

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 163
3 entitled “An act relating to State court jurisdiction for special immigrant
4 juvenile status” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 14 V.S.A. chapter 111, subchapter 14 is amended to read:

8 Subchapter 14. ~~Special Immigration Status~~ Vulnerable Noncitizen Children

9 § 3098. ~~SPECIAL IMMIGRATION JUVENILE STATUS; JURISDICTION~~

10 ~~AND FINDINGS-VULNERABLE NONCITIZEN CHILDREN~~

11 (a) Definitions. As used in this subchapter:

12 (1) “Child” or “children” means an unmarried individual or individuals
13 who have not yet attained 21 years of age and who are not a U.S. citizen or
14 citizens.

15 (2) “Court” means any court that has jurisdiction over an unmarried
16 individual or individuals who have not yet attained 21 years of age and who
17 are not a U.S. citizen or citizens, including the Probate Division and the Family
18 Division of the Superior Court.

19 (3) “Dependent on the court” means subject to the jurisdiction of a court
20 competent to make decisions concerning the protection, well-being, care and
21 custody of a child for findings, orders, or referrals to support the health, safety,

1 and welfare of a child or to remedy the effects on a child of abuse,
2 abandonment, or other similar circumstances.

3 (4) “Noncitizen” means any person who is not a U.S. citizen.

4 (5) “Similar circumstances” means a condition or conditions that have
5 an effect on a child comparable to abuse, neglect, or abandonment, including
6 the death of a parent.

7 (6) “Vulnerable” means there is reasonable cause to suspect that a
8 child’s health, safety, or welfare is in jeopardy due to abuse, neglect,
9 abandonment, or similar circumstances and that return to the child’s or the
10 child’s parent’s country of origin or country of last habitual residence would
11 not be in the best interests of the child.

12 (b) Jurisdiction. The A court has reviewing a petition under this section
13 shall have jurisdiction under Vermont law to make judicial determinations
14 regarding the custody and care of children within the meaning of the federal
15 Immigration and Nationality Act (8 U.S.C. § 1101(a)(27)(J) and 8 C.F.R. §
16 204.11). The court is authorized to make the findings necessary to enable a
17 child to petition the U.S. Citizenship and Immigration Service for classification
18 as a special immigrant juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J).

19 (b)(c)(1) If an order is requested from the court making the necessary
20 findings regarding special immigrant juvenile status as described in subsection
21 (a) of this section, the court shall issue an order if there is evidence to support

1 ~~those findings, which may include a declaration by the child who is the subject~~
2 ~~of the petition. The order issued by the court shall include all of the following~~
3 ~~findings:~~ Procedure for petition. A vulnerable noncitizen child, or a person
4 interested in the welfare of a vulnerable noncitizen child, may petition the
5 court for special findings to protect the child and obtain relief from the
6 underlying abandonment, abuse, neglect, or similar circumstances. The court
7 shall review the petition, including any supporting affidavits and other
8 evidence presented, and issue findings of fact that determine whether the
9 vulnerable noncitizen child:

10 (A) ~~The child was either of the following:~~

11 (i) ~~Declared~~ Is a dependent of the court.

12 (ii) ~~Legally or legally~~ committed to or placed under the custody of
13 a State agency or department or an individual or entity appointed by the court.
14 The court shall indicate the date on which the dependency, commitment, or
15 custody was ordered.

16 (B) ~~That reunification of the child with one or both of the child's~~
17 ~~parents was determined not to be viable because of~~ Has suffered from abuse,
18 neglect, abandonment, or a similar ~~basis pursuant to Vermont law~~
19 circumstances. The court shall indicate the date on which reunification was
20 ~~determined not to be viable.~~

1 (C) May not be viably reunified with one or both parents due to
2 abuse, neglect, abandonment, or a similar circumstance.

3 (D) That it is not in the best interests of the child to be returned to the
4 child's or his or her parent's previous country of nationality or country of last
5 habitual residence.

6 (2) Additional findings. If requested by a party, the court may make
7 additional findings that are supported by evidence and Vermont law.

8 (3) Health, safety, and welfare considerations. The health, safety, and
9 welfare of the child must be of paramount concern when the court considers
10 the best interests of the child. In making the determination whether it is in the
11 best interests of the child to be returned to the child's or ~~his or her~~ child's
12 parent's previous country of nationality or country of last habitual residence,
13 the court shall consider whether present or past living conditions will adversely
14 affect the child's physical, mental, or emotional health.

15 (4) Guardianships. For purposes of this section, the term child or minor
16 shall include a person who is less than 21 years of age and who consents to the
17 appointment or continuation of a guardian after 18 years of age.

18 (d) Notice. If the identity or location of the vulnerable noncitizen child's
19 parents is unknown or if the parents reside outside the United States, the court
20 may serve notice using any alternative method of service the court determines
21 is appropriate or waive service.

