

1 H.307

2 Introduced by Representatives Lucke of Hartford and Buckholz of Hartford

3 Referred to Committee on

4 Date:

5 Subject: Guardianship; involuntary guardianships; termination; best interest of  
6 the child

7 Statement of purpose of bill as introduced: This bill proposes to require the  
8 court to consider the best interest of the child in any guardianship proceeding,  
9 and to require that a parent attempting to terminate a guardianship have the  
10 burden of proof to establish by clear and convincing evidence that the parent is  
11 suitable.

12 An act relating to guardianship proceedings

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

14 Sec. 1. 14 V.S.A. § 2627 is amended to read:

15 § 2627. NONCONSENSUAL GUARDIANSHIP

16 \* \* \*

17 (c) The court shall grant the petition if it finds after the hearing by clear and  
18 convincing evidence that the proposed guardian is suitable, ~~and~~ that the child is  
19 a child in need of guardianship as defined in subdivision 2622(2)(B) of this  
20 title, and that guardianship is in the best interest of the child.

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Sec. 2. 14 V.S.A. § 2632 is amended to read:

§ 2632. TERMINATION

(a) A parent may file a motion to terminate a guardianship at any time. The motion shall be filed with the Probate Division that issued the guardianship order and served on all parties and interested persons.

(b)(1) If the motion to terminate is made with respect to a consensual guardianship established under section 2626 of this title, the court shall grant the motion and terminate the guardianship unless the guardian files a motion to continue the guardianship within 30 days after the motion to terminate is served.

(2) If the guardian files a motion to continue the guardianship, the matter shall be set for hearing and treated as a nonconsensual guardianship proceeding under section 2627 of this title. The parent shall not be required to show a change in circumstances, and the court shall ~~not~~ grant the motion to continue the guardianship unless ~~the guardian~~ the parent establishes by clear and convincing evidence that the ~~minor is a child in need of guardianship~~ parent is suitable ~~under subdivision 2622(2)(B) of this title~~.

(3) If the court grants the motion to continue, it shall issue an order establishing a guardianship under section 2628 of this title.

1 (c)(1) If the motion to terminate the guardianship is made with respect to a  
2 nonconsensual guardianship established under section 2627 or subdivision  
3 2632(b)(3) of this title, the court shall dismiss the motion unless the parent  
4 establishes that a change in circumstances has occurred since the previous  
5 guardianship order was issued.

6 (2) If the court finds that a change in circumstances has occurred since  
7 the previous guardianship order was issued, the court shall grant the motion to  
8 terminate the guardianship ~~unless the guardian~~ if the parent establishes by clear  
9 and convincing evidence that the ~~minor is a child in need of guardianship~~  
10 ~~under subdivision 2622(2)(B) of this title~~ parent is suitable.

11 Sec. 3. 14 V.S.A. § 2635 is added to read:

12 § 2635. BEST INTEREST OF CHILD

13 The court shall consider the best interest of the child when making a  
14 determination in any proceeding under this article in the Probate Division or  
15 the Family Division.

16 Sec. 4. EFFECTIVE DATE

17 This act shall take effect on July 1, 2017.