

To: Members of the House Judiciary Committee

From: Trine Bech, Legal Director Vermont Parent Representation Center, Inc.



Date: January 17, 2018

Subject: Testimony on H.562

Thank you for inviting me to testify on this very important and necessary bill to expand parentage law to fit current parenting relationships. My testimony will be brief as there are far more knowledgeable people who need your time. I will first say that I very much support the bill. The summer study committee did a thorough and impressive job. They made good proposed policy decisions which Vermont needs to ensure that all parents who want to parent and who have parented a child, is able to do so. The Vermont Supreme Court has not been able to make decisions in many cases, waiting for the Legislature to Act. I would urge you to pass this bill this session in time for the Senate to have time to pass it as well.

There may be some questions which you may want to clear up in the bill:

1. I agree that as in divorce proceedings, the child should not be a party to the proceedings. It may be helpful, however for you to parallel divorce actions and create a standard for the extent of a child's participation in parentage proceedings. When we drafted the parental rights and Responsibilities law and proposed the Rules for Family Proceedings, we wanted to keep the child out of the fray, but if the child was needed to testify, it would only be if the testimony could not be gotten from anyone else, and the child would get both a guardian ad litem and an attorney.
2. When a law refers to "the best interests of a child" it is my experience that we need to define it so that subjectivity is minimized. Therefore, where this bill refers to the "best interest of the child," the law should adopt the definition as in the parental rights and responsibilities of 15 VSA section 665(a) to ensure consistency.
3. This law contemplates the possibility of three parents. Our child support guidelines are based on the assumption that children should have the same standard of living had the family remained intact. How that will work when there are three parents, I do not believe the guidelines contemplated. The Legislature may want to refer this to the Office of Child Support to create guidelines for the three parent family.
4. Regarding de facto parenting. This is a very important provision to help children stay connected with those who have assumed the role of parents over time. The Supreme Court has requested the Legislature to define this as they did not think it appropriate for judicial decision making without standards. This proposed law carefully defines the circumstances under which a court can, by clear and convincing evidence, a higher standard of proof, declare someone a de facto parent. The proposed law requires the court to look at whether such declaration is in this

child's best interests and thus it is tempered and not automatic. Again, because the best interests standards are used here, it is important that this standard is also defined.

5. The final issue may be how to address parental rights and responsibilities with three parents. You may want to look at 15 VSA section 665(b) and add a provision that encourages parents to notify possible genetic parents early and not allow a parent to use lack of knowledge of another parent as a way to prevent future contact with a child. This is complicated and may need to be sorted out over time.