1 (e) Expeditious adjudication. When it is in the best interests of the
2 vulnerable noncitizen child, a court shall hear, adjudicate, and issue findings of
3 fact on any petition for special findings under this section as soon as it is
4 administratively feasible and prior to the vulnerable noncitizen child attaining
5 21 years of age.

6 (f) Referral for services or protection. A vulnerable noncitizen child who is
7 the subject of a petition for special findings under this section may be referred
8 for psychiatric, psychological, educational, occupational, medical, dental, or
9 social services or for protection against human trafficking or domestic
10 violence; provided, however, that a child’s participation in any referred service
11 is voluntary.

12 (g) Additional available remedies under Vermont law; similar findings of
13 fact.

14 (1) This section shall not limit a vulnerable noncitizen child from
15 petitioning for special findings for a petition under any other provision of law
16 or from any other rights and remedies available to the child under any other
17 provision of law.

18 (2) This section shall not limit the court from issuing similar findings of
19 fact to those described in this section in any other proceeding concerning the
20 vulnerable noncitizen child.

1 (h) Construction. This section shall be liberally construed to its legislative
2 purpose.

3 ~~(e)~~(i) In any judicial proceedings in response to a request that the court
4 make the findings necessary to support a petition for classification as a special
5 immigrant juvenile, information regarding the child’s immigration status,
6 nationality, or place of birth that is not otherwise protected by State laws shall
7 remain confidential. This information shall also be exempt from public
8 inspection and copying under the Public Records Act and shall be kept
9 confidential, except that the information shall be available for inspection by the
10 court, the child who is the subject of the proceeding, the parties, the attorneys
11 for the parties, the child’s counsel, and the child’s guardian.

12 ~~(d) As used in this section, “court” means the Probate Division and the~~
13 ~~Family Division of the Superior Court.~~

14 Sec. 2. 33 V.S.A. § 5126 is added to read:

15 § 5126. RETENTION OF JURISDICTION OVER CERTAIN

16 VULNERABLE NONCITIZEN CHILDREN

17 (a) Definitions. As used in this section:

18 (1) “Child” means an unmarried individual who has not yet attained 21
19 years of age and who is not a U.S. citizen.

20 (2) “Noncitizen” means any person who is not a U.S. citizen.

1 (3) “Vulnerable” means there is reasonable cause to suspect that a
2 child’s health, safety, or welfare is in jeopardy due to abuse, neglect,
3 abandonment, or similar circumstances and that return to the child’s or the
4 child’s parent’s country of origin or country of last habitual residence would
5 not be in the best interests of the child.

6 (b) Jurisdiction. The Family Division of the Superior Court may retain
7 jurisdiction over a noncitizen child who has not yet attained 21 years of age for
8 the sole purpose of adjudicating a petition for special findings and making
9 judicial determinations regarding the custody and care of the child consistent
10 with this section. Nothing in this section is intended to expand the scope of the
11 court’s jurisdiction to order a youth into the custody of the Commissioner for
12 Children and Families pursuant to this chapter.

13 (c) Procedure for petition to make special findings for vulnerable
14 noncitizen children.

15 (1) A vulnerable noncitizen child, or a person interested in the welfare
16 of the vulnerable noncitizen child, may petition the court for special findings to
17 protect the child and obtain relief from the underlying abandonment, abuse,
18 neglect, or similar circumstance.

19 (2) In accordance with the procedure set forth in 14 V.S.A. § 3098, the
20 court shall review the petition, including any supporting affidavits and other

1 evidence presented; issue findings of fact; and make relevant conclusions of
2 law consistent with section 5101 of this chapter.

3 (d) Expeditious adjudication. When it is consistent with the purposes as set
4 forth in section 5101 of this chapter, the court shall hear, adjudicate, and issue
5 findings of fact and conclusions of law on any petition for special findings
6 under this section as soon as it is administratively feasible and prior to the
7 vulnerable noncitizen child attaining 21 years of age.

8 (e) Additional available remedies under Vermont law; similar findings of
9 fact.

10 (1) This section shall not limit a child from petitioning for special
11 findings for a petition under any other provision of law or from petitioning for
12 any other rights and remedies available to the child under any other provision
13 of law.

14 (2) This section shall not limit the court from issuing similar findings of
15 fact or conclusions of law to those described in this section in any other
16 proceeding concerning the vulnerable noncitizen child.

17 (f) In any judicial proceedings in response to a request that the court make
18 the findings necessary to support a petition under this section, information
19 regarding the child’s immigration status, nationality, or place of birth that is
20 not otherwise protected by State laws shall remain confidential. This
21 information shall also be exempt from public inspection and copying under the

1 Public Records Act and shall be kept confidential, except that the information
2 shall be available for inspection by the court, the child who is the subject of the
3 proceeding, the parties, the attorneys for the parties, the child’s counsel, and
4 the child’s guardian.

5 Sec. 3. EFFECTIVE DATE

6 This act shall take effect on July 1, 2022.

7 and that after passage the title of the bill be amended to read: “An act relating
8 to State court petitions for vulnerable noncitizen youth”

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18 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE