

1 TO THE HONORABLE SENATE:

2 The Senate Committee on Judiciary to which was referred Senate Bill No. 9
3 entitled “An act relating to relating to improving Vermont’s system for
4 protecting children from abuse and neglect” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after the enacting clause and inserting in lieu thereof the following:

7 * * * Legislative Findings * * *

8 Sec. 1. LEGISLATIVE FINDINGS

9 (a) In 2014, the tragic deaths of two children exposed glaring problems
10 with Vermont’s system intended to protect children from abuse and neglect.

11 This act is intended to address these problems and implement the
12 recommendations of the Joint Legislative Committee on Child Protection
13 created by 2014 Acts and Resolves No. 179, Sec. C.109.

14 (b) To protect Vermont’s children better from abuse and neglect, and to
15 address the increasing burden of drug abuse and other factors that are ripping
16 families apart, the General Assembly believes that our State’s child protection
17 system must be comprehensive, focused on the safety and best interests of
18 children, and properly funded. This system must ensure that:

19 (1) the dedicated frontline professionals who struggle to handle the
20 seemingly ever-increasing caseloads have the support, training, and resources
21 necessary to do their job;

1 (2) the most serious cases of abuse are thoroughly investigated and
2 prosecuted if appropriate;

3 (3) courts have the information and tools necessary to make the best
4 possible decisions;

5 (4) all participants in the child protection system, from the frontline
6 caseworker to the judge determining ultimate custody, work together to
7 prioritize the child's safety and best interests;

8 (5) an effective oversight structure is established; and

9 (6) children who have suffered abuse and neglect can find safe,
10 nurturing, and permanent homes, whether with their custodial parents,
11 relatives, or other caring families and individuals.

12 (c) This act is only the beginning of what must be an ongoing process in
13 which the House and Senate Committees on Judiciary, the Senate Committee
14 on Health and Welfare, the House Committee on Human Services, in
15 consultation with the Senate and House Committees on Appropriations,
16 continue to enhance the statewide approach to the prevention of child abuse
17 and neglect.

18 (d) This act must be properly funded in order to fulfill its intended purpose.
19 In particular, the House and Senate Committees on Appropriations should seek
20 to ensure that adequate resources are allocated to the appropriate agencies so
21 that they may properly carry out their obligations under this act and improve

1 Vermont's ability to prevent and address child abuse and neglect, including
2 providing adequate support for guardians ad litem who work with children.

3 (e) In 2014, the tragic deaths of two children exposed glaring problems
4 with Vermont's child protection system. In 2015, the General Assembly
5 believes that this act will begin to address these problems, improve our State's
6 system for protecting our children, and help prevent future tragedies.

7 * * * Crimes and Criminal Procedure; Cruelty to a Child;

8 Establishing New Crime of Failure to Protect a Child;

9 Manufacturing Methamphetamine * * *

10 Sec. 2. 13 V.S.A. § 1304 is amended to read:

11 § 1304. ~~CRUELTY TO CHILDREN UNDER 10 BY ONE OVER 16 A~~
12 CHILD

13 A person over ~~the age of~~ 16 years of age, having the custody, ~~charge~~ or care
14 of a child ~~under 10 years of age~~, who ~~wilfully~~ willfully assaults, ~~ill treats~~,
15 neglects, or abandons ~~or exposes such~~ the child, or causes ~~or procures such~~ the
16 child to be assaulted, ~~ill treated~~, neglected, or abandoned ~~or exposed~~, in a
17 manner to cause ~~such~~ the child unnecessary suffering, or to endanger his or her
18 health, shall be imprisoned not more than two years or fined not more than
19 \$500.00, or both.

1 Sec. 3. 13 V.S.A. § 1304a is added to read:

2 § 1304a. FAILURE TO PROTECT A CHILD

3 (a) A person having the custody or care of a child commits the crime of
4 failure to protect a child if the person:

5 (1) knows, or reasonably should have known that the child is in
6 danger of:

7 (A) death;

8 (B) serious bodily injury as defined in section 1021 of this title;

9 (C) lewd or lascivious conduct with a child in violation of section
10 2602 of this title;

11 (D) sexual exploitation of children in violation of chapter 64 of this
12 title; or

13 (E) sexual assault in violation of chapter 72 of this title; and

14 (2) fails to act to prevent a child from suffering any of the possible
15 outcomes as set forth in subdivision (a)(1) of this section; and

16 (3) if the person had acted, the child would not have suffered any of the
17 possible outcomes as set forth in subdivision (a)(1).

18 - or -

19 (3) the person knew, or reasonably should have known, that there was
20 an act that he or she could have carried out that would have reasonably

1 prevented the child from suffering any of the possible outcomes as set forth in
2 subdivision (a)(1) of this section.

3 (b) It shall be an affirmative defense to this section, if proven by a
4 preponderance of the evidence, that:

5 (1) the defendant failed to act because of a reasonable fear that he or she
6 or another person would suffer death, bodily injury or serious bodily injury as
7 defined in section 1021 of this title, or sexual assault in violation of chapter 72
8 of this title as a result of acting to prevent harm to the child; or

9 (2) where the child's injury or death resulted from a lack of medical
10 treatment or care, the defendant made a reasonable decision to not seek
11 medical care or to withhold medical treatment.

12 (c) A person who violates this section shall be imprisoned not more than
13 ten years or fined not more than \$20,000.00, or both.

14 (d) The provisions of this section shall not limit or restrict prosecutions for
15 any other offense arising out of the same incident or conduct.

16 Sec. 4. 18 V.S.A. § 4236 is amended to read:

17 § 4236. MANUFACTURE OR CULTIVATION

18 (a)(1) A person knowingly and unlawfully manufacturing or cultivating a
19 regulated drug shall be imprisoned not more than 20 years or fined not more
20 than \$1,000,000.00, or both.

1 (2) A person who violates subdivision (a)(1) of this section shall be
2 imprisoned for not more than thirty years and fined not more than
3 \$1,500,000.00, or both, if:

4 (A) the regulated drug is methamphetamine; and

5 (B) a child is actually present when the methamphetamine is being
6 manufactured.

7 (b) This section shall not apply to the cultivation of marijuana.

