

This is the last version of S.183 that I have (Draft 1.1):

<http://legislature.vermont.gov/assets/Documents/2016/WorkGroups/House%20Judiciary/Bills/S.183/S.183~Brynn%20Hare~Draft%20No.%201.1%20-%20S-183~4-12-2016.pdf>

These changes make the CCO scheme in Ch. 53 (CHINS) consistent with Ch. 52 (Delinquency)

§ 5232. Disposition order

- (a) If a child is found to be a delinquent child, the Court shall make such orders at disposition as may provide for:
- (1) the child's supervision, care, and rehabilitation;
 - (2) the protection of the community;
 - (3) accountability to victims and the community for offenses committed; and
 - (4) the development of competencies to enable the child to become a responsible and productive member of the community.
- (b) In carrying out the purposes outlined in subsection (a) of this section, the Court may:
- (1) Place the child on probation subject to the supervision of the Commissioner, upon such conditions as the Court may prescribe. The length of probation shall be as prescribed by the Court or until further order of the Court.
 - (2) Order custody of the child be given to the custodial parent, guardian, or custodian. For a fixed period of time following disposition, the Court may order that custody be subject to such conditions and limitations as the Court may deem necessary and sufficient to provide for the safety of the child and the community. Conditions may include protective supervision for up to ~~one year~~ six months following the disposition order unless further extended by court order. The Court shall ~~schedule regular~~ hold review hearings pursuant to § 5320 of this title to determine whether the conditions continue to be necessary.
 - (3) Transfer custody of the child to a noncustodial parent, relative, or person with a significant connection to the child. Custody may be subject to such conditions and limitations as the Court may deem necessary to provide for the safety of the child and the community, including protective supervision, for up to six months. Review of this custody order shall be pursuant to § 5320 of this title.
 - (4) Transfer custody of the child to the Commissioner.
 - (5) Terminate parental rights and transfer custody and guardianship to the Department without limitation as to adoption.
 - (6) Issue an order of permanent guardianship pursuant to 14 V.S.A. § 2664.
 - (7) Refer a child directly to a youth-appropriate community-based provider that has been approved by the Department, which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subdivision shall not require the Court to place the child on probation. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child shall return to the Court for disposition.
- (c) If the Court orders the transfer of custody of the child pursuant to subdivisions (b)(4) and (5) of this section, the Court shall establish a permanency goal for the child and adopt a case plan

prepared by the Department designed to achieve the permanency goal. 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. (Added 2007, No. 185 (Adj. Sess.), § 2, eff. Jan. 1, 2009; amended 2009, No. 28, § 3, eff. May 21, 2009; 2011, No. 159 (Adj. Sess.), § 5.)

§ 5258. Postdisposition review and permanency review for delinquents in custody

Whenever custody of a delinquent child is transferred to the Commissioner or conditional custody is ordered, the custody order of the Court shall be subject to a postdisposition review hearing pursuant to section 5320 of this title and permanency reviews pursuant to section 5321 of this title. At the permanency review, the Court shall review the permanency plan and determine whether the plan advances the permanency goal recommended by the Department. The Court may accept or reject the plan, but may not designate a particular placement for a child in the Department's legal custody. Duration of any conditional custody shall be subject to § 5258a of this title.

§ 5258a. DURATION OF CONDITIONAL CUSTODY ORDERS POSTDISPOSITION

- (a) Conditional custody orders to parents. Whenever the court issues a conditional custody order transferring custody to a parent either at or following disposition, the presumptive duration of the order shall be no more than six months from the date of the disposition order or the conditional custody order, whichever occurs later, unless otherwise extended by the court after hearing. At least 14 days prior to the termination of the order, any party may file a request to extend the order pursuant to subsection 5113(b) of this title. Upon such motion, the Court may extend the order for an additional period of time not to exceed six months. Prior to vacating the conditional custody order, the court may schedule a hearing on its own motion to review the case prior to discharging the conditions. If a motion to extend is not filed, the court shall issue an order vacating the conditions and transferring full custody to the parent without conditions.
- (b) (1) Custody orders to nonparents. When the court at disposition issues an order continuing or transferring legal custody with a nonparent pursuant to subdivision 5232(b)(3) of this title, the court shall set the matter for a hearing six months from the date of disposition or custody order whichever occurs later. At the hearing, the court shall determine whether it is in the best interests of the child to:
- (A) transfer either full or conditional custody of the child to a parent;
 - (B) establish a permanent guardianship pursuant to 14 V.S.A. § 2664 with the nonparent who has had custody of the child as the guardian; or
 - (C) terminate residual parental rights and release the child for adoption.
- (2) If, after hearing, the court determines that reasonable progress has been made toward reunification and that reunification is in the best interests of the child but will require additional time, the court may extend the current order for a period not to exceed six months and set the matter for further hearing.

These changes make the H.95 amendments to Ch. 53 (CHINS) (*merits is not a final order subject to appeal*) consistent with Ch. 52 (Delinquency)

Merits is not a final order subject to appeal: § 5315 (g) p. 36 line 12-13 in H.95 (Draft No. 4.1, 4/14/16) does not appear in § 5229.

This is the wording: “An adjudication pursuant to this subsection is not a final order subject to appeal separate from the resulting disposition order.”

It can be added at the end of § 5229 (f) or at the end of § 5229 (g)

=== These are some suggested edits to existing S.183 ===

Sec. 6. 33 V.S.A. § 5320 is amended to read: *add comma last sentence after “may”*

§ 5320. POSTDISPOSITION REVIEW HEARING

The Court shall hold a review hearing within 60 days ~~of~~ **from** the date of the disposition order for the purpose of monitoring progress under the disposition case plan and reviewing parent-child contact. Notice of the review shall be provided to all parties. A foster parent, preadoptive parent, or relative caregiver, or any custodian of the child shall be provided with notice of any post disposition review hearings and an opportunity to be heard at the hearings. Nothing in this section shall be construed as affording such person party status in the proceeding. This section shall not apply to cases where full custody has been returned to one or both parents unconditionally at disposition, or cases where the court has created a permanent guardianship at disposition. The Department shall, and any other party or caregiver may, prepare a written report to the Court regarding progress under the plan of services ~~from~~ **specified in** the disposition case plan.

Sec. 7. 33 V.S.A. § 5320a is added to read:

§ 5320a. DURATION OF CONDITIONAL CUSTODY ORDERS POSTDISPOSITION

(a) Conditional custody orders to parents. Whenever the court issues a conditional custody order transferring custody to a parent either at or following disposition, the presumptive duration of the order shall be no more than six months from the date of the disposition order or the conditional custody order, whichever occurs later, unless otherwise extended by the court after hearing. **At least 14 days** prior to the termination of the order, any party may file a request to extend the order pursuant to subsection 5113(b) of this title. Upon such motion, the Court may extend the order for an additional period of time not to exceed six months. Prior to vacating the conditional custody order, the court may schedule a hearing on its own motion to review the case prior to discharging the conditions. If a motion to extend is not filed, the court shall issue an order vacating the conditions and transferring full custody to the parent without conditions.

(b)(1) Custody orders to nonparents. When the court at disposition issues an order continuing or transferring legal custody with a nonparent pursuant to subdivision 5318(a)(2) or (a)(7) of this title, the court shall set the matter for a hearing six months from the date of disposition or custody order whichever occurs later. At the hearing, the court shall determine whether it is in the best interests of the child to:

- (A) transfer either full or conditional custody of the child to a parent;
- (B) establish a permanent guardianship pursuant to 14 V.S.A. § 2664 with the nonparent who has had custody of the child as the guardian; or
- (C) terminate residual parental rights and release the child for adoption.

(2) If, after hearing, the court determines that reasonable progress has been made towards **s**-reunification and that reunification is in the best interests of the child but will require additional time, the court may extend the current order for a period not to exceed six months and set the matter for further hearing.