

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 9 entitled
3 “An act relating to improving Vermont’s system for protecting children from
4 abuse and neglect” respectfully reports that it has considered the same and
5 recommends that the House propose to the Senate that the bill be amended as
6 follows:

7 First: In Sec. 3, 33 V.S.A. § 4912, by adding subdivision (15) and an
8 ellipsis to read:

9 (15) “Sexual abuse” consists of any act or acts by any person involving
10 sexual molestation or exploitation of a child, including incest, prostitution,
11 rape, sodomy, or any lewd and lascivious conduct involving a child. Sexual
12 abuse also includes the aiding, abetting, counseling, hiring, or procuring of a
13 child to perform or participate in any photograph, motion picture, exhibition,
14 show, representation, or other presentation which, in whole or in part, depicts
15 sexual conduct, sexual excitement, or sadomasochistic abuse involving a child.

16 Sexual abuse also includes the viewing, possession, or transmission of child
17 pornography, with the exclusion of the exchange of images between mutually
18 consenting minors, including the minor whose image is exchanged.

19 * * *

1 district or an approved or recognized independent school to provide student
2 services, including any:

3 (A) school superintendent;

4 (B) headmaster of an approved or recognized independent school as
5 defined in 16 V.S.A. § 11;

6 (C) school teacher;

7 (D) student teacher;

8 (E) school librarian;

9 (F) school principal; and

10 (G) school guidance counselor, ~~and any other individual who is~~
11 ~~employed by a school district or an approved or recognized independent~~
12 ~~school, or who is contracted and paid by a school district or an approved or~~
13 ~~recognized independent school to provide student services;~~

14 (3) child care worker;

15 (4) mental health professional;

16 (5) social worker;

17 (6) probation officer;

18 (7) ~~any~~ employee, contractor, and grantee of the Agency of Human
19 Services who have contact with clients;

20 (8) police officer;

21 (9) camp owner;

1 (10) camp administrator;

2 (11) camp counselor; or

3 (12) member of the clergy.

4 (b) As used in subsection (a) of this section, “camp” includes any
5 residential or nonresidential recreational program.

6 (c) Any mandated reporter who has reasonable cause to believe that any
7 child has been abused or neglected **reasonably suspects abuse or neglect of a**
8 **child** shall report or cause a report to be made in accordance with the
9 provisions of section 4914 of this title within 24 hours of the time information
10 regarding the suspected abuse or neglect was first received or observed. As
11 used in this subsection, “camp” includes any residential or nonresidential
12 recreational program.

13 ~~(b)~~(d)(1) The Commissioner shall inform the person who made the report
14 under subsection (a) of this section:

15 ~~(1)~~(A) whether the report was accepted as a valid allegation of abuse or
16 neglect;

17 ~~(2)~~(B) whether an assessment was conducted and, if so, whether a need
18 for services was found; and

19 ~~(3)~~(C) whether an investigation was conducted and, if so, whether it
20 resulted in a substantiation.

1 shall contain the name and address or other contact information of the reporter
2 as well as the names and addresses of the child and the parents or other persons
3 responsible for the child’s care, if known; the age of the child; the nature and
4 extent of the child’s injuries together with any evidence of previous abuse and
5 neglect of the child or the child’s siblings; and any other information that **the**
6 **reporter believes** might be helpful in establishing the cause of the injuries or
7 reasons for the neglect as well as in protecting the child and assisting the
8 family. If a report of child abuse or neglect involves the acts or omissions of
9 the Commissioner or employees of the Department, then the report shall be
10 directed to the Secretary of Human Services who shall cause the report to be
11 investigated by other appropriate Agency staff. If the report is substantiated,
12 services shall be offered to the child and to his or her family or caretaker
13 according to the requirements of section 4915b of this title.

14 Fourth: In the old Sec. 5 33 V.S.A. § 4921, by striking out subdivision
15 (e)(1)(G) in its entirety and inserting in lieu thereof the following:

16 (G) A Probate Division of the Superior Court involved in
17 guardianship proceedings.

18 Fifth: In Sec. 6, 33 V.S.A. § 5110, subsection (b), after the words “seeking
19 inclusion in the hearing” by inserting the words “in accordance with this
20 subsection”

1 Sixth: In Sec. 10, 33 V.S.A. § 5124, by striking out subsection (b) in its
2 entirety and inserting in lieu thereof the following:

3 (b) The Court shall approve the postadoption contact agreement if:

4 (1)(A) it determines that the child’s best interests will be served by
5 postadoption communication or contact with either or both parents; and

6 (B) in making a best interests determination, it may consider:

7 (i) the age of the child;

8 (ii) the length of time that the child has been under the actual care,
9 custody, and control of a person other than a parent;

10 (iii) the desires of the child, the child’s parents; and the child’s
11 intended adoptive parents;

12 (iv) the child’s relationship with and the interrelationships
13 between the child’s parents, the child’s intended adoptive parents, the child’s
14 siblings, and any other person with a significant relationship with the child;

15 (v) the willingness of the parents to respect the bond between the
16 child and the child’s intended adoptive parents;

17 (vi) the willingness of the intended adoptive parents to respect the
18 bond between the child and the parents;

19 (vii) the adjustment to the child’s home, school, and community;

20 (viii) any evidence of abuse or neglect of the child;

21 (ix) the recommendation of the guardian ad litem;

1 (x) the recommendation of a therapist or mental health care
2 provider working directly with the child; and

3 (xi) the recommendation of the Department;

4 (2) it has reviewed and made each of the following a part of the Court
5 record:

6 (A) a sworn affidavit by the parties to the agreement which
7 affirmatively states that the agreement was entered into knowingly and
8 voluntarily and is not the product of coercion, fraud, or duress and that the
9 parties have not relied on any representations other than those contained in the
10 agreement;

11 (B) a written acknowledgment by each parent that the termination of
12 parental rights is irrevocable, even if the intended adoption is not finalized, the
13 adoptive parents do not abide by the postadoption contact agreement, or the
14 adoption is later dissolved;

15 (C) an agreement to the postadoption contact or communication from
16 the child to be adopted, if he or she is 14 years of age or older; and

17 (D) an agreement to the postadoption contact or communication in
18 writing from the Department, the guardian ad litem, and the attorney for the
19 child.

20 Seventh: In Sec. 10, 33 V.S.A. § 5124, by striking out subsection (e) in its
21 entirety and inserting in lieu thereof the following:

1 (e) The order approving a postadoption contact agreement shall be a
2 separate order issued before and contingent upon the final order of voluntary
3 termination of parental rights.

4 Eighth: In Sec. 11, 15A V.S.A. Article 9, in § 9-101, by striking out
5 subsection (h) in its entirety and inserting in lieu thereof the following:

6 (h) A hearing held to enforce, modify, or terminate an agreement for
7 postadoption contact shall be confidential.

8 Ninth: In Sec. 12, 33 V.S.A. § 152, in subsection (a), by striking out the
9 number “55” and inserting in lieu thereof the number “59”

10 Tenth: In Sec. 13, 33V.S.A. § 6911, subdivision (c)(5)(B), by striking out
11 the number “55” and inserting in lieu thereof the number “59”

12 Eleventh: In Sec. 15, 24 V.S.A. § 1940, by striking out subdivision
13 (a)(1)(B) in its entirety and inserting in lieu thereof a new subdivision (a)(1)(B)
14 as follows:

15 (B) potential violations of:

16 (i) 13 V.S.A. § 2602 (lewd or lascivious conduct with child);

17 (ii) 13 V.S.A. chapter 60 (human trafficking);

18 (iii) 13 V.S.A. chapter 64 (sexual exploitation of children);

19 (iv) 13 V.S.A. chapter 72 (sexual assault); and

20 (v) 13 V.S.A. § 1379 (sexual abuse of a vulnerable adult); and

1 Twelfth: In Sec. 17, 33 V.S.A. § 4915, subsection (h), after the words
2 “valid allegation” by inserting the words “pursuant to subsection (b) of this
3 section”

4 Thirteenth: By striking out Sec. 18 in its entirety

5 Fourteenth: By striking out Sec. 19 in its entirety

6 Fifteenth: By striking out Sec. 20 in its entirety and inserting in lieu thereof
7 a new Sec. 20 to read:

8 **Sec. 20. 13 V.S.A. § 1304 is amended to read:**

9 **§ 1304. CRUELTY TO CHILDREN UNDER 10 BY ONE OVER 16 A**

10 **CHILD**

11 **(a) A No person over the age of 16 18 years of age or older, having the**
12 **custody, charge or care of a child under 10 years of age, who wilfully assaults,**
13 **ill treats, neglects, or abandons or exposes such shall willfully:**

14 **(1) assault, neglect, or abandon the child in a manner to cause the child**
15 **unnecessary suffering, or to endanger his or her health; or**

16 **(2) causes or procures such cause a child to be assaulted, ill treated,**
17 **neglected, abandoned or exposed to a situation that could, in a manner to**
18 **cause such child unnecessary suffering, or to endanger his or her health if the**
19 **person knew the child was at risk of endangerment and would have been able**
20 **to protect the child without risk of bodily harm to the person or the child, shall**

1 ~~be imprisoned not more than two years or fined not more than \$500.00, or~~
2 ~~both.~~

3 (b) A person who violates subsection (a) of this section shall be imprisoned
4 not more than two years or fined not more than \$500.00, or both.

5 Sixteenth: By striking out Sec. 21 in its entirety

6 Seventeenth: In Sec. 23, by striking out subdivision (c)(1) in its entirety
7 and inserting in lieu thereof the following:

8 (1) The Committee shall:

9 (A) Exercise oversight over Vermont's system for protecting children
10 from abuse and neglect, including:

11 (i) evaluating whether the branches, departments, agencies, and
12 persons that are responsible for protecting children from abuse and neglect are
13 effective;

14 (ii) determining if there are deficiencies in the system and the
15 causes of those deficiencies;

16 (iii) evaluating which programs are the most cost-effective;

17 (iv) determining whether there is variation in policies, procedures,
18 practices, and outcomes between different areas of the State and the causes and
19 results of any such variation;

1 (v) evaluating whether licensed mandatory reporters should be
2 required to certify that they completed training on the requirements set forth
3 under 33 V.S.A. § 4913; and

4 (vi) evaluating the measures recommended by the Working Group
5 to Recommend Improvements to CHINS Proceedings established in Sec. 24 of
6 this act to ensure that once a child is returned to his or her family, the court or
7 the Department for Children and Families may continue to monitor the child
8 and family where appropriate.

9 Seventeenth: In Sec. 24, Working Group, by striking out subsection (c) in
10 its entirety and inserting in lieu thereof the following:

11 (c) Powers and duties. The Working Group shall study and make
12 recommendations concerning:

13 (1) how to ensure that statutory time frames are met in 90 percent of
14 proceedings;

15 (2) how to ensure that attorneys, judges, and guardians ad litem appear
16 on time and are prepared;

17 (3) how to monitor and improve the performance and work quality of
18 attorneys, judges, and guardians ad litem;

19 (4) how to ensure that there is a sufficient number of attorneys available
20 to handle all CHINS cases, in all regions of the State, in a timely manner;

1 (5) the role of guardians ad litem, and how to ensure their information is
2 presented to, and considered by, the court;

3 (6) how to expedite a new proceeding that concerns a family with
4 repeated contacts with the child protection system;

5 (7) whether the adoption of American Bar Association standards for
6 attorneys who work in the area of child abuse and neglect would be
7 appropriate;

8 (8) the feasibility of creating a statewide Family Drug Treatment Court
9 initiative to improve substance abuse treatment and child welfare outcomes;

10 (9) whether requiring a reunification hearing would improve child
11 welfare outcomes;

12 (10) how and whether to provide financial assistance to individuals
13 seeking to mediate a dispute over a postadoption contact agreement;

14 (11) how and whether to change the confidentiality requirements for
15 juvenile judicial proceedings under 33 V.S.A. chapter 53;

16 (12) whether judicial oversight of the appointment of publicly funded
17 attorneys to represent children in juvenile judicial proceedings would improve
18 child welfare outcomes; and

19 (13) any other issue the Working Group determines is relevant to
20 improve the efficiency, timeliness, process, and results of CHINS proceedings.

1 Eighteenth: In Sec. 24, by striking out subsection (e) in its entirety and
2 inserting in lieu thereof the following:

3 (e) Report. On or before November 1, 2015, the Working Group shall
4 provide a report on its findings and recommendations with respect to
5 subdivisions (c)(1)-(5) of this section to the Joint Legislative Child Protection
6 Oversight Committee, the House Committees on Human Services and on
7 Judiciary, and the Senate Committees on Health and Welfare and on Judiciary.
8 On or before November 1, 2016, the Working Group shall report its findings
9 and recommendations with respect to subdivisions (c)(6)-(13) of this section to
10 the same Committees.

11 Nineteenth: In Sec. 24, subdivision (f)(3), by striking the number “2015”
12 and inserting in lieu thereof the number “2016”

13 Nineteenth: By striking out Sec. 25 in its entirety and inserting in lieu
14 thereof the following:

15 Sec. 25. EFFECTIVE DATES

16 This act shall take effect on July 1, 2015, except for this section, Sec. 19
17 (Department for Children and Families; policies, procedures, and practices),
18 Sec. 20 (Joint Legislative Child Protection Oversight Committee), and Sec. 21
19 (Working Group to Recommend Improvements to CHINS Proceedings), which
20 shall take effect on passage.

21 and by renumbering all sections of the bill to be numerically correct.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE