mom is homeless, the shelters are full and they are on the waiting list for subsidized housing. What the data and experience on the ground show, is that too many of our young children of poor and struggling families are removed from their parents and adopted because we fail to provide effective pre-removal services. We need to shore up our prevention efforts to satisfy the reasonable efforts requirement.

Vermont must find effective ways to support families through programs like subsidized housing and more accessible substance abuse treatment, rather than removing children. Only when those efforts fail to work should we remove children permanently from their families. S.9 does nothing to remedy this problem and instead makes it easier to remove children and not return them. We are now removing young children and terminating parental rights while parents are on waiting lists for treatment. Removals at birth are increasing and even parents who are successful in treatment, but may have had one relapse, are losing their kids without any showing of parental neglect. There is now an assumption that all opioid users are bad parents. Neonatal physicians at the Comprehensive Obstetric & Gynecological Services Clinic **(**COGS) at UVM, say this is not the case. We must demand that there be a showing of actual abuse or neglect, not assumptions without foundational evidence that substance use is equal to neglect. History alone may show risk, but if the parents are showing that they are in treatment and not using, we should provide the support they need, not remove their children.

Untreated substance abuse, homelessness, lack of affordable housing and high quality day care, lack of job training and economic opportunity, most poverty related, and mental health challenges leave many children "on the margin of care." The vast majority of these children are not at risk of physical abuse but live in challenged families where the risk is neglect. Research from the Massachusetts Institute of Technology (MIT) provides powerful evidence that neglected children "on the margin of care" have better long-term outcomes if they are left in their families rather than removed.[2] Vermont needs to direct significant resources towards supporting families prior to removal and provide remedial services if removal is necessary for the safety of the child. Although foster care plays an important role in serving those children who cannot live safely at home, foster care is expensive and there simply are not enough foster families to meet the need. DCF is now experiencing the effects of the overflow by having difficulties finding foster homes for the children removed, especially the young children who need a parent at home with them during the day. (Many foster parents are working parents). We cannot use removal as the primary tool. Research shows that removing children from their families causes more trauma for kids, it is too expensive and the long term outcomes are grim. We have to invest in what works and it is cheaper, to invest in subsidized housing and medication assistant treatment for substance abuse.

Add statutory requirement for prevention:
Sec. 1. LEGISLATIVE FINDINGS:
(b) 7: adequate resources are allocated to improve Vermont's ability to prevent and address child abuse and neglect, prioritizing subsidized housing for families and substance abuse, medication assisted treatment for families of children under age 5;

Appropriations must be allocated to fund the necessary housing subsidies and substance abuse treatment, not to increase spending but by shifting funds from the foster care and adoption subsidies budget to prevention.

2. Address unsafe reunifications: Add proposal for added statutory provision:

DCF now has more decision making power by law than most states. Vermont does not require a court hearing before children are returned home. In discussing this in the Senate the response was to have DCF address this by policy because the courts are overloaded. Juvenile hearings by law should be given priority, and CHINS families need to be given the time needed to make good decisions. To address the problems regarding reunifications or the "back end" of our child protection system, we propose three legislative fixes for the significant child safety concerns that exist in our current system. **First**, require court approval prior to returning a child to the custodial parent. The laws of most other states require this. The parties should submit a report to the court detailing the efforts they have made to correct the conditions which led to removal. This will identify both why the children were removed, the reasonable efforts the State has made to help the family and what the family has done to rectify the identified issues. **Second**, is to require court and DCF oversight of a family for a period of no less than six months when a child is returned to the custodial parent post disposition. **Third**, when a child is returning to the custody of a parent post disposition, require that DCF identify and perform background checks on all adults living in the home. Further, require that DCF identify any adults who may act as a caregiver to the child and assess them for services needed to ensure the safety of the child. This third proposal is included in S.9, but only as a policy to be developed by DCF. It should be in the law. It is at least arguable that these kinds of provisions might have saved one of the children from a tragic death. (See appendix one)

3. Add back in the Establishment of an Ombuds Office: The Senate removed the Child Protection Ombuds Office. This would create a way for families to be able to have some accountability of actions by DCF and create what the Governor's Council on Pathways out of Poverty identified in their report as lacking: "Establish a culture of kindness, respect and accountability throughout DCF and the Agency of Human Services." Further,

[2] Doyle, Joseph J. Jr "Child Protection and Child Outcomes: Measuring the Effects of Foster Care." *American Economic Review*, 97(5): 1583-1610 (2007).

an independent office to provide oversight and accountability over DCF decisions is what Vermonters attending the statewide hearings on Child Protection asked for. The Washington State system was proposed and VPRC would strongly endorse that.

