Introduced by Representatives Townsend of South Burlington and Yacovone of Morristown

Referred to Committee on

Date:

Subject: Domestic relations; parental rights

Statement of purpose of bill as introduced: This bill proposes to prohibit using a person’s disability as a reason to deny or restrict the rights of a parent, prospective parent, foster parent, or guardian unless doing so is in the best interests of the child.

An act relating to preserving the rights of a parent with a disability

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

Sec. 1. FINDINGS AND PURPOSE

The General Assembly finds that:

(1) Individuals with a disability continue to face unfair, preconceived, and unnecessary societal biases as well as antiquated attitudes regarding their ability to successfully parent their children.

(2) Individuals with a disability face these biases and preconceived attitudes in family and dependency law proceedings where custody and
visitation are at stake and in public and private adoption, guardianship, and
foster care proceedings.

(3) Because of these societal biases and antiquated attitudes, children of
individuals with a disability are unnecessarily being removed from their
parents’ care or being restricted from enjoying meaningful time with their
parents.

(4) Children are being denied the opportunity to enjoy the experience of
living in loving homes with parents or other care takers who have a disability.

(5) It is important to protect the best interests of children parented by
individuals with a disability and children who could be parented by individuals
with a disability through the establishment of procedural safeguards that
require adherence to the Americans with Disabilities Act and respect for the
due process and equal protection rights of parents with a disability or
prospective parents with a disability in the context of child welfare, foster care,
family law, and adoption.

Sec. 2. 15 V.S.A. § 665b is added to read:

§ 665b. NONDISCRIMINATION; PARENT WITH A DISABILITY

(a) As used in this section:

(1) “Disability” with respect to an individual has the same meaning as
9 V.S.A. § 4501.
(2) “Supportive parenting services” means services that may assist a parent with a disability or prospective parent with a disability in the effective use of nonvisual techniques and other alternative methods to enable the parent or prospective parent to discharge parental responsibilities as successfully as a parent who does not have a disability.

(b) A parent’s disability shall not serve as a basis for denial or restriction of parental rights or responsibilities or parent-child contact when those rights, responsibilities, and contact are determined to be otherwise in the best interests of the child.

(c) A prospective parent’s disability shall not serve as a basis for the person’s denial of participation in public or private adoption when the adoption is determined to be otherwise in the best interests of the child.

(d) An individual’s disability shall not serve as a basis for denial of foster care or guardianship when the appointment is determined to be otherwise in the best interests of the child.

(e) Where a parent or prospective parent’s disability is alleged to have a detrimental impact on a child, the party raising the allegation bears the burden of proving by clear and convincing evidence that the behaviors are endangering or will likely endanger the health, safety, or welfare of the child. If this burden is met, the parent or prospective parent shall have the opportunity to demonstrate how the implementation of supportive parenting
services can alleviate any concerns that have been raised. The court may require that such supportive parenting services be put in place, with an opportunity to review the need for continuation of such services within a reasonable period of time.

(f) If a court determines that a disabled parent’s parental rights and responsibilities or right to parent-child contact, foster care, guardianship, or adoption should be denied or limited in any manner, the court shall make specific written findings stating the basis for such a determination and why the provision of supportive parenting services is not a reasonable accommodation that must be made to prevent such denial or limitation.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022.