

1 Introduced by Committee on Judiciary

2 Referred to Committee on

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

8 (b) Any legal presumption of parentage as set forth in section ~~308 of this~~
9 ~~title 401 of Title 15C~~ shall be sufficient basis for initiating a support action
10 under this section without any further proceedings to establish parentage. If a
11 party raises an objection to the presumption, the court may determine the issue
12 of parentage as part of the support action. If no written objection to the
13 presumption is raised, an order under this section shall constitute a judgment
14 on the issue of parentage.

15 Sec. 4. 15A V.S.A. § 1-110 is amended to read:

16 § 1-110 NOTICE OF INTENT TO RETAIN PARENTAL RIGHTS

17 * * *

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

1 Sec. 5. 32 V.S.A. § 1431 is amended to read:

2 § 1431. FEES IN SUPREME AND SUPERIOR COURTS

3 * * *

4 (d) Prior to the entry of any subsequent pleading which sets forth a claim
5 for relief in the Supreme Court or the Superior Court, there shall be paid to the
6 clerk of the court for the benefit of the State a fee of \$120.00 for every ~~appeal,~~
7 cross-claim, or third-party claim and a fee of \$90.00 for every counterclaim in
8 the Superior Court in lieu of all other fees not otherwise set forth in this
9 section. The fee for an appeal of a magistrate’s decision or the appeal of a
10 small claims decision in the Superior Court shall be \$120.00. The filing fee for
11 civil suspension proceedings filed pursuant to 23 V.S.A § 1205 shall be
12 \$90.00, which shall be taxed in the bill of costs in accordance with sections
13 1433 and 1471 of this title. This subsection does not apply to filing fees in the
14 Family Division, except with respect to the fee for an appeal of a magistrate’s
15 decision.

16 (e) Prior to the filing of any postjudgment motion in the Civil, Criminal, or
17 Environmental Division of the Superior Court, including motions to reopen
18 civil suspensions and motions for sealing or expungement in the Criminal
19 Division pursuant to 13 V.S.A. § 7602, or motions to reopen existing cases in
20 the Probate Division of the Superior Court, there shall be paid to the clerk of
21 the court for the benefit of the State a fee of \$90.00 except for small claims

1 actions, ~~and estates,~~ and motions to confirm the sale of property in foreclosure.

2 A filing fee of \$90.00 shall be paid to the clerk of the court for a civil petition
3 for minor settlements.

4 * * *

5 Sec. 6. 32 V.S.A. § 1434 is amended to read:

6 § 1434. PROBATE CASES

7 (a) The following entry fees shall be paid to the Probate Division of the
8 Superior Court for the benefit of the State, except for subdivisions (18) and
9 (19) of this subsection, which shall be for the benefit of the county in which
10 the fee was collected:

11 * * *

12 (26) Petitions for license to sell or convey real estate \$100.00

13 (27) Petition for license to sell or convey personal property \$100.00

14 * * *

15 (31) ~~Requests for findings regarding motor vehicle title pursuant to 23~~

16 ~~V.S.A. § 2023(e)(2) \$50.00~~ Petitions to appeal the State Registrar's denial of
17 an application to amend a birth or death certificate pursuant to 18 V.S.A.

18 § 5073(b) \$150.00

19 (32) Petitions to obtain a birth order pursuant to 15C V.S.A. § 708(a)

20 \$100.00.

21 * * *

1 Sec. 7. 33 V.S.A. § 4921 is amended to read:

2 § 4921. DEPARTMENT’S RECORDS OF ABUSE AND NEGLECT

3 * * *

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

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

9 * * *

10 Sec. 8. 33 V.S.A. § 5110 is amended to read:

11 § 5110. CONDUCT OF HEARINGS

12 * * *

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

19 Sec. 9. 33 V.S.A. § 5112 is amended to read:

20 § 5112. ATTORNEY AND ~~GUARDIAN-AD-LITEM~~ COURT APPOINTED
21 SPECIAL ADVOCATE FOR CHILD

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

3 (b) The court shall appoint a ~~guardian ad litem~~ court appointed special
4 advocate for a child under 18 years of age who is a party to a proceeding
5 brought under the juvenile judicial proceedings chapters. In a delinquency
6 proceeding, a parent, guardian, or custodian of the child may serve as a
7 ~~guardian ad litem~~ court appointed special advocate for the child, providing his
8 or her interests do not conflict with the interests of the child. The ~~guardian ad~~
9 ~~litem~~ court appointed special advocate appointed under this section shall not be
10 a party to that proceeding or an employee or representative of such party.