8 * * * Municipal and County Government; Special Investigative
9 Units; Mission and Jurisdiction * * *

10 Sec. 5. 24 V.S.A. § 1940 is amended to read:

11 § 1940. ~~TASK FORCES; SPECIALIZED~~ SPECIAL INVESTIGATIVE
12 UNITS; BOARDS; GRANTS

13 (a) Pursuant to the authority established under section 1938 of this title, and
14 in collaboration with law enforcement agencies, investigative agencies,
15 victims' advocates, and social service providers, the Department of State's
16 Attorneys and Sheriffs shall coordinate efforts to provide access in each region
17 of the ~~state~~ State to special investigative units ~~to investigate sex crimes, child~~
18 ~~abuse, domestic violence, or crimes against those with physical or~~
19 ~~developmental disabilities. The General Assembly intends that access to~~
20 ~~special investigative units be available to all Vermonters as soon as reasonably~~
21 ~~possible, but not later than July 1, 2009~~ which:

1 (1) shall investigate:

2 (A) an incident in which a child suffers, by other than accidental
3 means, serious bodily injury as defined in 13 V.S.A. § 1021; and

4 (B) potential violations of:

5 (i) 13 V.S.A. § 2602;

6 (ii) 13 V.S.A. chapter 60;

7 (iii) 13 V.S.A. chapter 64; and

8 (iv) 13 V.S.A. chapter 72; and

9 (2) may investigate:

10 (A) an incident in which a child suffers:

11 (i) bodily injury, by other than accidental means, as defined in
12 13 V.S.A. § 1021; or

13 (ii) death; and

14 (B) potential violations of:

15 (i) 13 V.S.A. § 2601;

16 (ii) 13 V.S.A. § 2605;

17 (iii) 13 V.S.A. § 1304; and

18 (iv) 13 V.S.A. § 1304a.

19 (b) A ~~task force or specialized~~ special investigative unit organized and
20 operating under this section may accept, receive, and disburse in furtherance of
21 its duties and functions any funds, grants, and services made available by the

1 State of Vermont and its agencies, the federal government and its agencies, any
2 municipality or other unit of local government, or private or civic sources.

3 Any employee covered by an agreement establishing a special investigative
4 unit shall remain an employee of the donor agency.

5 (c) A ~~Specialized~~ Special Investigative Unit Grants Board is created which
6 shall ~~be comprised of~~ comprise the Attorney General, the Secretary of
7 Administration, the Executive Director of the Department of State's Attorneys
8 and Sheriffs, the Commissioner of Public Safety, the Commissioner for
9 Children and Families, a representative of the Vermont Sheriffs' Association, a
10 representative of the Vermont Association of Chiefs of Police, the Executive
11 Director of the Center for Crime Victim Services, and the Executive Director
12 of the Vermont League of Cities and Towns. ~~Specialized~~ Special investigative
13 units organized and operating under this section ~~for the investigation of sex~~
14 ~~crimes, child abuse, elder abuse, domestic violence, or crimes against those~~
15 ~~with physical or developmental disabilities~~ may apply to the Board for a grant
16 or grants covering the costs of salaries and employee benefits to be expended
17 during a given year for the performance of unit duties as well as unit operating
18 costs for rent, utilities, equipment, training, and supplies. Grants under this
19 section shall be approved by a majority of the entire Board and shall not
20 exceed 50 percent of the yearly salary and employee benefit costs of the unit.
21 Preference shall be given to grant applications which include the participation

1 of the Department of Public Safety, the Department for Children and Families,
2 sheriffs' departments, community victims' advocacy organizations, and
3 municipalities within the region. Preference shall also be given to grant
4 applications which promote policies and practices that are consistent across the
5 State, including policies and practices concerning the referral of complaints,
6 the investigation of cases, and the supervision and management of special
7 investigative units. However, a sheriff's department in a county with a
8 population of ~~less~~ fewer than 8,000 residents shall upon application receive a
9 grant of up to \$20,000.00 for 50 percent of the yearly salary and employee
10 benefits costs of a part-time ~~specialized~~ special investigative unit investigator
11 which shall be paid to the department as time is billed on a per hour rate as
12 agreed by contract up to the maximum amount of the grant.

13 (d) The Board may adopt rules relating to grant eligibility criteria,
14 processes for applications, awards, and reports related to grants authorized
15 pursuant to this section. The Attorney General shall be the adopting authority.

1 * * * Adoption Act; Postadoption Contact Agreements * * *

2 Sec. 6. 15A V.S.A. § 1-109 is amended to read:

3 § 1-109. TERMINATION OF ORDERS AND AGREEMENTS FOR
4 VISITATION OR COMMUNICATION UPON ADOPTION

5 When a decree of adoption becomes final, except as provided in Article 4 of
6 this title and 33 V.S.A. § 5124, any order or agreement for visitation or
7 communication with the minor shall be unenforceable.

8 Sec. 7. 33 V.S.A. § 5124 is added to read:

9 § 5124. POSTADOPTION CONTACT AGREEMENTS

10 (a) Either or both parents and each intended adoptive parent may enter into
11 a postadoption contact agreement regarding communication or contact between
12 either or both parents and the child after the finalization of an adoption by the
13 intended adoptive parent or parents who are parties to the agreement. Such an
14 agreement may be entered into if:

15 (1) the child is in the custody of the Department for Children and
16 Families;

17 (2) an order terminating parental rights has not yet been entered; and

18 (3) either or both parents agree to a voluntary termination of parental
19 rights, including an agreement in a case which began as an involuntary
20 termination of parental rights.

1 (b) The Court may approve the postadoption contact agreement if it
2 determines that the child's best interests will be served by postadoption
3 communication or contact with either or both parents. In making a best
4 interests determination, the Court may look to:

5 (1) the length of time that the child has been under the actual care,
6 custody, and control of a person other than a parent;

7 (2) the desires of the child, the child's parents; and the child's intended
8 adoptive parents;

9 (3) the child's relationship with and the interrelationships between the
10 child's parents, the child's intended adoptive parents, the child's siblings, and
11 any other person with a significant relationship with the child;

12 (4) the willingness of the parents to respect the bond between the child
13 and the child's intended adoptive parents;

14 (5) the willingness of the intended adoptive parents to respect the bond
15 between the child and the parents;

16 (6) the adjustment to the child's home, school, and community;

17 (7) any evidence of abuse or neglect of the child;

18 (8) the recommendations of any guardian ad litem involved in the
19 proceeding and the Department.

1 (c) Before the Court orders postadoption communication or contact, the
2 Court must review all of the following, which will be made a part of the Court
3 record:

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

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

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

14 (4) an agreement to the postadoption contact or communication in
15 writing from the Department, the guardian ad litem, and the attorney for the
16 child.

17 (d) A postadoption contact agreement must be in writing and signed by
18 each parent and each intended adoptive parent entering into the agreement.

19 There may be separate agreements for each parent. The agreement shall
20 specify the following:

21 (1) the form of communication or contact to take place;

1 (2) the frequency of the communication or contact;

2 (3) if visits are agreed to, whether supervision shall be required, and if
3 supervision is required, what type of supervision shall be required;

4 (4) if written communication or exchange of information is agreed upon,
5 whether that will occur directly or through the Vermont Adoption Registry, set
6 forth in 15A V.S.A. § 6-103;

7 (5) if the Adoption Registry shall act as an intermediary for written
8 communication, that the signing parties will keep their addresses updated with
9 the Adoption Registry;

10 (6) that failure to provide contact due to the child's illness or other good
11 cause shall not constitute grounds for an enforcement proceeding;

12 (7) that the right of the signing parties to change their residence is not
13 impaired by the agreement;

14 (8) an acknowledgment by the intended adoptive parents that the
15 agreement grants either or both parents the right to seek to enforce the
16 postadoption contact agreement;

17 (9) an acknowledgment that once the adoption is finalized, the court
18 shall presume that the adoptive parent's judgment concerning the best interests
19 of the child is correct;

1 (10) the finality of the termination of parental rights and of the adoption
2 shall not be affected by implementation of the provisions of the postadoption
3 contact agreement; and

4 (11) a disagreement between the parties or litigation brought to enforce
5 or modify the agreement shall not affect the validity of the termination of
6 parental rights or the adoption.