4. Give the court more power at dispositions: The Legislative Committee on Child Protection and both the VCAB and Casey Family Program Reports identified that judges in CHINS cases are not provided the information they need to make informed decisions in the best interests of children. In Vermont, unlike most other states, judges do not have the power to make changes to the disposition case plan. Under 33V.S.A. §5318 (b) the court may only reject the case plan and require a new one, but the court may not modify the case plan submitted by DCF. The result of such limited court power is that the judge is not as actively involved in case planning as he or she should be. The judge does not know whether services ordered are available, whether there is a waiting list, how the case plan will be carried out, and what good solutions beyond what is proposed by DCF could be introduced. Attorneys for parents and children often do not meet with their clients until the day of the hearing and they are therefore in no position to be helpful in providing input into the case plan. In addition, the impact of case plan is often not understood by the family, such as requiring a safe and stable housing for a homeless family.

VPRC would therefore propose opening up the process to allow more evidence and solutions to be submitted for the judge' decision for case planning so that more effective orders are made and there is more accountability about what needs to be done. (See Appendix 2)

III. What Sections do not move us towards improving child protection responses?

1. Sec. 8 and Sec. 9 POST ADOPTION AGREEMENTS AND ENFORCEMENT, MODIFICATION AND TERMINATION OF POST ADOPTION CONTACT AGREEMENTS:

The purpose of these provisions, as we understand them was to reduce the number of contested termination of parental rights (TPR) hearings by allowing parents who voluntarily relinquish their parental right enforceable post adoption contact rights as an incentive to relinquishing thereby saving valuable court time. Parents, if they understand the bill as written, will be reluctant to relinquish because the contact rights are very tenuous under the language as written. These sections are very complicated and do not give a parent much more than the unenforceable agreements which are in effect today. Sec 8. Paragraph (9) in conjunction with Sec. 9-101 (b), (h), (i) and (j) have the effect of terminating any contact agreement which they counted on in having their parental rights terminated, without a hearing, simply by the adoptive parents filing an affidavit.

Once a parent has given up his/her constitutionally protected parental rights on the assumption that there will be post adoption contact with his/her child under a written agreement, this right must be honored unless there are exceptional circumstance showing that the child's best interests are being compromised. The norm needs to be to honor the agreement.

Currently, we hear from too many parents that they terminated their parental rights without understanding that their post adoption contact agreements were not enforceable. Too often they met with their attorneys five minutes before the court hearing, they did not understand the language used by their lawyers, they wanted to believe both the proposed adoptive parents and the DCF worker who assured them that the agreement would be honored, only to find shortly thereafter that no contact would happen.

Therefore, we respectfully request that the following language be added to Sec 8:
<u>A parent who wishes to voluntarily relinquish his or her rights under 33 VSA §5124 in exchange for a post-adoption contact agreement, must in fact understand the laws limitations. To this end, the attorney for the parent shall meet with the relinquishing parent, to discuss the provisions of proposed 33 V.S.A. Sec. 5124 and Article 9 of 15A V.S.A. 9-101, with a focus on ensuring the relinquishing parent understands the terms of any</u>

agreement he or she signs. The meeting shall not be on the same day as a court hearing on the relinquishment of parental rights. In particular, the following provisions impacting the viability and finality of the agreement shall be explained in detail:
1. That a post-adoption contact agreement is subject to modification or termination in the probate court. The parent is made aware of the court procedures that would apply to these petitions, including the fact that the court may, but is not required, to hold an evidentiary hearing on these petitions. (15A V.S.A. Sec. 9-101(i)) and that the court could terminate the contact agreement without any hearing.
2. That the adoptive parents may petition the probate court to "review" a postadoption contact agreement if the adoptive parent "believes that best interests of the child are being compromised by the terms of the agreement. (15A V.S.A. Sec. 9-101(b))
3. That the parent, in signing the postadoption contact agreement is agreeing, among other things, to a presumption that in any future proceeding to enforce, modify, or terminate an agreement, the presiding judge will presume that the adoptive parent's judgement as to what is in the adopted child's best interests is correct. (33 V.S.A. Sec. 5124(d)(9)
4. That although the law provides a mechanism for enforcement of post-adoption contact agreements, the law also requires that the parent participate in mediation or another ADR process before filing a petition to enforce with the court and that any fees for mediation or other ADR process may have to be paid by the parent. (15A V.S.A. Sec. 9-101(e))

We also respectfully request Sec. 9 -101(b) to be modified to read as follows: An adoptive parent may petition for modification of a postadoption contact agreement entered under 33 V.S.A. §5124 under exceptional circumstances, and the adoptive parent believes the best interests of the child are being compromised because of these exceptional circumstances.

