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H.11

Representative Willhoit of St. Johnsbury moves that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 5110 is amended to read:

§ 5110. CONDUCT OF HEARINGS

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

(b) The general public shall be excluded from hearings under the juvenile judicial proceedings chapters, and only the parties, their counsel, witnesses, persons accompanying a party for his or her assistance, and such other persons as the ~~Court~~ court finds to have a proper interest in the case or in the work of the ~~Court~~ court, including a foster parent or a representative of a residential program where the child resides, may be admitted by the ~~Court~~ court. An individual without party status seeking inclusion in the hearing in accordance with this subsection may petition the ~~Court~~ court for admittance by filing a request with the clerk of the ~~Court~~ court. This subsection shall not prohibit:

(1) a victim’s exercise of his or her rights under sections 5233 and 5234 of this title, and as otherwise provided by law and;

(2) any foster parent, preadoptive parent, relative caregiver, or custodian who has had custody of the child for 90 consecutive days at the time of the

1 hearing from the exercise of his or her right to, upon request, receive notice
2 and be heard under sections 5317, 5320, and 5321 of this title. Nothing in this
3 subdivision shall be construed as affording such person party status in the
4 proceeding.

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

11 Sec. 2. 33 V.S.A. § 5317 is amended to read:

12 § 5317. DISPOSITION HEARING

13 (a) Timeline. A disposition hearing shall be held ~~no~~ not later than 35 days
14 after a finding that a child is in need of care and supervision.

15 * * *

16 (f) Notice and access to hearing. Upon request, any foster parent,
17 preadoptive parent, relative caregiver, or any custodian who has had custody of
18 the child for 90 consecutive days at the time of the hearing shall be provided
19 with notice of any disposition hearings, shall have an opportunity to be heard
20 at those hearings, and may be subject to cross-examination at those hearings.

1 Nothing in this subsection shall be construed as affording such person party
2 status in the proceeding.

3 Sec. 3. 33 V.S.A. § 5320 is amended to read:

4 § 5320. POSTDISPOSITION REVIEW HEARING

5 The court shall hold a review hearing within 60 days of the date of the
6 disposition order for the purpose of monitoring progress under the disposition
7 case plan and reviewing parent-child contact. Notice of the review shall be
8 provided to all parties. ~~A~~ Upon request, any foster parent, preadoptive parent,
9 relative caregiver, or any custodian who has had custody of the child for 90
10 consecutive days at the time of the hearing of the child shall be provided with
11 notice of any ~~post disposition~~ postdisposition review hearings and an
12 opportunity to be heard at the hearings, and may be subject to cross-
13 examination at the hearings. Nothing in this section shall be construed as
14 affording such person party status in the proceeding. This section shall not
15 apply to cases where full custody has been returned to one or both parents
16 unconditionally at disposition, or cases where the court has created a
17 permanent guardianship at disposition. The Department shall, and any other
18 party or caregiver may, prepare a written report to the court regarding progress
19 under the plan of services specified in the disposition case plan.

20 Sec. 4. 33 V.S.A. § 5321 is amended to read:

1 § 5321. PERMANENCY HEARING

2 (a) ~~Purpose~~. Unless otherwise specified therein, an order under the
3 authority of this chapter transferring legal custody or residual parental rights
4 and responsibilities of a child to the Department pursuant to subdivision
5 5318(a)(4) or (5) of this title shall be for an indeterminate period and shall be
6 subject to periodic review at a permanency hearing. At the permanency
7 hearing, the ~~Court~~ court shall determine the permanency goal for the child and
8 an estimated time for achieving that goal. The goal shall specify when:

9 (1) legal custody of the child will be transferred to the parent, guardian,
10 or custodian;

11 (2) the child will be released for adoption;

12 (3) a permanent guardianship will be established for the child;

13 (4) a legal guardianship will be established for the child pursuant to an
14 order under 14 V.S.A. chapter 111; or

15 (5) the child will remain in the same living arrangement or be placed in
16 another planned permanent living arrangement because the Commissioner has
17 demonstrated to the satisfaction of the ~~Court~~ court a compelling reason that it
18 is not in the child's best interests to:

19 (A) return home;

20 (B) have residual parental rights terminated and be released for
21 adoption; or

1 (C) be placed with a fit and willing relative or legal guardian.

2 (b) The ~~Court~~ court shall adopt a case plan designed to achieve the
3 permanency goal. At the permanency review, the ~~Court~~ court shall review the
4 permanency plan and determine whether the plan advances the permanency
5 goal recommended by the Department. The ~~Court~~ court may accept or reject
6 the plan, but may not designate a particular placement for a child in the
7 Department's legal custody.

8 (c) A permanency review hearing shall be held no less than every 12
9 months with the first hearing to be held 12 months after the date the legal
10 custody of the child was transferred, subject to the following exceptions:

11 (1) If the child was three years of age or younger at the time of the
12 initial transfer of legal custody, the ~~Court~~ court may order that permanency
13 review hearings be held as frequently as every three months.

14 (2) If the child is between ~~the ages of~~ three and six years of age at the
15 time of the initial transfer of legal custody, the ~~Court~~ court may order that
16 permanency review hearings be held as frequently as every six months.

17 (d) If the ~~Court~~ court shortens the time for the permanency review hearing
18 for a younger sibling, that shortened review interval shall be applied to all
19 siblings in the family who are in the legal custody of the Department.

20 (e)(1) The Department shall file with the ~~Court~~ court a notice of
21 permanency review together with a case plan and recommendation for a

1 permanency goal. The Department shall provide notice to the State’s Attorney
2 having jurisdiction and to all parties to the proceeding in accordance with the
3 rules for family proceedings. The ~~Court~~ court shall hold a permanency review
4 hearing within 30 days of the filing of notice by the Department. Failure to
5 give such notice or to review an order shall not terminate the original order or
6 limit the ~~Court’s~~ court’s jurisdiction.

7 (2) ~~A~~ Upon request, any foster parent, preadoptive parent, ~~or~~ relative
8 caregiver, or custodian who has had custody of the child for 90 consecutive
9 days at the time of the hearing for the child shall be provided notice of and an
10 opportunity to be heard at any permanency hearing held with respect to the
11 child, and may be subject to cross-examination at such a hearing. Nothing in
12 this subsection shall be construed as affording such person party status in the
13 proceeding.

14 (f) All evidence helpful in determining the questions presented, including
15 hearsay, may be admitted and relied upon to the extent of its probative value
16 even though not competent at an adjudication hearing.

17 * * *

18 Sec. 5. EFFECTIVE DATE

19 This act shall take effect on passage.

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