7 (e) A copy of the order approving the postadoption contact agreement and
8 the postadoption contact agreement shall be filed with the Probate Division of
9 the Superior Court with the petition to adopt filed under 15A V.S.A. Article 3,
10 and, if the agreement specifies a role for the Adoption Registry, with the
11 Registry.

12 (f) The order approving a postadoption contact agreement shall be a
13 separate order from the final order terminating parental rights.

14 (g) The executed postadoption contact agreement shall become final upon
15 legal finalization of an adoption under 15A V.S.A. Article 3.

1 Sec. 8. 15A V.S.A. Article 9 is added to read:

2 ARTICLE 9. ENFORCEMENT, MODIFICATION, AND TERMINATION
3 OF POSTADOPTION CONTACT AGREEMENTS

4 § 9-101. ENFORCEMENT, MODIFICATION, AND TERMINATION OF
5 POSTADOPTION CONTACT AGREEMENTS

6 (a) A postadoption contact agreement may be modified or terminated by
7 agreement of the parties. A modified postadoption contact agreement shall be
8 filed with the Court that finalized the adoption.

9 (b) An adoptive parent may petition for review of a postadoption contact
10 agreement entered into under 33 V.S.A. § 5124 if the adoptive parent believes
11 the best interests of the child are being compromised by the terms of the
12 agreement.

13 (c) A former parent may petition for enforcement of a postadoption contact
14 agreement entered into under 33 V.S.A. § 5124 if the adoptive parent is not in
15 compliance with the terms of the agreement.

16 (d) A disagreement between the parties or litigation brought to enforce or
17 modify the agreement shall not affect the validity of the termination of parental
18 rights or the adoption.

19 (e) The Court shall not act on a petition to modify or enforce the agreement
20 unless the petitioner had in good faith participated or attempted to participate

1 in mediation or alternative dispute resolution proceedings to resolve the
2 dispute prior to bringing the petition for enforcement.

3 (f) Parties to the proceeding shall be the individuals who signed the original
4 agreement created under 33 V.S.A. § 5124. The adopted child, if 14 years of
5 age or older, may also participate. The Department for Children and Families
6 shall not be required to be a party to the proceeding and the Court shall not
7 order further investigation or evaluation by the Department.

8 (g) The Court may order the communication or contact be terminated or
9 modified if the Court deems such termination or modification to be in the best
10 interests of the child. In making a best interests determination, the Court may
11 consider:

12 (1) the protection of the physical safety of the adopted child or other
13 members of the adoptive family, or the emotional well-being of the adopted
14 child;

15 (2) whether enforcement of the agreement undermines the adoptive
16 parent's parental authority; and

17 (3) whether, due to a change in circumstances, continued compliance
18 with the agreement would be unduly burdensome to one or more of the parties.

19 (h) A Court-imposed modification of a previously approved agreement
20 may limit, restrict, condition, or decrease contact between the former parents
21 and the child, but in no event shall a Court-imposed modification serve to

1 expand, enlarge, or increase the amount of contact between the birth parents
2 and the child or place new obligations on the adoptive parents.

3 (i) No testimony or evidentiary hearing shall be required, although the
4 Court may, in its discretion, hold a hearing. A hearing held to review an
5 agreement for postadoption contact will be confidential. Documentary
6 evidence or offers of proof may serve as the basis for the Court's decision
7 regarding enforcement or modification of an agreement.

8 (j) In an action to enforce the agreement, the burden of proof shall be on
9 the former parent to show by a preponderance of the evidence that enforcement
10 of the agreement is in the best interests of the child.

11 (k) In an action to modify or terminate the agreement, the burden of proof
12 shall be on the adoptive parent to show by clear and convincing evidence that
13 the modification or termination of the agreement is in the best interests of the
14 child.

15 (l) Failure to comply with the agreement or petitioning the Court to
16 enforce, modify, or terminate an agreement shall not form the basis for an
17 award of monetary damages.

18 (m) An agreement for postadoption contact or communication under
19 33 V.S.A. § 5124 shall cease to be enforceable on the date the adopted child
20 turns 18 years of age, or upon dissolution of the adoption.

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* * *

(14) “Risk of harm” means a significant danger that a child will suffer serious harm other than by accidental means, ~~which harm would be likely to cause physical injury, neglect, emotional maltreatment, or sexual abuse~~ including:

(A) a single, egregious act that resulted in significant risk that a child could have been seriously physically injured, including production or preproduction of methamphetamines in a dwelling where a child resides;

(B) leaving a child without supervision appropriate for the child’s age and circumstances;

(C) not providing developmentally appropriate supervision or care for a child due to use of illegal substances, or misuse of prescription drugs or alcohol;

(D) failing to supervise appropriately a child in a situation in which drugs, alcohol, or drug paraphernalia are accessible to the child;

(E) knowingly allowing a child to be at substantial risk of sexual abuse;

(F) failure by a registered sex offender or person substantiated for sexually abusing a child to refrain from residing with or spending unsupervised time with a child.

1 (15) "Sexual abuse" consists of any act or acts by any person involving
2 sexual molestation or exploitation of a child, including incest, prostitution,
3 rape, sodomy, or any lewd and lascivious conduct involving a child. Sexual
4 abuse also includes the aiding, abetting, counseling, hiring, or procuring of a
5 child to perform or participate in any photograph, motion picture, exhibition,
6 show, representation, or other presentation which, in whole or in part, depicts
7 sexual conduct, sexual excitement, or sadomasochistic abuse involving a child.
8 Sexual abuse also includes the viewing, possession, or transmission of child
9 pornography, excluding exchanges of images between mutually consenting
10 minors.

11 * * *

12 Sec. 10. 33 V.S.A. § 4915 is amended to read:

13 § 4915. ASSESSMENT AND INVESTIGATION

14 * * *

15 (d) The Department shall conduct an investigation when an accepted report
16 involves allegations indicating substantial child endangerment. ~~For purposes~~
17 ~~of~~ As used in this section, "substantial child endangerment" includes conduct
18 by an adult involving or resulting in sexual abuse, and conduct by a person
19 responsible for a child's welfare involving or resulting in abandonment, child
20 fatality, malicious punishment, or abuse or neglect that causes serious ~~physical~~

1 bodily injury as defined in 13 V.S.A. § 1021. The Department may conduct an
2 investigation of any report.

3 * * *

4 Sec. 11. 33 V.S.A. § 4915b(e) is amended to read:

5 (e) The Department:

6 (1) shall report to and request assistance from law enforcement in the
7 following circumstances:

8 ~~(1)(A)~~ investigations of child sexual abuse by an alleged perpetrator age
9 10 years of age or older;

10 ~~(2)(B)~~ investigations of serious physical abuse or neglect likely to result
11 in criminal charges or requiring emergency medical care;

12 (2) shall report to and request assistance from Special Investigative
13 Units in the following circumstances pursuant to 24 V.S.A. § 1940:

14 (A) an incident in which a child suffers, by other than accidental
15 means, serious bodily injury as defined in 13 V.S.A. § 1021; and

16 (B) potential violations of:

17 (i) 13 V.S.A. § 2602;

18 (ii) 13 V.S.A. chapter 60;

19 (iii) 13 V.S.A. chapter 64; and

20 (iv) 13 V.S.A. chapter 72; and

1 (C) situations potentially dangerous to the child or Department
2 worker; and

3 (4) may report to and request assistance from law enforcement in the
4 following circumstances:

5 (A) an incident in which a child suffers:

6 (i) bodily injury, by other than accidental means, as defined in
7 13 V.S.A. § 1021; or

8 (ii) death; and

9 (B) potential violations of:

10 (i) 13 V.S.A. § 2601;

11 (ii) 13 V.S.A. § 2605;

12 (iii) 13 V.S.A. § 1304;

13 (iv) 13 V.S.A. § 1304a; and

14 ~~(v)~~ situations potentially dangerous to the child or Department
15 worker.

16 * * *

17 * * * Confidentiality * * *

18 Sec. 12. 33 V.S.A. § 4913 is amended to read:

19 § 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL

20 ACTION

21 * * *

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

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

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

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

9 (2) Upon request, the Commissioner shall provide relevant information
10 contained in the case records concerning a person's report to a person who:

11 (A) made the report under subsection (a) of this section; and

12 (B) is engaged in an ongoing working relationship with the child or
13 family who is the subject of the report.

14 (C) Any information disclosed under this subsection (2) shall not be
15 disseminated by the mandated reporter requesting the information. A person
16 who intentionally violates the confidentiality provisions of this section shall be
17 fined not more than \$2,000.00.

18 (D) In providing records under this subsection (2), the Department
19 may withhold information that could compromise the safety of the reporter or
20 the child or family who is the subject of the report.

21 * * *

1 Sec. 13. 33 V.S.A. § 4921 is amended to read:

2 § 4921. DEPARTMENT'S RECORDS OF ABUSE AND NEGLECT

3 (a) The Commissioner shall maintain all records of all investigations,
4 assessments, reviews, and responses initiated under this subchapter. The
5 Department may use and disclose information from such records in the usual
6 course of its business, including to assess future risk to children, to provide
7 appropriate services to the child or members of the child's family, or for other
8 legal purposes.

9 (b) The Commissioner shall promptly inform the parents, if known, or
10 guardian of the child that a report has been accepted as a valid allegation
11 pursuant to subsection 4915(b) of this title and the Department's response to
12 the report. The Department shall inform the parent or guardian of his or her
13 ability to request records pursuant to subsection (c) of this section. This
14 section shall not apply if the parent or guardian is the subject of the
15 investigation.

16 (c) Upon request, the redacted investigation file shall be disclosed to:

17 (1) the child's parents, foster parent, or guardian, absent good cause
18 shown by the Department, provided that the child's parent, foster parent, or
19 guardian is not the subject of the investigation; and

20 (2) the person alleged to have abused or neglected the child, as provided
21 for in subsection 4916a(d) of this title.

1 (d) ~~Upon request,~~ Department records created under this subchapter shall
2 be disclosed to:

3 (1) the court, parties to the juvenile proceeding, and the child's guardian
4 ad litem if there is a pending juvenile proceeding or if the child is in the
5 custody of the Commissioner;

6 (2) the Commissioner or person designated by the Commissioner to
7 receive such records;

8 (3) persons assigned by the Commissioner to conduct
9 investigations; and

10 (4) law enforcement officers engaged in a joint investigation with the
11 Department, an ~~assistant attorney general~~ Assistant Attorney General, or a
12 ~~state's attorney;~~ State's Attorney.

13 ~~(5) other State agencies conducting related inquiries or proceedings; and~~

14 ~~(6) a Probate Division of the Superior Court involved in guardianship~~
15 ~~proceedings. The Probate Division of the Superior Court shall provide a copy~~
16 ~~of the record to the respondent, the respondent's attorney, the petitioner, the~~
17 ~~guardian upon appointment, and any other individual, including the proposed~~
18 ~~guardian, determined by the Court to have a strong interest in the welfare of~~
19 ~~the respondent.~~

20 (e)(1) Upon request, relevant Department records created under this
21 subchapter ~~may~~ shall be disclosed to:

1 (A) ~~service providers working with a person or child who is the~~
2 ~~subject of the report;~~ and A person, agency, or organization, including a
3 multidisciplinary team empaneled under section 4917 of this title, authorized to
4 diagnose, care for, treat, or supervise a child or family who is the subject of a
5 report or record created under this subchapter, or who is responsible for the
6 child's health or welfare.

7 (B) Health and mental health care providers working directly with the
8 child or family who is the subject of the report or record.

9 (C) Educators working directly with the child or family who is the
10 subject of the report or record.

11 (D) Licensed or approved foster care givers for the child.

12 (E) Mandated reporters as defined by section 4913 of this subchapter,
13 making a report in accordance with the provisions of section 4914 of this
14 subchapter and engaging in an ongoing working relationship with the child or
15 family who is the subject of the report.

16 (F) Other State agencies conducting related inquiries or proceedings.

17 (G) The Child Protection Advocate appointed under section 8001 of
18 this title.

19 (H) A Probate Division of the Superior Court involved in
20 guardianship proceedings. The Probate Division of the Superior Court shall
21 provide a copy of the record to the respondent, the respondent's attorney, the

1 petitioner, the guardian upon appointment, and any other individual, including
2 the proposed guardian, determined by the Court to have a strong interest in the
3 welfare of the respondent.

4 (I) ~~other~~ Other governmental entities for purposes of child protection.

5 (2) Determinations of relevancy shall be made by the Department. In
6 providing records under this subsection (e), the Department may withhold
7 information that could compromise the safety of the reporter or the child or
8 family who is the subject of the report.

9 (3) In providing information under this section, the Department may
10 also provide other records related to its child protection activities for the child.

11 (f) Any records or reports disclosed under this section and information
12 relating to the contents of those records or reports shall not be disseminated by
13 the receiving persons or agencies to any persons or agencies, other than to
14 those persons or agencies authorized to receive information pursuant to this
15 section. A person who intentionally violates the confidentiality provisions of
16 this section shall be fined not more than \$2,000.00.

17 Sec. 14. 33 V.S.A. § 5110 is amended to read:

18 § 5110. CONDUCT OF HEARINGS

19 (a) Hearings under the juvenile judicial proceedings chapters shall be
20 conducted by the Court without a jury and shall be confidential.

1 (b) The general public shall be excluded from hearings under the juvenile
2 judicial proceedings chapters, and only the parties, their counsel, witnesses,
3 persons accompanying a party for his or her assistance, and such other persons
4 as the Court finds to have a proper interest in the case or in the work of the
5 Court, including a foster parent or a representative of a residential program
6 where the child resides, may be admitted by the Court. An individual without
7 party status seeking inclusion in the hearing may petition the Court for
8 admittance by filing a request with the clerk of the Court. This subsection
9 shall not prohibit a victim's exercise of his or her rights under sections 5233
10 and 5234 of this title, and as otherwise provided by law.

11 (c) There shall be no publicity given by any person to any proceedings
12 under the authority of the juvenile judicial proceedings chapters except with
13 the consent of the child, the child's guardian ad litem, and the child's parent,
14 guardian, or custodian. A person who violates this provision may be subject to
15 contempt proceedings pursuant to Rule 16 of the Vermont Rules for Family
16 Proceedings.

1 * * * Juvenile Proceedings; General Provisions; Children in Need of Care or
2 Supervision; Request for an Emergency Care Order * * *

3 Sec. 15. 33 V.S.A. § 5302 is amended to read:

4 § 5302. REQUEST FOR EMERGENCY CARE ORDER

5 (a) If an officer takes a child into custody pursuant to ~~subdivision~~ section
6 5301(1) ~~or (2)~~ of this title, the officer shall immediately notify the child's
7 custodial parent, guardian, or custodian and release the child to the care of the
8 child's custodial parent, guardian, or custodian unless the officer determines
9 that the child's immediate welfare requires the child's continued absence from
10 the home.

11 (b) If the officer determines that the child's immediate welfare requires the
12 child's continued absence from the home, ~~the officer shall:~~

13 (1) ~~Remove~~ The officer shall remove the child from the child's
14 surroundings, contact the Department, and deliver the child to a location
15 designated by the Department. The Department shall have the authority to
16 make reasonable decisions concerning the child's immediate placement, safety,
17 and welfare pending the issuance of an emergency care order.

18 (2) ~~Prepare~~ The officer or a social worker employed by the Department
19 for Children and Families shall prepare an affidavit in support of a request for
20 an emergency care order and provide the affidavit to the State's Attorney. The
21 affidavit shall include: the reasons for taking the child into custody; and to the

1 degree known, potential placements with which the child is familiar; the
2 names, addresses, and telephone number of the child's parents, guardian,
3 custodian, or care provider; the name, address, and telephone number of any
4 relative who has indicated an interest in taking temporary custody of the child.
5 The officer or social worker shall contact the Department and the Department
6 may prepare an affidavit as a supplement to the affidavit of the law
7 enforcement officer or social worker if the Department has additional
8 information with respect to the child or the family.

9 * * *

10 * * * Temporary Care Order; Custody * * *

11 Sec. 16. 33 V.S.A. § 5308 is amended to read:

12 § 5308. TEMPORARY CARE ORDER

13 (a) The Court shall order that legal custody be returned to the child's
14 custodial parent, guardian, or custodian unless the Court finds by a
15 preponderance of the evidence that a return home would be contrary to the best
16 interests of the ~~child's welfare~~ child because any one of the following exists:

17 (1) A return of legal custody could result in substantial danger to the
18 physical health, mental health, welfare, or safety of the child.

19 (2) The child or another child residing in the same household has been
20 physically or sexually abused by a custodial parent, guardian, or custodian, or

1 by a member of the child's household, or another person known to the
2 custodial parent, guardian, or custodian.

3 (3) The child or another child residing in the same household is at
4 substantial risk of physical or sexual abuse by a custodial parent, guardian, or
5 custodian, or by a member of the child's household, or another person known
6 to the custodial parent, guardian, or custodian. It shall constitute prima facie
7 evidence that a child is at substantial risk of being physically or sexually
8 abused if:

9 (A) a custodial parent, guardian, or custodian receives actual notice
10 that a person has committed or is alleged to have committed physical or sexual
11 abuse against a child; and

12 (B) a custodial parent, guardian, or custodian knowingly or recklessly
13 allows the child to be in the physical presence of the alleged abuser after
14 receiving such notice.

15 (4) The custodial parent, guardian, or guardian has abandoned the child.

16 (5) The child or another child in the same household has been neglected
17 and there is substantial risk of harm to the child who is the subject of the
18 petition.

19 (b) Upon a finding that ~~any of the conditions set forth in subsection (a) of~~
20 ~~this section exists~~ a return home would be contrary to the best interests of the
21 child, the Court may issue such temporary orders related to the legal custody of

1 the child as it deems necessary and sufficient to ~~protect the welfare and safety~~
2 ~~of the child, including, in order of preference:~~

3 (1) ~~A~~ a conditional custody order returning legal custody of the child to
4 the custodial parent, guardian, ~~or~~ custodian, noncustodial parent, relative, or a
5 person with a significant relationship with the child, subject to such conditions
6 and limitations as the Court may deem necessary and sufficient to ~~protect the~~
7 ~~child.~~

8 ~~(2)(A) An order transferring temporary legal custody to a noncustodial~~
9 ~~parent. Provided that parentage is not contested, upon a request by a~~
10 ~~noncustodial parent for temporary legal custody and a personal appearance of~~
11 ~~the noncustodial parent, the noncustodial parent shall present to the Court a~~
12 ~~care plan that describes the history of the noncustodial parent's contact with~~
13 ~~the child, including any reasons why contact did not occur, and that addresses:~~

14 (i) ~~the child's need for a safe, secure, and stable home;~~

15 (ii) ~~the child's need for proper and effective care and control; and~~

16 (iii) ~~the child's need for a continuing relationship with the~~

17 ~~custodial parent, if appropriate.~~

18 ~~(B) The Court shall consider court orders and findings from other~~
19 ~~proceedings related to the custody of the child.~~

1 ~~(C) The Court shall transfer legal custody to the noncustodial parent~~
2 ~~unless the Court finds by a preponderance of the evidence that the transfer~~
3 ~~would be contrary to the child's welfare because any of the following exists:~~

4 ~~(i) The care plan fails to meet the criteria set forth in subdivision~~
5 ~~(2)(A) of this subsection.~~

6 ~~(ii) Transferring temporary legal custody of the child to the~~
7 ~~noncustodial parent could result in substantial danger to the physical health,~~
8 ~~mental health, welfare, or safety of the child.~~

9 ~~(iii) The child or another child residing in the same household as~~
10 ~~the noncustodial parent has been physically or sexually abused by the~~
11 ~~noncustodial parent or a member of the noncustodial parent's household, or~~
12 ~~another person known to the noncustodial parent.~~

13 ~~(iv) The child or another child residing in the same household as~~
14 ~~the noncustodial parent is at substantial risk of physical or sexual abuse by the~~
15 ~~noncustodial parent or a member of the noncustodial parent's household, or~~
16 ~~another person known to the noncustodial parent. It shall constitute prima facie~~
17 ~~evidence that a child is at substantial risk of being physically or sexually~~
18 ~~abused if:~~

