

1 H.512

2 Introduced by Committee on Judiciary

3 Date:

4 Subject: Judiciary; minor and technical amendments

5 Statement of purpose of bill as introduced: This bill proposes a number of  
6 miscellaneous amendments to statutes related to the courts and the Judiciary.

7 An act relating to miscellaneous court and Judiciary related amendments

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

9 Sec. 1. 12 V.S.A. § 5 is amended to read:

10 § 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

11 (a) The Court shall not permit public access via the Internet to criminal, ~~or~~  
12 family, or probate case records. The Court may permit criminal justice  
13 agencies, as defined in 20 V.S.A. § 2056a, Internet access to criminal case  
14 records for criminal justice purposes, as defined in section 2056a.

15 \* \* \*

16 Sec. 2. 12 V.S.A. § 5169 is amended to read:

17 § 5169. JUDGMENT FOR PLAINTIFF; COMMISSIONERS; WAIVER

18 (a) When the issue is determined in favor of the plaintiff, or if the person  
19 interested defaults, the court shall render judgment that partition be made and  
20 appoint three disinterested residents of the county as commissioners. The

1 commissioners shall make partition of the estate and set off each share of the  
2 several persons interested, according to their respective titles, and shall award  
3 to the plaintiff reasonable costs against the adverse party.

4 (b) Notwithstanding subsection (a) of this section, the parties may, with the  
5 approval of the court, waive the use of commissioners and have all matters  
6 decided by the court at a bench trial.

7 Sec. 3. 14 V.S.A. § 107 is amended to read:

8 § 107. ALLOWANCE OF WILL; CUSTODY OF PROPERTY

9 \* \* \*

10 (b) Objections to allowance of the will must be filed in writing not less than  
11 ~~three business~~ seven days prior to the hearing. In the event that no timely  
12 objections are filed, the will may be allowed without hearing if it meets criteria  
13 set out in section 108 of this title.

14 \* \* \*

15 Sec. 4. 15 V.S.A. § 293(b) is amended to read:

16 (b) Any legal presumption of parentage as set forth in ~~section 308 of this~~  
17 ~~title~~ 15C V.S.A. § 401 shall be sufficient basis for initiating a support action  
18 under this section without any further proceedings to establish parentage. If a  
19 party raises an objection to the presumption, the court may determine the issue  
20 of parentage as part of the support action. If no written objection to the

1 presumption is raised, an order under this section shall constitute a judgment  
2 on the issue of parentage.

3 Sec. 5. 15A V.S.A. § 1-110 is amended to read:

4 § 1-110. NOTICE OF INTENT TO RETAIN PARENTAL RIGHTS

5 \* \* \*

6 (b) Each probate division of the superior court shall ~~forward~~ maintain a  
7 notice filed with that court under subsection (a) of this section, ~~to the probate~~  
8 ~~division of the superior court in the district of Chittenden,~~ within an electronic  
9 database ~~which~~ that shall serve as a central repository for all such notices.

10 Sec. 6. 33 V.S.A. § 4921 is amended to read:

11 § 4921. DEPARTMENT'S RECORDS OF ABUSE AND NEGLECT

12 \* \* \*

13 (d) Upon request, Department records created under this subchapter shall  
14 be disclosed to:

15 (1) the Court, parties to the juvenile proceeding, and the child's ~~guardian~~  
16 ~~ad litem~~ court-appointed special advocate if there is a pending juvenile  
17 proceeding or if the child is in the custody of the Commissioner;

18 \* \* \*

19 Sec. 7. 33 V.S.A. § 5110 is amended to read:

20 § 5110. CONDUCT OF HEARINGS

21 \* \* \*

1 (c) There shall be no publicity given by any person to any proceedings  
2 under the authority of the juvenile judicial proceedings chapters except with  
3 the consent of the child, the child's ~~guardian ad litem~~ court-appointed special  
4 advocate, and the child's parent, guardian, or custodian. A person who  
5 violates this provision may be subject to contempt proceedings pursuant to  
6 Rule 16 of the Vermont Rules for Family Proceedings.

7 Sec. 8. 33 V.S.A. § 5112 is amended to read:

8 § 5112. ATTORNEY AND ~~GUARDIAN AD LITEM~~ COURT-APPOINTED  
9 SPECIAL ADVOCATE FOR CHILD

10 (a) The court shall appoint an attorney for a child who is a party to a  
11 proceeding brought under the juvenile judicial proceedings chapters.

12 (b) The court shall appoint a ~~guardian ad litem~~ court-appointed special  
13 advocate for a child under 18 years of age who is a party to a proceeding  
14 brought under the juvenile judicial proceedings chapters. In a delinquency  
15 proceeding, a parent, guardian, or custodian of the child may serve as a  
16 ~~guardian ad litem~~ court appointed special advocate for the child, providing his  
17 or her interests do not conflict with the interests of the child. The ~~guardian ad~~  
18 ~~litem~~ court-appointed special advocate appointed under this section shall not  
19 be a party to that proceeding or an employee or representative of such party.



1 that court records in a juvenile proceeding involving the same child or children  
2 be released to the Probate Division. When the court orders release of records  
3 pursuant to this subdivision, the court shall notify the parties that it intends to  
4 consider confidential juvenile case information and shall provide the parties  
5 with access to the information in a manner that preserves its confidentiality.