Sec. 9-101(i) should be stricken. A contracted agreement should not be enforced, modified or terminated without a hearing.

2. Sec. 11: TEMPORARY CARE ORDER

Title 33, Chapter 53, Children in Need of Care and Supervision, (CHINS) was very carefully crafted with each section connected to each other. This section of the law had nothing to do with our two tragic deaths and the proposed changes do not better protect children:

The Vermont Supreme Court recently said in *In Re KMM*, 89 Vt.383-84, 22 A.3d 423 (2011): "a parent's right to care for his children is a fundamental liberty interest protected by both the United States Supreme Court and this Court…The liberty interest ... of parents in the care, custody, and control of their children ... is perhaps the oldest of the fundamental liberty interests recognized by this Court." Because we are dealing with fundamental rights, even at a temporary care hearing, the child should be returned home unless this cannot be done to ensure the child's safety. We agree with keeping the presumption that a child be returned home. The current statutory language should be kept rather than changing "contrary to the child's welfare" to "best interests" as the current language better informs all parties that the primary issue is safety at this stage of the proceedings. It also avoids the possible introduction of middle class bias.

If subsection (a) of S.9 is kept, then subsection (b) must retain its current statutory language. Without a reference to the conditions set forth in subsection (a) it is unclear that there has to be findings based on these conditions. Further, it must be clear that the purpose of the temporary orders is to protect the safety of the child.

With respect to the order of preference, or "hierarchy" of the current statutory language, there needs to be a full discussion of why a change is needed. The hierarchy was intended to:

1. protect constitutionally protected rights of non-custodial parents;

2. Provide suitable relatives with a preference over custody to the Commissioner based on social science research showing that children have better experiences while in out-of-home care and have better long term outcome when placed with relatives.

It is unclear why the hierarchy should be abandoned. Legislation in 2009 assured Vermonters that relatives will be considered for placement if a child is at risk of out-of-home care. Under proposed S.9 language non-custodial parents, relatives and people with whom the child has a significant relationship are no longer priorities for placements over DCF non-relative foster parents. Current law gives relative placement priorities. Prior to 2009 Vermont had one of the lowest relative placements rates in the country and the federal Fostering Connections Act (2010) reports research showing that relative placements produce better long term outcomes for kids. In addition, research shows that placement disruptions are much less likely when children are placed with relatives. Vermont has a high rate of placement disruptions. VPRC respectfully requests that the current law stay in effect.

In addition, if (a) is changed, (b)(1) should be added to read: Parents have a fundamental liberty interest to care for their own children. It is presumed that the interests of minor children are best promoted in the child's own home. (See 14 V.S.A. Section 2621) unless there are conditions which threaten their best interests. When children have to be separated from a parent, and the court issues a conditional or temporary custody order hereunder, the court shall make findings regarding both parents' abilities to meet the child's best interests before custody is transferred to anyone other than a parent. Parents, relatives and people with whom the child has a significant relationship shall be considered before custody is issued to the Commissioner.

For all the reasons stated above, VPRC does not support the proposed changes to the Temporary Care Order. The problems in our system identified in the reports regarding the two tragic child deaths will not be addressed by changing the way we remove children or issue temporary care orders. The two children were physically abused, not neglected, and the issues were with reunification, not with the process of taking kids into custody.

3. Sec. 10 33 V.S.A. §4912: DEFINITIONS: As has been testified to by many others, the proposed changes in section (11) Physical injury to be "any impairment of physical condition by other than accidental means", is so broad that every family in Vermont would be involved in the child welfare system at some point. This definition will be subject to enormous litigation and clog up the courts even more and should not be amended as proposed. (14) "Risk of harm" C and D are too broad and not defined and VPRC cannot support these provisions.

4. Sec. 13: 33 V.S.A. §4921: DEPARTMENT'S RECORDS OF ABUSE AND NEGLECT
If under this section confidential records are provided to any of the named persons or entities, the family members about whom these records provide information must be provided the same information AND to whom it was provided. Information is power and we must empower our families so that they are better able to address the issues involved. VPRC respectfully request to add (g): "The Department shall provide to the people about whom the information is disclosed the information disclosed and names of the people to whom it was disclosed." Without this disclosure, information about the family may be in the possession of a lot of treatment providers and others without the family members' knowledge, which provides them with no opportunity to address the disclosed information, which may be incorrect and puts them at a disadvantage and is disempowering. Knowledge is power.

Appendix One:

§5323 (or next available section) Reunification Requirements

(1)(a) A child shall not be returned home at a post disposition review hearing unless the court finds that a reason for removal as set forth in the court's findings under V.S.A. §5315 no longer exists. The parents, guardian, or Commissioner shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is reunified with the parent from whom the child was removed, casework supervision by the Department shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the Department must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the proceeding. The Department may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the Department promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the Department of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the proceeding or the Department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

(iv) Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court.

33 V.S.A. Sec. 5316 Disposition Case Plan

(a) The department shall file a disposition case plan ordered pursuant to subsection 5315(g) of this title no later than 28 days from the date of the finding by the court that a child is in need of care or supervision.
(b) A disposition case plan shall include, as appropriate:
(1) A permanency goal. The long-term goal for a child found to be in need of care and supervision is a safe and permanent home. A disposition case plan shall include a permanency goal and an estimated date for achieving the permanency goal. The plan shall specify whether permanency will be achieved through reunification with a custodial parent, guardian, or custodian; adoption; permanent guardianship; or other permanent placement. In addition to a primary permanency goal, the plan may identify a concurrent permanency goal.
(2) An assessment of the child's medical, psychological, social, educational, and vocational needs and how the parents have attempted to address them, taking into consideration the parents' resources.
(3) A description of the child's home, school, community, and current living situation.
(4) An assessment of the family's strengths and risk factors, including a consideration of the needs of children and parents with disabilities, provided that the child's needs are given primary consideration.
(5) A statement of family changes needed to correct the problems necessitating state intervention, with timetables for accomplishing the changes. The specific steps necessary to facilitate the return of the child to a safe family home, if the child has been taken into custody or conditional custody under 33 V.S.A. Sec. 5308. These specific steps shall include treatment and services that will be provided, the availability of the services, whether there is a waiting list for the service, time frames during which services will be provided, actions completed with timetables, specific measurable and behavioral changes that must be achieved, and responsibilities assumed and responsibilities discharged;

(6) Whether a safety planning conference of the child, the parents legal guardian or custodian, the department, other family members and treatment providers will be conducted to assist the family in implementing the plan;
(7) A recommendation with respect to legal custody for the child and a recommendation for parent-child contact and sibling contact, if appropriate.
(8) A plan of services that shall describe the respective responsibilities of the child, the parents, guardian, or custodian, the department, other family members, and treatment providers, including a description of the services and expected outcomes of the services required to achieve the permanency goal. The plan shall also address the minimum frequency of contact between the social worker assigned to the case and the family.
(9) A request for child support.
(10) Notice to the parents that failure to accomplish substantially the objectives stated in the plan within the time frames established may result in termination of parental rights. Notice to the state that no termination of parental rights may result if the necessary services cannot be provided within the time frames listed under (5) above because the services are not available.
(11) Any other terms and conditions that the court deem necessary to the success of the case plan to achieve the permanency goal.
(12) Services and assistance to the family that are required by a case plan shall be presented in a manner that can be understood by and does not overwhelm the parties. The court shall ascertain at the hearing that the parents can name the expectations in the case plan and the measurable results needed to be successful.

33 V.S.A § 5318. Disposition order
(a) Custody. At disposition, the court shall make such orders related to legal custody for a child who has been found to be in need of care and supervision as the court determines are in the best interest of the child, including:
(1) An order continuing or returning legal custody to the custodial parent, guardian, or custodian. Following disposition, the court may issue a conditional custody order for a fixed period of time not to exceed two years. The court shall schedule regular review hearings to determine whether the conditions continue to be necessary.
(2) When the goal is reunification with a custodial parent, guardian, or custodian an order transferring temporary custody to a noncustodial parent, a relative, or a person with a significant relationship with the child. The order may provide for parent-child contact. Following disposition, the court may issue a conditional custody order for a fixed period of time not to exceed two years. The court shall schedule regular review hearings to evaluate progress toward reunification and determine whether the conditions and continuing jurisdiction of the juvenile court are necessary.
(3) An order transferring legal custody to a noncustodial parent and closing the juvenile proceeding. The order may provide for parent-child contact with the other parent. Any orders transferring legal custody to a noncustodial parent issued under this section shall not be confidential and shall be made a part of the record in any existing parentage or divorce proceeding involving the child. On the motion of a party or on the court's own motion, the court may order that a sealed copy of the disposition case plan be made part of the record in a divorce or parentage proceeding involving the child.
(4) An order transferring legal custody to the commissioner.
(5) An order terminating all rights and responsibilities of a parent by transferring legal custody and all residual parental rights to the commissioner without limitation as to adoption.
(6) An order of permanent guardianship pursuant to 14 V.S.A. § 2664.
(7) An order transferring legal custody to a relative or another person with a significant relationship with the child. The order may be subject to conditions and limitations and may provide for parent-child contact with one or both parents. The order shall be subject to periodic review as determined by the court.

(b) Case plan. If the court orders the transfer of custody pursuant to subdivision (a)(2), (4), or (5) of this section, the court shall establish a permanency goal for the minor child and adopt a case plan prepared by the department which is designed to achieve the permanency goal pursuant to 33 V.S.A Sec. 5316. . If the court determines that the plan proposed by the department does not adequately support the permanency goal for the

child, the court may reject the plan proposed by the department and order the department to prepare and submit a revised plan for court approval.

(1) Order compliance with all or part of the plan;
(2) Modify the plan in accordance with the evidence presented at the hearing; or
(3) Reject the plan and ordering the Department to submit a revised plan within 30 days. If the court rejects the child's case plan, the court shall schedule another disposition hearing within forty-five (45) days.

(c) Sixteen- to 17.5-year-olds. In the event that custody of a 16- to 17.5-year-old is transferred to the department pursuant to a petition filed under subsection 5309(d) of this title services to the child and to his or her family shall be provided through a coordinated effort by the agency of human services, the department of education, and community-based interagency teams.
(d) Modification. A disposition order is a final order which may only be modified based on the stipulation of the parties or pursuant to a motion to modify brought under section 5113 of this title.
(e) Findings. At the hearing the court shall ensure that each term, condition, and consequence of the case plan has been thoroughly explained to, understood by, and agreed to by each member of the child's family whom the authorized agency deems to be necessary to the success of the case plan. The court shall thereafter order the case plan into effect and order the distribution of copies to each family member or person who is a party to the case plan. Whenever the court orders the transfer of legal custody to a noncustodial parent, a relative, or a person with a significant relationship with the child, such orders shall be supported by findings regarding the suitability of that person to assume legal custody of the child and the safety and appropriateness of the placement.

33 V.S.A. Sec. 5321 Permanency Hearing

(a) Purpose. Unless otherwise specified therein, an order under the authority of this chapter transferring legal custody or residual parental rights and responsibilities of a child to the department pursuant to subdivision 5318(a)(4) or (5) of this title shall be for an indeterminate period and shall be subject to periodic review at a permanency hearing. At the permanency hearing, the court shall determine the permanency goal for the child and an estimated time for achieving that goal. The goal shall specify when:
(1) legal custody of the child will be transferred to the parent, guardian, or custodian;
(2) the child will be released for adoption;
(3) a permanent guardianship will be established for the child;
(4) a legal guardianship will be established for the child pursuant to an order under 14 V.S.A. chapter 111; or
(5) the child will remain in the same living arrangement or be placed in another planned permanent living arrangement because the commissioner has demonstrated to the satisfaction of the court a compelling reason that it is not in the child's best interests to:
(A) return home;
(B) have residual parental rights terminated and be released for adoption; or
(C) be placed with a fit and willing relative or legal guardian.

(b) The court shall adopt a case plan designed to achieve the permanency goal. At the permanency review, the court shall ensure that the case plan meets the criteria set forth in 33 V.S.A. Sec. 5316. The Court shall also ensure that the parties understand the terms of the case plan, making the same inquiries required under 33 V.S.A. Sec. 5318(e). The court shall provide a written order to the parties before the parties leave the court house after any hearing under this section and under the post disposition review hearing under §5320 and §5318(e) to insure that the parties understand what was ordered in the hearing. The court shall adopt a case plan designed to achieve the permanency goal. At the permanency review, the court shall determine whether the plan advances the permanency goal recommended by the department and enter an order

(1) Approving the plan;
(2) Ordering compliance with all or part of the plan;
(3) Modifying the plan in accordance with the evidence presented at the hearing; or

(4) Rejecting the plan and ordering the Department to submit a revised plan within 30 days. If the court rejects the child's case plan, the court shall schedule another disposition hearing within forty-five (45) days.
(5) Insure that the written order is distributed to the parties.
(6) The Court may not designate a particular placement for a child in the department's custody.

(c) A permanency review hearing shall be held no less than every 12 months with the first hearing to be held 12 months after the date the legal custody of the child was transferred, subject to the following exceptions;