

**TO: Senate Committee on Judiciary**  
**FROM: Brian J. Grearson, Chief Superior Judge**  
**DATE: March 9, 2016**  
**SUBJECT: S.183**

S.183 contains a number of good public policy changes for children and families in juvenile cases:

**1. Limit duration of cases with Conditional Custody Orders to move children & families to a permanent resolution sooner.**

- a. I agree with the changes in Draft No. 1.1 on p. 6 and 8.
- b. Sec. 4 (§5318) does not include a specific provision for protective supervision. Protective supervision gives DCF the authority to monitor compliance with the conditions, including unannounced visits to the home to check on the child's safety. ---  
-When conditional custody is ordered, the child is not in DCF custody, but DCF is nonetheless needed to remain involved with the family, check on the child's safety, and provide information to the court about whether the conditions are sufficient to keep the child safe and move toward the case plan goal.  
-The judiciary recommends that protective supervision should be added to §5318 and would propose the following language:  

"Conditions shall include protective supervision with the Department if such a condition is not in place under the terms of an existing Temporary Care or Conditional Custody order. Protective supervision shall remain in effect during the duration of the order to allow the Department to take reasonable steps to monitor compliance with the terms of the conditional custody order."
- c. Sec. 4, 5, and 6 pertain to conditional custody at disposition in CHINS cases (§5318). I suggest looking at Chapter 52 of Title 33 to make these changes consistent in delinquency cases.  
- I agree with the changes in Draft No. 1.1 on page 8, and note the importance of having a brief written report from DCF at post-disposition review hearings. I agree with the changes in Draft No. 1.1 on page 9.
- d. Permanent guardianships: expand use of this as an option of "legal permanency" by making its use more flexible so it could apply to a wider array of situations, including cases with a conditional custody order. Reunification and adoption are still preferred permanent outcomes, but permanent guardianships are often a good solution. Sec. 1 allows permanent guardianships to be created when the child is under the age of 12, and has been living with the guardian for at least six months (instead of a year). Six months is consistent with the adoption statutes.  
- I agree with subsection (d) on page 3 regarding successor guardians. H.400, which passed the House, also amends the permanent guardianship statute by directing the probate court to issue orders/notification transferring custody to DCF when a permanent guardian dies or the guardianship is terminated by the Probate Court. (14 V.S.A. §2666 (b).) If S.183 passes, I suggest tweaking the language in H.400 to

acknowledge that if a successor guardians exists, the notice to DCF and transfer of custody provisions in H.400 (§2666 (b)) do not apply.

2. **Post-adoption contact agreements, Sec 3:** Generally, S.183 extends enforceable post-adoption contact agreements to situations where parental rights are being terminated and the child is in the custody of a relative, not in DCF custody. This has become more common with the use of conditional custody orders to relatives and the increased use of kinship care. This amendment makes good sense. I agree with the changes in Draft No. 1.1 on the top of page 5 (§5124(a)(1)(B)). The changes on the bottom of page 5 improve existing wording in subsection (9) that is a bit awkward.
  
3. **Reinstatement of Parental Rights, Sec 7**  
Reinstatement restores the legal rights of the parent and child, including all rights that were terminated by the court in a TPR order, if the parent has since become “fit” and the child has not been adopted after 3 years, or the adoption dissolved. It is not a modification or vacation of an order, nor does it “un-do” the TPR.
  
4. **Effective date, Sec 8** – Except for Sec 3 (postadoption contact agreements), other sections should be effective Sept 1 (rather than July 1) because of the work involved, for example:
  - A new Permanent Guardianship Order & changes to the juvenile procedures manual & judicial benchbook
  - Revisions to the Disposition Order & CCO form changes, & changes to juvenile manual & judicial benchbook & VTADS (docketing system)
  - Postadoption Agreement form – can go into effect July 1. Also changes to juvenile manual & judicial benchbook
  - Reinstatement: Need a new court order and changes to juvenile procedures manual & judicial benchbook, VTADS (docketing system)