

Trine Bech, Vermont Parent Representation Center, Inc.
Testimony on S.9 Senate Health and Welfare
February 10, 2015 and Senate Judiciary February 11, 2015.

Markup by Judiciary 2/6/15 Proposed changes:

p.4 (d) In particular, the House and Senate Committees on Appropriations should seek to insure that adequate resources are allocated to improve Vermont's ability to prevent and address child abuse and neglect, prioritizing subsidized housing for families and substance abuse, medication assisted treatment for families of children under age 5, and including adequate supports for guardians ad litem who work with children.

Sec. 6 Post Adoption Agreements:

VPRC supports the Judiciary draft of 2/6/15 with the exception of Page 11 (f) and the part of (e) which provides for modification of the contract. VPRC respectfully proposes that neither party to an adoption contract should have the right to alter the contract. If the parent files a motion to enforce the contract under (e), and the parties cannot resolve the dispute in mediation, then the court, after hearing, will not enforce the agreement if the best interests of the child are being compromised.

How will the mediation portion of this bill be funded? The parents will uniformly have no money to pay for mediation and unless it is funded, few parents will have the ability to enforce their agreement.

VPRC would not support DCF's proposed changes.

Sec. 6 Language proposed by DCF:

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33 V.S.A. 4912: VPRC agrees with DCF that (D) should be eliminated. Harm to a child should be tied to the behavior of the parent and a showing that the parent is unable to appropriately care for the child.

(11) VPRC agrees with DCF that the current language of physical injury should be retained because it includes accidental injury and the proposed definition is too broad.

(14) Risk of Harm: VPRC agrees with the definitions as proposed by DCF with the exception of (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" The definition of person substantiated for sexually abusing a child would include people who were substantiated many years ago as a young person and now have children of their own, and persons who have successfully completed sex offender treatment. VPRC respectfully request that (F) be stricken.

Sec. 7 and 8 Confidentiality:

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33 V.S.A. Section 4913: VPRC believes that the current language should remain. The proposed changes, “to provide information contained in the case records” to both the person who made the report and to those engaged in an ongoing working relationship with the child and family subject to the report”, gives potential information which is not needed for treatment of the family and could be harmful to both child and family because it is full of hearsay and sometimes plain incorrect.

33 V.S.A. Section 4921:

Page 17 (c)(1): add a sentence “and the Department shall send a notice to the people entitled to the file that the redacted investigation file is available upon request.” Most parents have no knowledge that they may request their files.

Page 19: Add (g): “The Department shall provide to the people about whom the information is disclosed the information disclosed and names of the people to whom it was disclosed. “ Without this disclosure, information about the family may be in the possession of a lot of treatment providers and others without the family members’ knowledge, which provides them with no opportunity to address the disclosed information and puts them at a disadvantage and is disempowering. Knowledge is power.

Page 25: Custody orders:

VPRC respectfully proposes that a paragraph added as follows to (b):
(4) Parents have a fundamental liberty interest to care for their own children. It is presumed that the interests of minor children are best promoted in the child’s own home . (see 14 V.S.A. Section 2621) unless there are conditions which threaten their best interests. When children have to be separated from a parent, and the court issues a conditional or temporary custody order hereunder, the court shall make findings regarding both parents’ abilities to meet the child’s best interests before custody is transferred to anyone other than a parent. Parents, relatives and people with whom the child has a significant relationship shall be considered before custody is issued to the Commissioner.

Reunification:

VPRC respectfully proposes a New Section §5323 to address Reunification to serve the following purposes: **First**, require court approval prior to returning a child to the custodial parent. The laws of most other states require this. The parties must submit a report to the court detailing the efforts they have made to correct the conditions which led to removal. **Second**, is to require court and DCF oversight of a family for a period of no less than six months when a child is returned to the custodial parent post disposition. **Third**, when a child is returning to the custody of a parent post disposition, require that DCF identify and perform background checks on all adults living in the home. Further,

require that DCF identify any adults who may act as a caregiver to the child and assess them for services needed to ensure the safety of the child.

§5323 REUNIFICATION REQUIREMENTS

(1)(a) A child shall not be returned home at a post disposition review hearing unless the court finds that a reason for removal as set forth in the court's findings under V.S.A. §5315 no longer exists. The parents, guardian, or Commissioner shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is reunified with the parent from whom the child was removed, casework supervision by the Department shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the Department must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the proceeding. The Department may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the Department promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the Department of all persons who reside in the home or who may

act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the proceeding or the Department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

(iv) Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is under jurisdiction of the court.

Sec. 18 WORKING GROUP

Page 43 (b) Membership:

The Defender General's Office cannot represent both the interests of parents and the interests of children. We respectfully propose that a parent advocacy organization be added to the membership to insure advocacy for parents.