11 Sec. 10. 33 V.S.A. § 5117 is amended to read:

12 § 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

13 * * *

14 (b)(1) Notwithstanding the foregoing, inspection of such records and files
15 by the following is not prohibited:

16 * * *

17 (D) court personnel, the State's Attorney or other prosecutor
18 authorized to prosecute criminal or juvenile cases under State law, the child's
19 ~~guardian ad litem~~ court appointed special advocate, the attorneys for the
20 parties, probation officers, and law enforcement officers who are actively
21 participating in criminal or juvenile proceedings involving the child;

1 (E) the child who is the subject of the proceeding, the child’s parents,
2 guardian, custodian, and ~~guardian ad litem~~ court appointed special advocate
3 may inspect such records and files upon approval of the Family Court judge;

4 * * *

5 (c)(1) Upon motion of a party in a divorce or parentage proceeding related
6 to parental rights and responsibilities for a child or parent-child contact, the
7 Court may order that Court records in a juvenile proceeding involving the
8 same child or children be released to the parties in the divorce proceeding.

9 (2) Upon the court’s own motion in a probate proceeding involving
10 adoption, guardianship or termination of parental rights, the court may order
11 that court records in a juvenile proceeding involving the same child or children
12 be released to the Probate Division. When the court orders release of records
13 pursuant to this subdivision, the court shall notify the parties that it intends to
14 consider confidential juvenile case information, and shall provide the parties
15 with access to the information in a manner that preserves its confidentiality.

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

21 * * *

1 Sec. 11. 33 V.S.A. § 5119 is amended to read:

2 § 5119. SEALING OF RECORDS

3 * * *

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

9 * * *

10 Sec. 12. 33 V.S.A. § 5124 is amended to read:

11 § 5124. POSTADOPTION CONTACT AGREEMENTS

12 * * *

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

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

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

17 * * *

18 (ix) the recommendation of any ~~guardian ad litem~~ court appointed
19 special advocate;

20 * * *

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

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

6 * * *

7 Sec. 13. 33 V.S.A. § 5225 is amended to read:

8 § 5225. PRELIMINARY HEARING; RISK ASSESSMENT

9 * * *

10 (d) ~~Guardian ad litem~~ Court appointed special advocate. At the preliminary
11 hearing, the court shall appoint a ~~guardian ad litem~~ special advocate for the
12 child. The ~~guardian ad litem~~ court appointed special advocate may be the
13 child's parent, guardian, or custodian. On its own motion or motion by the
14 child's attorney, the court may appoint a ~~guardian ad litem~~ special advocate
15 other than a parent, guardian, or custodian.

16 (e) Admission; denial. At the preliminary hearing, a denial shall be entered
17 to the allegations of the petition, unless the juvenile, after adequate
18 consultation with the ~~guardian ad litem~~ court appointed special advocate and
19 counsel, enters an admission. If the juvenile enters an admission, the
20 disposition case plan required by section 5230 of this title may be waived and
21 the court may proceed directly to disposition, provided that the juvenile, the

1 custodial parent, the State’s Attorney, the ~~guardian ad litem~~ court appointed
2 special advocate, and the Department agree.

3 Sec. 14. 33 V.S.A. § 5254 is amended to read:

4 § 5254. NOTICE OF EMERGENCY CARE ORDER AND TEMPORARY
5 CARE HEARING

6 * * *

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

9 * * *

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

11 * * *

12 Sec. 15. 33 V.S.A. § 5257 is amended to read:

13 § 5257. FILING OF INITIAL CASE PLAN

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

20 * * *

21 Sec. 16. 33 V.S.A. § 5282 is amended to read:

1 § 5282. REPORT FROM THE DEPARTMENT

2 * * *

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

5 * * *

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

8 * * *

9 Sec. 17. 33 V.S.A. § 5306 is amended to read:

10 § 5306. NOTICE OF EMERGENCY CARE ORDER AND TEMPORARY
11 CARE HEARING

12 * * *

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

15 * * *

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

17 * * *

18 Sec. 18. 33V.S.A. § 5307 is amended to read:

19 § 5307. TEMPORARY CARE HEARING

20 * * *

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

1
2
3
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16

* * *

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

* * *

Sec. 19. 33 V.S.A. § 5314 is amended to read:

§ 5314. FILING OF INITIAL CASE PLAN

(a) If a temporary care order is issued transferring legal custody of the child 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 removal of a child from 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. 20. EFFECTIVE DATE

This act shall take effect on July 1, 2019.