6 (3) Files inspected under this subsection shall be marked: UNLAWFUL  
7 DISSEMINATION OF THIS INFORMATION IS A CRIME PUNISHABLE  
8 BY A FINE OF UP TO \$2,000.00. The public shall not have access to records  
9 from a juvenile proceeding that are filed with the Court or admitted into  
10 evidence in the divorce or parentage proceeding or in the probate proceeding.

11 \* \* \*

12 Sec. 10. 33 V.S.A. § 5119 is amended to read:

13 § 5119. SEALING OF RECORDS

14 \* \* \*

15 (h)(1) In matters relating to a person who was charged with a criminal  
16 offense or was the subject of a delinquency petition on or after July 1, 2006,  
17 and prior to the person attaining the age of majority, the files and records of the  
18 Court applicable to the proceeding shall be sealed immediately if the case is  
19 dismissed.

20 \* \* \*

1 Sec. 11. 33 V.S.A. § 5124 is amended to read:

2 § 5124. POSTADOPTION CONTACT AGREEMENTS

3 \* \* \*

4 (b) The court shall approve the postadoption contact agreement if:

5 (1)(A) it determines that the child's best interests will be served by  
6 postadoption communication or contact with either or both parents; and

7 (B) in making a best interests determination, it may consider:

8 \* \* \*

9 (ix) the recommendation of any ~~guardian ad litem~~ court-appointed  
10 special advocate;

11 \* \* \*

12 (2) it has reviewed and made each of the following a part of the court  
13 record:

14 \* \* \*

15 (D) an agreement to the postadoption contact or communication in  
16 writing from the Department, the ~~guardian ad litem~~ court-appointed special  
17 advocate, and the attorney for the child.

18 \* \* \*

19 Sec. 12. 33 V.S.A. § 5225 is amended to read:

20 § 5225. PRELIMINARY HEARING; RISK ASSESSMENT

21 \* \* \*

1 (d) ~~Guardian ad litem~~ Court-appointed special advocate. At the preliminary  
2 hearing, the court shall appoint a ~~guardian ad litem~~ special advocate for the  
3 child. The ~~guardian ad litem~~ court-appointed special advocate may be the  
4 child's parent, guardian, or custodian. On its own motion or motion by the  
5 child's attorney, the court may appoint a ~~guardian ad litem~~ special advocate  
6 other than a parent, guardian, or custodian.

7 (e) Admission; denial. At the preliminary hearing, a denial shall be entered  
8 to the allegations of the petition, unless the juvenile, after adequate  
9 consultation with the ~~guardian ad litem~~ court-appointed special advocate and  
10 counsel, enters an admission. If the juvenile enters an admission, the  
11 disposition case plan required by section 5230 of this title may be waived and  
12 the court may proceed directly to disposition, provided that the juvenile, the  
13 custodial parent, the State's Attorney, the ~~guardian ad litem~~ court-appointed  
14 special advocate, and the Department agree.

15 \* \* \*

16 Sec. 13. 33 V.S.A. § 5254 is amended to read:

17 § 5254. NOTICE OF EMERGENCY CARE ORDER AND TEMPORARY  
18 CARE HEARING

19 \* \* \*

20 (c) Notice to other parties. The Court shall notify the following persons of  
21 the date and time of the temporary care hearing:



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\* \* \*

(4) A ~~guardian ad litem~~ court-appointed special advocate for the child.

\* \* \*

Sec. 14. 33 V.S.A. § 5257 is amended to read:

§ 5257. FILING OF INITIAL CASE PLAN

(a) If a temporary care order is issued granting custody to the Commissioner, the Department shall prepare and file with the Court an initial case plan for the child and the family within 60 days of the child's removal from the home. The Department shall provide a copy of the case plan to the parties, their attorneys, and the ~~guardian ad litem~~ court-appointed special advocate.

\* \* \*

Sec. 15. 33 V.S.A. § 5282 is amended to read:

§ 5282. REPORT FROM THE DEPARTMENT

\* \* \*

(c) A report filed pursuant to this section is privileged and shall not be disclosed to any person other than:

\* \* \*

(4) the youth, the youth's attorney, and the youth's ~~guardian ad litem~~ court-appointed special advocate;

\* \* \*

1 Sec. 16. 33 V.S.A. § 5306 is amended to read:

2 § 5306. NOTICE OF EMERGENCY CARE ORDER AND TEMPORARY  
3 CARE HEARING

4 \* \* \*

5 (d) Notice to other parties. The Court shall notify the following persons of  
6 the date and time of the temporary care hearing:

7 \* \* \*

8 (4) A ~~guardian ad litem~~ court-appointed special advocate for the child.

9 \* \* \*

10 Sec. 17. 33V.S.A. § 5307 is amended to read:

11 § 5307. TEMPORARY CARE HEARING

12 \* \* \*

13 (c) The following persons shall be present at the temporary care hearing:

14 \* \* \*

15 (3) The child's ~~guardian ad litem~~ court-appointed special advocate.

16 \* \* \*

17 Sec. 18. 33 V.S.A. § 5314 is amended to read:

18 § 5314. FILING OF INITIAL CASE PLAN

19 (a) If a temporary care order is issued transferring legal custody of the child  
20 to the Commissioner, the Department shall prepare and file with the Court an  
21 initial case plan for the child and the family within 60 days of removal of a

1 child from home. The Department shall provide a copy of the case plan to the  
2 parties, their attorneys, and the ~~guardian ad litem~~ court-appointed special  
3 advocate.

4 \* \* \*

5 Sec. 19. EFFECTIVE DATE

6 This act shall take effect on July 1, 2019.