

S.9 CHILD PROTECTION BILL

Brian J. Grearson, Chief Superior Judge  
Testimony: Joint Committee Hearing S.9  
January 28, 2015

SEC. 11. 33 V.S.A. § 5308 is amended to read;

§ 5308. TEMPORARY CARE ORDER

**Page 21, line13:**

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

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

(2) The child or another child residing in the same household has been physically or sexually abused by a custodial parent, guardian, or custodian, or by a member of the child’s household, or another person known to the custodial parent, guardian, or custodian.

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

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

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

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

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

**Page 22, Line 19:**

(b) Upon a finding that any of the conditions set forth in subsection (a) of this section exists ~~a return home would be contrary to the best interests of the child,~~ the Court may issue such temporary orders related to the legal custody of the child as it deems necessary and sufficient to protect the welfare and safety of the child, including, ~~in order of preference:~~

(1) A conditional custody order returning legal custody of the child to the custodial parent, guardian, custodian, non-custodial parent, or a person with a significant relationship with the child, subject to such conditions and limitations as the Court may deem necessary and sufficient to protect the child.

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

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

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

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