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H.661

An act relating to child abuse and neglect investigation and substantiation standards and procedures

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

Sec. 1. 33 V.S.A. § 4903 is amended to read:

§ 4903. RESPONSIBILITY OF DEPARTMENT

The Department may expend, within amounts available for the purposes, what is necessary to protect and promote the welfare of children and adults in this State, including the strengthening of their homes whenever possible, by:

- (1) Investigating complaints of neglect, abuse, or abandonment of children, including when, whether, and how names are placed on the Child Protection Registry.

\* \* \*

Sec. 2. 33 V.S.A. § 4911 is amended to read:

§ 4911. PURPOSE

The purpose of this subchapter is to:

- (1) protect children whose health and welfare may be adversely affected through abuse or neglect;
- (2) strengthen the family and make the home safe for children whenever possible by enhancing the parental capacity for good child care;

1           (3) provide a temporary or permanent nurturing and safe environment  
2 for children when necessary; and for these purposes require the reporting of  
3 suspected child abuse and neglect, an assessment or investigation of such  
4 reports and provision of services, when needed, to such child and family;

5           (4) establish a range of responses to child abuse and neglect that take  
6 into account different degrees of child abuse or neglect and that recognize that  
7 child offenders should be treated differently from adults; ~~and~~

8           (5) establish a tiered child protection registry that balances the need to  
9 protect children and the potential employment consequences of a registry  
10 record for ~~persons who are~~ a person's conduct that is substantiated for child  
11 abuse and neglect; and

12           (6) ensure that in the Department for Children and Families' efforts to  
13 protect children from abuse and neglect, the Department also ensures that  
14 investigations are thorough, unbiased, based on accurate and reliable evidence,  
15 and adhere to due process requirements.

16 Sec. 3. 33 V.S.A. § 4912 is amended to read:

17 § 4912. DEFINITIONS

18 As used in this subchapter:

19 \* \* \*

20           (16) "Substantiated report" means that the Commissioner or the  
21 Commissioner's designee has determined after investigation that a report is

1 based upon accurate and reliable information ~~that would lead a reasonable~~  
2 ~~person to believe~~ where there is a preponderance of the evidence necessary to  
3 support the allegation that the child has been abused or neglected.

4 \* \* \*

5 Sec. 4. 33 V.S.A. § 4915b is amended to read:

6 § 4915b. PROCEDURES FOR INVESTIGATION

7 (a) An investigation, to the extent that it is reasonable under the facts and  
8 circumstances presented by the particular allegation of child abuse, shall  
9 include all of the following:

10 (1) A visit to the child's place of residence or place of custody and to the  
11 location of the alleged abuse or neglect.

12 (2) An interview with or observation of the child reportedly having been  
13 abused or neglected. If the investigator elects to interview the child, that  
14 interview may take place without the approval of the child's parents, guardian,  
15 or custodian, provided that it takes place in the presence of a disinterested adult  
16 who may be, but shall not be limited to being, a teacher, a member of the  
17 clergy, a child care provider regulated by the Department, or a nurse.

18 (3) Determination of the nature, extent, and cause of any abuse or  
19 neglect.

20 (4) Determination of the identity of the person alleged to be responsible  
21 for such abuse or neglect. The investigator shall use best efforts to obtain the

1 person's mailing and e-mail address as soon as practicable once the person's  
2 identity is determined. The person shall be notified of the outcome of the  
3 investigation and any notices sent by the Department using the mailing  
4 address, or if requested by the person, to the person's e-mail address collected  
5 pursuant to this subdivision.

6 (5)(A) The identity, by name, of any other children living in the same  
7 home environment as the subject child. The investigator shall consider the  
8 physical and emotional condition of those children and may interview them,  
9 unless the child is the person who is alleged to be responsible for such abuse  
10 or neglect, in accordance with the provisions of subdivision (2) of this  
11 subsection (a).

