

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 400
3 entitled “An act relating to various changes to judicial procedure” respectfully
4 reports that it has considered the same and recommends that the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

7 Sec. 1. 14 V.S.A. § 2666 is amended to read:

8 § 2666. MODIFICATION; TERMINATION

9 * * *

10 (b) Where the permanent guardianship is terminated by the ~~probate division~~
11 ~~of the superior court~~ Probate Division of the Superior Court order or the death
12 of the permanent guardian, the custody and guardianship of the child shall not
13 revert to the parent, but to the ~~commissioner for children and families~~
14 Commissioner for Children and Families as if the child had been abandoned.

15 (1) Upon the death of the permanent guardian or when the permanent
16 guardianship is otherwise terminated by order of the Probate Division, the
17 Probate Division shall issue an order placing the child in the custody of the
18 Commissioner and shall immediately notify the Department for Children and
19 Families, the State’s Attorney, and the Family Division.

1 (2) The order transferring the child’s legal custody to the Commissioner
2 shall have the same legal effect as a similar order issued by the Family
3 Division under the authority of 33 V.S.A. chapters 51–53.

4 (3) After the Probate Division issues the order transferring legal custody
5 of the child, the State shall commence proceedings under the authority of
6 33 V.S.A. chapters 51–53 as if the child were abandoned.

7 * * *

8 Sec. 2. 14 V.S.A. § 2667 is amended to read:

9 § 2667. ORDER FOR VISITATION, CONTACT, OR INFORMATION;

10 IMMEDIATE HARM TO THE MINOR

11 (a) ~~The probate division of the superior court~~ Probate Division of the
12 Superior Court shall have exclusive jurisdiction to hear any action to enforce,
13 modify, or terminate the initial order issued by the ~~family division of the~~
14 ~~superior court~~ Family Division of the Superior Court for visitation, contact, or
15 information.

16 (b) Upon a showing by affidavit of immediate harm to the child, the
17 ~~probate division of the superior court~~ Probate Division of the Superior Court
18 may temporarily stay the order of visitation or contact on an ex parte basis
19 until a hearing can be held, or stay the order of permanent guardianship and
20 ~~assign parental rights and responsibilities~~ transfer legal custody of the child to

1 the ~~commissioner for children and families~~ Commissioner for Children and
2 Families.

3 (1) The order transferring the child’s legal custody to the Commissioner
4 shall have the same legal effect as a similar order issued by the Family
5 Division under the authority of 33 V.S.A. chapters 51–53.

6 (2) The Probate Division shall then immediately notify the Department
7 for Children and Families, the State’s Attorney, and the Family Division when
8 it has issued an order transferring the child’s legal custody to the
9 Commissioner, and nothing in this subsection shall prohibit the State from
10 commencing proceedings under 33 V.S.A. chapters 51–53.

11 * * *

12 Sec. 3. 33 V.S.A. § 5223 is amended to read:

13 § 5223. FILING OF PETITION

14 (a) When notice to the child is provided by citation, the State’s Attorney
15 shall file the petition and supporting affidavit at least 10 days prior to the date
16 for the preliminary hearing specified in the citation.

17 (b) The Court shall send or deliver a copy of the petition and affidavit to all
18 persons required to receive notice, including the noncustodial parent and the
19 Department, as soon as possible after the petition is filed and at least five days
20 prior to the date set for the preliminary hearing.

1 Sec. 4. 33 V.S.A. § 5229 is amended to read:

2 § 5229. MERITS ADJUDICATION

3 * * *

4 (g) If, based on the child's admission or the evidence presented, the Court
5 finds beyond a reasonable doubt that the child has committed a delinquent act,
6 the Court shall order the Department to prepare a disposition case plan ~~within~~
7 ~~28 days of the merits adjudication and shall set the matter for a not later than~~
8 seven business days before the disposition hearing. In no event, shall a
9 disposition hearing be held later than 35 days after a finding that a child is
10 delinquent.

11 (h) The Court may proceed directly to disposition providing that the child,
12 the custodial parent, the State's Attorney, and the Department agree.

13 Sec. 5. 33 V.S.A. § 5230 is amended to read:

14 § 5230. DISPOSITION CASE PLAN

15 (a) Filing of case plan. ~~The~~ Following the finding by the Court that a child
16 is delinquent, the Department shall file a disposition case plan ~~no~~ not later than
17 ~~28 days from the date of the finding by the Court that a child is delinquent~~
18 seven business days before the scheduled disposition hearing. The disposition
19 case plan shall not be used or referred to as evidence prior to a finding that a
20 child is delinquent.

21 * * *

1 Sec. 6. 33 V.S.A. § 5315 is amended to read:

2 § 5315. MERITS ADJUDICATION

3 * * *

4 (f) If the Court finds that the allegations made in the petition have not been
5 established, the Court shall dismiss the petition and vacate any temporary
6 orders in connection with this proceeding. A dismissal pursuant to this
7 subsection is a final order subject to appeal.

8 (g) If the Court finds that the allegations made in the petition have been
9 established based on the stipulation of the parties or on the evidence if the
10 merits are contested, the Court shall order the Department to prepare a
11 disposition case plan ~~within 28 days of the merits hearing and shall set the~~
12 ~~matter for a~~ not later than seven business days before a scheduled disposition
13 hearing. An adjudication pursuant to this subsection is not a final order subject
14 to appeal separate from the resulting disposition order.

15 * * *

16 Sec. 7. 33 V.S.A. § 5315a is added to read:

17 § 5315a. MERITS STIPULATION

18 (a) At any time after the filing of the CHINS petition and prior to an order
19 of adjudication on the merits, the Court may approve a written stipulation to
20 the merits of the petition and any or all elements of the disposition plan,
21 including the permanency goal, placement, visitation, or services.

- 1 (b) The Court may approve a written stipulation if:
- 2 (1) the parties to the petition, as defined in subdivision 5102 (22) of this
3 title, agree to the terms of the stipulation; and
- 4 (2) the Court determines that:
- 5 (A) the agreement between the parties is voluntary;
- 6 (B) the parties to the agreement understand the nature of the
7 allegation; and
- 8 (C) the parties to the agreement understand the rights waived if the
9 Court approves of and issues an order based upon the stipulation.

10 Sec. 8. 33 V.S.A. § 5316 is amended to read:

11 § 5316. DISPOSITION CASE PLAN

- 12 (a) ~~The~~ Following a finding by the Court that a child is in need of care or
13 supervision, the Department shall file a disposition case plan ordered pursuant
14 to subsection 5315(g) of this title ~~no~~ not later than ~~28 days from the date of the~~
15 ~~finding by the Court that a child is in need of care or supervision~~ seven
16 business days before the scheduled disposition hearing.

17 * * *

1 Sec. 9. EFFECTIVE DATE

2 This act shall take effect on passage.

3

4

5 (Committee vote: _____)

6

7

Representative _____

8

FOR THE COMMITTEE