19 ~~(I) a noncustodial parent receives actual notice that a person~~
20 ~~has committed or is alleged to have committed physical or sexual abuse against~~
21 ~~a child; and~~

1 ~~(H) the noncustodial parent knowingly or recklessly allows the~~
2 ~~child to be in the physical presence of the alleged abuser after receiving such~~
3 ~~notice.~~

4 ~~(v) The child or another child in the noncustodial parent's~~
5 ~~household has been neglected, and there is substantial risk of harm to the child~~
6 ~~who is the subject of the petition.~~

7 ~~(D) If the noncustodial parent's request for temporary custody is~~
8 ~~contested, the Court may continue the hearing and place the child in the~~
9 ~~temporary custody of the Department, pending further hearing and resolution~~
10 ~~of the custody issue. Absent good cause shown, the Court shall hold a further~~
11 ~~hearing on the issue within 30 days.~~

12 ~~(3) An order transferring temporary legal custody of the child to a~~
13 ~~relative, provided:~~

14 ~~(A) The relative seeking legal custody is a grandparent, great-~~
15 ~~grandparent, aunt, great-aunt, uncle, great-uncle, stepparent, sibling, or~~
16 ~~step-sibling of the child.~~

17 ~~(B) The relative is suitable to care for the child. In determining~~
18 ~~suitability, the Court shall consider the relationship of the child and the relative~~
19 ~~and the relative's ability to:~~

20 ~~(i) Provide a safe, secure, and stable environment.~~

21 ~~(ii) Exercise proper and effective care and control of the child.~~

1 ~~(iii) Protect the child from the custodial parent to the degree the~~
2 ~~Court deems such protection necessary.~~

3 ~~(iv) Support reunification efforts, if any, with the custodial parent.~~

4 ~~(v) Consider providing legal permanence if reunification fails.~~

5 (2) an order transferring temporary legal custody of the child to a
6 noncustodial parent or to a relative;

7 (3) an order transferring temporary legal custody of the child to a person
8 with a significant relationship with the child; or

9 (4) an order transferring temporary legal custody of the child to the
10 Commissioner.

11 ~~(c)~~(c) The Court shall consider orders and findings from other proceedings
12 relating to the custody of the child, the child's siblings, or children of any adult
13 in the same household as the child.

14 (d) In considering the suitability of a relative under this subdivision (3) an
15 order under subsection (b) of this section, the Court may order the Department
16 to conduct an investigation of a person seeking custody of the child, and the
17 suitability of that person's home, and file a written report of its findings with
18 the Court. The Court may place the child in the temporary custody of the
19 Department Commissioner, pending such investigation.

20 ~~(4) A temporary care order transferring temporary legal custody of the~~
21 ~~child to a relative who is not listed in subdivision (3)(A) of this subsection or a~~

1 ~~person with a significant relationship with the child, provided that the criteria~~
2 ~~in subdivision (3)(B) of this subsection are met. The Court may make such~~
3 ~~orders as provided in subdivision (3)(C) of this subsection to determine~~
4 ~~suitability under this subdivision.~~

5 ~~(5) A temporary care order transferring temporary legal custody of the~~
6 ~~child to the Commissioner.~~

7 ~~(e)(e)~~ If the Court transfers legal custody of the child, the Court shall issue
8 a written temporary care order.

9 (1) The order shall include:

10 (A) a A finding that remaining in the home is contrary to the ~~child's~~
11 ~~welfare~~ best interests of the child and the facts upon which that finding is
12 based; ~~and~~

13 (B) a A finding as to whether reasonable efforts were made to
14 prevent unnecessary removal of the child from the home. If the Court lacks
15 sufficient evidence to make findings on whether reasonable efforts were made
16 to prevent the removal of the child from the home, that determination shall be
17 made at the next scheduled hearing in the case but, in any event, no later than
18 60 days after the issuance of the initial order removing a child from the home.

19 (2) The order may include other provisions as may be ~~necessary for the~~
20 ~~protection and welfare~~ in the best interests of the child, ~~such as~~ including:

1 (A) establishing parent-child contact ~~under such and terms and~~
2 ~~conditions as are necessary for the protection of the child.~~ and terms and
3 conditions for that contact;

4 (B) requiring the Department to provide the child with services, if
5 legal custody of the child has been transferred to the Commissioner;

6 (C) requiring the Department to refer a parent for appropriate
7 assessments and services, including a consideration of the needs of children
8 and parents with disabilities, provided that the child's needs are given primary
9 consideration;

10 (D) requiring genetic testing if parentage of the child is at issue;

11 (E) requiring the Department to make diligent efforts to locate the
12 noncustodial parent;

13 (F) requiring the custodial parent to provide the Department with
14 names of all potential noncustodial parents and relatives of the child; and

15 (G) establishing protective supervision and requiring the Department
16 to make appropriate service referrals for the child and the family, if legal
17 custody is transferred to an individual other than the Commissioner.

18 (3) In his or her discretion, the Commissioner may provide assistance
19 and services to children and families to the extent that funds permit,
20 notwithstanding subdivision (2)(B) of this subsection.

1 ~~(d) If a party seeks to modify a temporary care order in order to transfer~~
2 ~~legal custody of a child from the Commissioner to a relative or a person with a~~
3 ~~significant relationship with the child, the relative shall be entitled to~~
4 ~~preferential consideration under subdivision (b)(3) of this section, provided~~
5 ~~that a disposition order has not been issued and the motion is filed within~~
6 ~~90 days of the date that legal custody was initially transferred to the~~
7 ~~Commissioner.~~

8 Sec. X. 33 V.S.A. § 5320 is amended to read:

9 § 5320. POSTDISPOSITION REVIEW HEARING

10 (a) If the permanency goal of the disposition case plan is reunification with
11 a parent, guardian, or custodian, the Court shall hold a review hearing within
12 60 days of the date of the disposition order for the purpose of monitoring
13 progress under the disposition case plan and reviewing parent-child contact.
14 Notice of the review shall be provided to all parties. A foster parent,
15 preadoptive parent, or relative caregiver shall be provided with notice of any
16 post disposition review hearings and an opportunity to be heard at the hearings.
17 Nothing in this section shall be construed as affording such person party status
18 in the proceeding.

19 (b) If a child is ordered to return to a parent from whom the child was
20 previously removed, the Court may order the Department continue to provide
21 casework supervision of the family for a period of up to six months from the

1 date of the reunification. At the conclusion of the supervision period, there
2 shall be a hearing on whether the family needs continued intervention, support,
3 or supervision.

4 * * * Legislature; Establishing a Joint Legislative Child

5 Protection Oversight Committee * * *

6 Sec. 14. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT
7 COMMITTEE

8 (a) Creation. There is created a Joint Legislative Child Protection
9 Oversight Committee.

10 (b) Membership. The Committee shall be composed of the following
11 10 members, who shall be appointed each biennial session of the General
12 Assembly:

13 (1) Five current members of the House of Representatives, not all
14 from the same political party, who shall be appointed by the Speaker of
15 the House; and

16 (2) Five current members of the Senate, not all from the same political
17 party, who shall be appointed by the Committee on Committees.