12 (B) The identity, by name, of any other children who may be at risk if  
13 the abuse was alleged to have been committed by someone who is not a  
14 member of the subject child's household. The investigator shall consider the  
15 physical and emotional condition of those children and may interview them,  
16 unless the child is the person who is alleged to be responsible for such abuse  
17 or neglect, in accordance with the provisions of subdivision (2) of this  
18 subsection (a).

19 (6) A determination of the immediate and long-term risk to each child if  
20 that child remains in the existing home or other environment.



1           (2) In cases involving sexual abuse or serious physical abuse of a child,  
2           the Commissioner in ~~his or her~~ the Commissioner's sole judgment may list a  
3           substantiated report on the Registry pending any administrative review after:

4                   (A) reviewing the investigation file; and

5                   (B) making written findings in consideration of:

6                           (i) the nature and seriousness of the alleged behavior; and

7                           (ii) the person's continuing access to children.

8           (3) A person alleged to have abused or neglected a child and whose  
9           name has been placed on the Registry in accordance with subdivision (2) of  
10           this subsection shall be notified of the Registry entry, provided with the  
11           Commissioner's findings, and advised of the right to seek an administrative  
12           review in accordance with section 4916a of this title.

13           (4) If the name of a person has been placed on the Registry in  
14           accordance with subdivision (2) of this subsection, it shall be removed from  
15           the Registry if the substantiation is rejected after an administrative review.

16           (b) A Registry record means an entry in the Child Protection Registry that  
17           consists of the name of an individual whose conduct is substantiated for child  
18           abuse or neglect, the date of the finding, the nature of the finding, and at least  
19           one other personal identifier, other than a name, listed in order to avoid the  
20           possibility of misidentification.

1 (c) The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 to  
2 permit use of the Registry records as authorized by this subchapter while  
3 preserving confidentiality of the Registry and other Department records related  
4 to abuse and neglect.

5 (d) For all substantiated reports of child abuse or neglect made on or after  
6 the date the final rules are adopted, the Commissioner shall create a Registry  
7 record that reflects a designated child protection level related to the risk of  
8 future harm to children. This system of child protection levels shall be based  
9 upon an evaluation of the risk the person responsible for the abuse or neglect  
10 poses to the safety of children. The risk evaluation shall include consideration  
11 of the following factors:

12 (1) the nature of the conduct and the extent of the child's injury, if any;

13 (2) the person's prior history of child abuse or neglect as either a victim  
14 or perpetrator;

15 (3) the person's response to the investigation and willingness to engage  
16 in recommended services; and

17 (4) the person's age and developmental maturity.

18 (e) The Commissioner shall ~~develop~~ adopt rules for the implementation of  
19 a system of Child Protection Registry levels for substantiated cases pursuant to  
20 3 V.S.A. chapter 25. The rules shall address:

21 (1) when and how names are placed on the Registry;





1 (3) the implications of having one's name placed on the Registry as it  
2 applies to employment, licensure, and registration;

3 (4) the Registry child protection level designation to be assigned to the  
4 person and the date that the person is eligible to seek expungement based on  
5 the designation level;

6 (5) the right to request a review of the substantiation determination or  
7 the child protection level designation, or both, by an administrative reviewer,  
8 the time in which the request for review shall be made, and the consequences  
9 of not seeking a review; ~~and~~

10 ~~(5)(6)~~ the right to receive a copy of the Commissioner's written findings  
11 made in accordance with subdivision 4916(a)(2) of this title if applicable; and

12 (7) ways to contact the Department for any further information.

13 (b) Under this section, notice by the Department to a person alleged to have  
14 abused or neglected a child shall be by first-class mail sent to the person's last  
15 known mailing address, or if requested by the person, to the person's e-mail  
16 address collected during the Department's investigation pursuant to  
17 subdivision 4915b(a)(4) of this title. The Department shall maintain a record  
18 of the notification, including who sent the notification, the date it is sent, and  
19 the address to which it is sent.

