

1 H.816

2 Introduced by Representatives Jessup of Middlesex, Buckholz of Hartford, and  
3 Willhoit of St. Johnsbury

4 Referred to Committee on

5 Date:

6 Subject: Judiciary; Family Division; CHINS; permanent guardianship

7 Statement of purpose of bill as introduced: This bill proposes to allow the  
8 Family Division to require the Department for Children and Families to  
9 provide counseling to people seeking custody of children; and to require the  
10 Family Division to make a finding that potential permanent guardians  
11 understand the responsibilities associated with permanent guardianship.

12 An act relating to informing custodians and guardians of the duties involved  
13 with child custody

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 14 V.S.A. § 2664 is amended to read

16 § 2664. CREATION OF PERMANENT GUARDIANSHIP

17 (a) The Family Division of the Superior Court may establish a permanent  
18 guardianship at a permanency planning hearing or at any other hearing in  
19 which a permanent legal disposition of the child can be made, including a child  
20 protection proceeding pursuant to 33 V.S.A. § 5318; or a delinquency

1 proceeding pursuant to 33 V.S.A. § 5232. The court shall also issue an order  
2 permitting or denying visitation, contact, or information with the parent at the  
3 same time the order of permanent guardianship is issued. Before issuing an  
4 order for permanent guardianship, the court shall find by clear and convincing  
5 evidence all of the following:

6 (1) Neither parent is able to assume or resume parental duties within a  
7 reasonable time.

8 (2) The child has resided with the permanent guardian for at least six  
9 months.

10 (3) A permanent guardianship is in the best interests of the child.

11 (4) The proposed permanent guardian:

12 (A)(i) is emotionally, mentally, and physically suitable to become the  
13 permanent guardian; and

14 (ii) is financially suitable, with kinship guardianship assistance  
15 provided for in 33 V.S.A. § 4903 if applicable, to become the permanent  
16 guardian;

17 (B) has expressly committed to remain the permanent guardian for  
18 the duration of the child's minority; and

19 (C) has expressly demonstrated a clear understanding of the  
20 immutable nature of a permanent guardianship and the responsibilities and  
21 financial implications of becoming a permanent guardian, including an

1 understanding of any resulting loss of State or federal benefits or other  
2 assistance.

3 (b) The parent voluntarily may consent to the permanent guardianship, and  
4 shall demonstrate an understanding of the implications and obligations of the  
5 consent.

6 \* \* \*

7 Sec. 2. 33 V.S.A. § 5308 is amended to read:

8 § 5308. TEMPORARY CARE ORDER

9 \* \* \*

10 (b) Upon a finding that a return home would be contrary to the best  
11 interests of the child, the court may issue such temporary orders related to the  
12 legal custody of the child as it deems necessary and sufficient to protect the  
13 welfare and safety of the child, including:

14 (1) a conditional custody order returning or granting legal custody of the  
15 child to the custodial parent, guardian, custodian, noncustodial parent, relative,  
16 or a person with a significant relationship with the child, subject to such  
17 conditions and limitations as the court may deem necessary and sufficient;

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

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

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

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

6           (d) In considering an order under subsection (b) of this section, the court  
7 may ~~order~~ require the Department to ~~conduct~~:

8                 (1) Conduct an investigation of a person seeking custody of the child,  
9 and of the suitability of that person's home; and file a written report of its  
10 findings with the court. The court may place the child in the temporary  
11 custody of the Commissioner, pending such investigation.

12                 (2) Counsel the person seeking custody of the child regarding the  
13 responsibilities and financial resources involved in having legal custody of the  
14 child.

15           (e) If the court transfers legal custody of the child, the court shall issue a  
16 written temporary care order.

17                 (1) The order shall include:

18                         (A) A finding that remaining in the home is contrary to the best  
19 interests of the child and the facts upon which that finding is based.

20                         (B) A finding as to whether reasonable efforts were made to prevent  
21 unnecessary removal of the child from the home. If the court lacks sufficient

1 evidence to make findings on whether reasonable efforts were made to prevent  
2 the removal of the child from the home, that determination shall be made at the  
3 next scheduled hearing in the case but, in any event, ~~no~~ not later than 60 days  
4 after the issuance of the initial order removing a child from the home.

5 (C) A finding that the temporary care order placement is with a  
6 person who understands the responsibilities he or she will assume by taking  
7 legal custody of the child, which may include providing transportation to and  
8 from school, assuming financial responsibility for the child, ensuring the child  
9 receives medical coverage and care, and working together with the Department  
10 to ensure the safety of the child and to provide the child with services.

11 \* \* \*

12 Sec. 3. EFFECTIVE DATE

13 This act shall take effect on July 1, 2018.