18 (3) In addition to two members-at-large appointed from each chamber,
19 one appointment shall be made from the following committees:

20 (A) House Committee on Appropriations;

21 (B) Senate Committee on Appropriations;

1 (C) House Committee on Judiciary;

2 (D) Senate Committee on Judiciary;

3 (E) House Committee on Human Services; and

4 (F) Senate Committee on Health and Welfare.

5 (c) Powers and duties.

6 (1) The Committee shall:

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

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

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

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

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

18 ~~(v) determining how to improve data sharing between the courts,~~
19 ~~treatment providers, Agency of Education, Department for Children and~~
20 ~~Families, and other branches, departments, agencies, and persons involved in~~
21 ~~protecting children from abuse and neglect, including;~~

1 ~~(I) determining the data that should be shared between parties;~~

2 ~~(II) investigating regulatory requirements and security~~

3 ~~parameters;~~

4 ~~(III) investigating the potential costs of creating a platform to~~

5 ~~share data; and~~

6 ~~(vi) making recommendations to address these issues and to~~

7 ~~improve the system for protecting children from abuse and neglect.~~

8 (B) Exercise oversight over the Department for Children and

9 Families, including reviewing and making recommendations concerning the

10 Department's:

11 (i) strategic and operating plans;

12 (ii) policies, procedures, and practices;

13 (iii) staffing and employee issues, including hiring, training, and

14 retention;

15 (iv) organization; and

16 (v) budget.

17 (C) At least annually, report on the Committee's activities and

18 recommendations to the General Assembly.

19 (2) The Committee may:

20 (A) review and make recommendations to the House and Senate

21 Committees on Appropriations regarding:

1 (i) the Department for Children and Families' budget proposal and
2 appropriations; and

3 (ii) other budget proposals and appropriations relating to
4 protecting children from abuse and neglect; and

5 (B) review specific reports and cases concerning child abuse and
6 neglect as necessary to fulfill the Committee's powers and duties.

7 (d) Assistance. The Committee shall have the administrative, technical,
8 and legal assistance of the Office of Legislative Council.

9 (e) Data and records. All State agencies and departments shall provide data
10 and records to the Committee upon request. Notwithstanding any other
11 provision of law to the contrary, the Committee may receive records that are
12 confidential, privileged, or the release of which is restricted under law. All
13 State agencies and departments shall provide such records to the Committee
14 upon request. Any such records obtained by the Committee shall be exempt
15 from public inspection and copying, shall be kept confidential by the
16 Committee, and shall not be disclosed.

17 (f) Retaliation. No person who is an employee of the State of Vermont, or
18 of any State, local, county, or municipal department, agency, or person
19 involved in child protection, and who testifies before, supplies information to,
20 or cooperates with the Committee shall be subject to retaliation by his or her
21 employer. Retaliation shall include job termination, demotion in rank,

1 reduction in pay, alteration in duties and responsibilities, transfer, or a negative
2 job performance evaluation based on the person's having testified before,
3 supplied information to, or cooperated with the Committee.

4 (g) Meetings.

5 (1) The member appointed from the Senate Committee on Health and
6 Welfare shall call the first meeting of the Committee.

7 (2) The Committee shall select a Chair, Vice Chair, and Clerk from
8 among its members and may adopt rules of procedure. The Chair shall rotate
9 biennially between the House and the Senate members. A quorum shall consist
10 of six members.

11 (3) When the General Assembly is in session, the Committee shall meet
12 at the call of the Chair. The Committee may meet six times during
13 adjournment, and may meet more often subject to approval of the Speaker of
14 the House and the President Pro Tempore of the Senate.

15 (h) Reimbursement. For attendance at meetings during adjournment of the
16 General Assembly, members of the Committee shall be entitled to per diem
17 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

18 (i) Sunset. On December 30, 2020, this section (creating the Joint
19 Legislative Child Protection Oversight Committee) is repealed and the
20 Committee shall cease to exist.

1 * * * Establishing the Office of the Child Protection Advocate * * *

2 Sec. 15. 3 V.S.A. chapter 45, subchapter 4 is redesignated to read:

3 Subchapter 4. Departments, Divisions, Offices, and Boards

4 Sec. 16. 3 V.S.A. § 2284 is added to read:

5 § 2284. OFFICE OF THE CHILD PROTECTION ADVOCATE

6 (a) The Office of the Child Protection Advocate is created in the Agency of
7 Administration.

8 (b) The Office shall be headed by the Child Protection Advocate, who shall
9 be an individual with expertise and experience relevant to protecting children
10 from abuse and neglect. The Vermont Child Protection Advocate shall be
11 appointed:

12 (1) by the Governor subject to the advice and consent of the Senate; and

13 (2) for a term of four years and until his or her successor is appointed
14 and qualified.

15 (c) The Child Protection Advocate shall:

16 (1) investigate and resolve complaints on behalf of persons involved in
17 the child protection system;

18 (2) analyze and monitor the development and implementation of federal,
19 State, and local laws, and of regulations and policies relating to child
20 protection and to the Department for Children and Families, and make
21 recommendations as he or she deems appropriate;

1 (3) provide information to the public, agencies, legislators, and others
2 regarding problems and concerns of persons involved in the child protection
3 system, including recommendations relating to such problems and concerns;

4 (4) promote the development and involvement of citizen organizations
5 in the work of the Office and in protecting children from abuse and neglect;

6 (5) train persons and organizations in advocating for the interests of
7 children and persons involved in the protecting children from abuse and
8 neglect;

9 (6) develop and implement a reporting system to collect and analyze
10 information relating to complaints by persons involved in the child protection
11 system; and

12 (7) submit to the General Assembly and the Governor on or before
13 January 15 of each year a report on the Office's activities and
14 recommendations.

15 (d) The Child Protection Advocate may:

16 (1) hire or contract with persons to fulfill the purposes of this chapter;

17 (2) have appropriate access to review the records of State agencies;

18 (3) pursue administrative, judicial, or other remedies on behalf of
19 persons involved in the child protection system;

20 (4) delegate to employees of the Office any part of his or her authority;

1 (5) adopt rules, policies, and procedures necessary to carry out the
2 provisions of this chapter, including prohibiting any employee or immediate
3 family member of any employee from having any interest which creates a
4 conflict of interest in carrying out the Advocate's responsibilities under this
5 chapter;

6 (6) take any other action necessary to fulfill the purposes of this chapter.

7 (e) All State agencies shall comply with reasonable requests of the Child
8 Protection Advocate for records, information, and assistance.

9 (f) No civil liability shall attach to the Child Protection Advocate or any
10 employee of the Office of the Child Protection Advocate for good faith
11 performance of the duties imposed by this chapter.

12 (g) A person who intentionally hinders the Child Protection Advocate or a
13 representative of the Office of the Child Protection Advocate acting pursuant
14 to this chapter shall be imprisoned not more than one year or fined not more
15 than \$5,000.00, or both.

16 (h) A person who takes discriminatory, disciplinary, or retaliatory action
17 against any person for any communication made, or information disclosed, to
18 the Child Protection Advocate or to a representative of the Office of the Child
19 Protection Advocate to aid the Advocate in carrying out his or her duties,
20 unless the communication or disclosure was done maliciously or without good

1 faith, shall be imprisoned not more than one year or fined not more than
2 \$5,000.00, or both.

3 * * * Department for Children and Families; Policies * * *

4 Sec. 17. DEPARTMENT FOR CHILDREN AND FAMILIES;
5 POLICIES, PROCEDURES, AND PRACTICES

6 (a) The Commissioner for Children and Families shall:

7 (1) ensure that policies, procedures, and practices are consistent, and are
8 applied in a consistent manner, in all Department offices and in all regions of
9 the State;

10 (2) ensure that policies, procedures, and practices are consistent with
11 statute;

12 (3) develop metrics as to the appropriate case load for social workers in
13 the Family Services Division that take into account the experience and training
14 of a social worker, the number of families and the total number of children a
15 social worker is responsible for, and the acuity or difficulty of cases;

16 (4) ensure that all employees assigned to carry out investigations have
17 training or experience in conducting investigations and have a Master's in
18 social work or an equivalent degree, or relevant experience;

19 (5) determine how to improve data sharing between the Department,
20 courts, treatment providers, the Agency of Education, and other branches.

1 departments, agencies, and persons involved in protecting children from abuse
2 and neglect, including:

3 (A) determine the data that should be shared between parties;

4 (B) investigate regulatory requirements and security parameters;

5 (C) investigate the potential costs of creating a platform to share
6 data; and

7 (D) make recommendations to address these issues and to improve
8 the system for protecting children from abuse and neglect.

9 (6) develop policies, procedures, and practices to:

10 (A) ensure the consistent sharing of information, in a manner that
11 complies with statute, with law enforcement, treatment providers, courts,
12 State's Attorneys, guardians ad litem, and other relevant parties;

13 (B) encourage law enforcement, treatment providers, and all
14 agencies, departments, and other persons that support recovery to provide
15 regular treatment progress updates to the Commissioner;

16 (C) ensure that courts have all relevant information in a timely
17 fashion, and that Department employees file paperwork and reports in a timely
18 manner;

1 (D) require increased monitoring of a child's safety if:

2 (i) other children have been removed from the same home or the
3 parent or guardian's parental rights as to another child have been
4 terminated; or

5 (ii) the child is returned to a home from which other children have
6 been removed;

7 (E) require that all persons living in a household, or that will have
8 child care responsibilities, will be assessed for criminal history and potential
9 safety risks whenever a child who has been removed from a home is returned
10 to that home;

11 (F) increase the number of required face-to-face meetings between
12 social workers and children;

13 (G) increase the number of required home visits and require
14 unannounced home visits;

15 (H) improve information sharing with mandatory reporters with an
16 ongoing relationship with a child;

17 (I) ensure that mandatory reporters are informed that any confidential
18 information they may receive cannot be disclosed to a person who is not
19 authorized to receive that information;

20 (J) adopt measures to make all parties authorized to receive
21 confidential information aware of their right to receive that information,

1 including measures to notify individuals accused of abuse or neglect when
2 authorized parties have requested access to the case records documenting such
3 abuse or neglect;

4 (K) apply results-based accountability or other data-based quality
5 measures to measure if children in different areas of the State have different
6 outcomes and the reasons for those differences; and

7 (L) using the results of the results-based accountability evaluation,
8 determine how to allocate Department resources most effectively for child
9 protection.

10 (b) On or before ~~April 3, 2015~~ September 1, 2015, the Commissioner shall
11 submit a written report to the House Committees on Human Services and on
12 Judiciary, and to the Senate Committees on Health and Welfare and on
13 Judiciary, on:

14 (1) The Commissioner's response to the Vermont Citizen's Advisory
15 Board (VCAB) Child Death Review Report dated November 7, 2014, and to
16 the Casey Family Programs report dated December, 2014, including:

17 (A) the Commissioner's response to every recommendation in the
18 reports and:

19 (i) if the Commissioner agrees with a recommendation, an
20 explanation of any changes made in response to the recommendation;

1 (ii) if the Commissioner does not agree with a recommendation,
2 an explanation of why; and

3 (iii) any suggestions concerning other options to implement a
4 recommendation; and

5 (B) a description of any changes to the Department's policies,
6 procedures, and practices made in response to the reports, including the
7 language of any new or amended policies and procedures.

8 (2) The Commissioner's response to the issues in subsection (a) of this
9 section, including the language of any new or amended policies and
10 procedures.

11 (c) On or before April 3, 2015, the Commissioner shall report to the
12 House Committees on Human Services and on Judiciary and to the Senate
13 Committees on Health and Welfare and on Judiciary on the Commissioner's
14 specific legislative recommendations and appropriation requests for FY2016
15 based on the reports and legislative directives under subsection (a) and
16 subdivision (b)(1) of this section.

17 * * * Agency of Human Services; Evidence-Informed Models * * *

18 Sec. 18. AGENCY OF HUMAN SERVICES; EVIDENCE-INFORMED
19 MODELS

20 The Secretary of Human Services shall identify and utilize
21 evidence-informed models of serving families that prioritize safety and

1 prevention through early interventions with high risk families. The Secretary
2 shall make recommendations in the FY2017 budget that reflect the utilization
3 of these models.

4 * * * Improvements to CHINS Proceedings * * *

5 Sec. 19. WORKING GROUP TO RECOMMEND IMPROVEMENTS TO
6 CHINS PROCEEDINGS

7 (a) Creation. There is created a working group to recommend ways to
8 improve the efficiency, timeliness, process, and results of Children in Need of
9 Care or Supervision (CHINS) proceedings.

10 (b) Membership. The Working Group shall be composed of the following
11 members:

12 (1) the Chief Administrative Judge or designee;

13 (2) the Defender General or designee;

14 (3) the Attorney General or designee;

15 (4) the Commissioner for Children and Families or designee;

16 (5) the Executive Director of State's Attorneys and Sheriffs or
17 designee; and

18 (6) a guardian ad litem who shall be appointed jointly by the President
19 Pro Tempore of the Senate and the Speaker of the House.

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

1 (1) the reasons that statutory time frames are not met and how to ensure
2 that statutory time frames are met in 90 percent of proceedings;

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

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

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

9 (5) the role of guardians as litem, and how to ensure their information is
10 presented to, and considered by, the court;

11 (6) how to ensure that once a child is returned to his or her family, the
12 court or the Department for Children and Families, may continue to monitor
13 the child and family where appropriate, and how to expedite a new proceeding
14 that concerns a family with repeated contacts with the child protection system;

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

18 (8) how and whether to provide financial assistance to individuals
19 seeking to mediate a dispute over a postadoption contact agreement; and

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

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Senator _____

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FOR THE COMMITTEE