20 (c)(1) A person ~~alleged to have abused or neglected a child~~ whose conduct  
21 is the subject of a substantiation determination may seek an administrative

1 review of the Department's intention to place the person's name on the  
2 Registry by notifying the Department within ~~14~~ 30 days ~~of~~ after the date the  
3 Department ~~mailed~~ sent notice of the right to review in accordance with  
4 subsections (a) and (b) of this section. The Commissioner may grant an  
5 extension past the ~~14-day~~ 30-day period for good cause, not to exceed ~~28~~ 60  
6 days after the Department has ~~mailed~~ sent notice of the right to review.

7 (2) The administrative review may be stayed upon request of the person  
8 ~~alleged to have committed abuse or neglect~~ whose conduct is the subject of a  
9 substantiation determination if there is a related case pending in the Criminal  
10 or Family Division of the Superior Court that arose out of the same incident of  
11 abuse or neglect for which the ~~person~~ person's conduct was substantiated.  
12 During the period the review is stayed, the person's name shall be placed on  
13 the Registry. Upon resolution of the Superior Court criminal or family case,  
14 the person may exercise ~~his or her~~ the person's right to review under this  
15 section by notifying the Department in writing within 30 days after the related  
16 court case, including any appeals, has been fully adjudicated. If the person  
17 fails to notify the Department within 30 days, the Department's decision shall  
18 become final and no further review under this subsection is required.

19 (d)(1) ~~The~~ Except as provided in this subsection, the Department shall hold  
20 an administrative review conference within ~~35~~ 60 days ~~of~~ after receipt of the  
21 request for review. At least ~~10~~ 20 days prior to the administrative review

1 conference, the Department shall provide to the person requesting review a  
2 copy of the redacted investigation file, which shall contain sufficient  
3 unredacted information to describe the allegations and the evidence relied upon  
4 as the basis of the substantiation, notice of time and place of the conference,  
5 and conference procedures, including information that may be submitted and  
6 mechanisms for providing information. There shall be no subpoena power to  
7 compel witnesses to attend a Registry review conference. The Department  
8 shall also provide to the person those redacted investigation files that relate to  
9 prior investigations that the Department has relied upon to make its  
10 substantiation determination in the case in which a review has been requested.  
11 If the Department fails to hold an administrative review conference within 60  
12 days after receipt of the request to review, due to good cause shown, an  
13 extension may be authorized by the Commissioner or designee in which the  
14 basis of the failure is explained.

15 (2) The Department may elect to not hold an administrative review  
16 conference when a person who has requested a review does not respond to  
17 Department requests to schedule the review meeting or does not appear for the  
18 scheduled review meeting. In these circumstances, unless good cause is  
19 shown, the Department's substantiation shall be accepted and the person's  
20 name shall be placed on the Registry. Upon the Department's substantiation  
21 being accepted, the Department shall provide notice that advises the person of

1 the right to appeal the substantiation determination or child protection  
2 designation level, or both, to the Human Services Board pursuant to section  
3 4916b of this title.

4 (e) At the administrative review conference, the person who requested the  
5 review shall be provided with the opportunity to present documentary evidence  
6 or other information that supports ~~his or her~~ the person's position and provides  
7 information to the reviewer in making the most accurate decision regarding the  
8 allegation. The Department shall have the burden of proving ~~that it has~~  
9 ~~accurately and reliably concluded that a reasonable person would believe by a~~  
10 preponderance of the evidence that the child has been abused or neglected by  
11 that person. Upon the person's request or during a declared state of emergency  
12 in Vermont, the conference may be held ~~by teleconference~~ through a live,  
13 interactive, audio-video connection or by telephone.

14 (f) The Department shall establish an administrative case review unit  
15 within the Department and contract for the services of administrative  
16 reviewers. An administrative reviewer shall be a neutral and independent  
17 arbiter who has no prior involvement in the original investigation of the  
18 allegation. Department information pertaining to the investigation that is  
19 obtained by the reviewer outside of the review meeting shall be disclosed to  
20 the person seeking the review.

1 (g) Within seven days ~~of~~ after the conference, the administrative reviewer  
2 shall:

3 (1) reject the Department's substantiation determination;

4 (2) accept the Department's substantiation; or

5 (3) place the substantiation determination on hold and direct the

6 Department to further investigate the case based upon recommendations of the  
7 reviewer.

8 (h) If the administrative reviewer accepts the Department's substantiation  
9 determination, a Registry record shall be made immediately. If the reviewer  
10 rejects the Department's substantiation determination, no Registry record shall  
11 be made.

12 (i) Within seven days ~~of~~ after the decision to reject or accept or to place the  
13 substantiation on hold in accordance with subsection (g) of this section, the  
14 administrative reviewer shall provide notice to the person of ~~his or her~~ the  
15 reviewer's decision to the person's requested address pursuant to subdivision  
16 4915b(a)(4) of this title. If the administrative reviewer accepts the  
17 Department's substantiation, the notice shall advise the person of the right to  
18 appeal the administrative reviewer's decision to the human services board in  
19 accordance with section 4916b of this title.

20 \* \* \*

1 Sec. 7. 33 V.S.A. § 4916b is amended to read:

2 § 4916b. HUMAN SERVICES BOARD HEARING

3 (a) Within 30 days after the date on which the administrative reviewer  
4 ~~mailed~~ sent notice of placement of a report on the Registry, the person who is  
5 the subject of the substantiation may apply in writing to the Human Services  
6 Board for relief. The Board shall hold a fair hearing pursuant to 3 V.S.A.  
7 § 3091. When the Department receives notice of the appeal, it shall make note  
8 in the Registry record that the substantiation has been appealed to the Board.

9 \* \* \*

10 Sec. 8. 33 V.S.A. § 4916c is amended to read:

11 § 4916c. PETITION FOR EXPUNGEMENT FROM THE REGISTRY

12 (a)(1) ~~Except as provided in this subdivision~~ Pursuant to rules adopted in  
13 accordance with subsection 4916(e) of this title, a person whose name has been  
14 placed on the Registry ~~prior to July 1, 2009 and has been listed on the Registry~~  
15 ~~for at least three years~~ may file a written request with the Commissioner,  
16 seeking a review for the purpose of expunging an individual Registry record or  
17 for the purpose of challenging the child protection level designation, or both. ~~A~~  
18 ~~person whose name has been placed on the Registry on or after July 1, 2009~~  
19 ~~and has been listed on the Registry for at least seven years may file a written~~  
20 ~~request with the Commissioner seeking a review for the purpose of expunging~~

1 ~~an individual Registry record.~~ The Commissioner shall grant a review upon  
2 request.

3 (2) A person who is required to register as a sex offender on the State's  
4 Sex Offender Registry shall not be eligible to petition for expungement of ~~his~~  
5 ~~or her~~ the person's Registry record until the person is no longer subject to Sex  
6 Offender Registry requirements.

7 (b)(1) The person shall have the burden of proving that a reasonable person  
8 would believe that ~~he or she~~ the person no longer presents a risk to the safety  
9 or well-being of children.

10 (2) The Commissioner shall consider the following factors in making ~~his~~  
11 ~~or her~~ a determination:

12 (A) the nature of the substantiation that resulted in the person's name  
13 being placed on the Registry;

14 (B) the number of substantiations;

15 (C) the amount of time that has elapsed since the substantiation;

16 (D) the circumstances of the substantiation that would indicate  
17 whether a similar incident would be likely to occur;

18 (E) any activities that would reflect upon the person's changed  
19 behavior or circumstances, such as therapy, employment, or education;

20 (F) references that attest to the person's good moral character; and

21 (G) any other information that the Commissioner deems relevant.

1           (3) The Commissioner may deny a petition for expungement based  
2 solely on subdivision (2)(A) or (2)(B) of this subsection.

3           (c) At the review, the person who requested the review shall be provided  
4 with the opportunity to present any evidence or other information, including  
5 witnesses, that supports ~~his or her~~ the person's request for expungement. Upon  
6 the person's request or during a declared state of emergency in Vermont, the  
7 conference may be held ~~by teleconference~~ through a live, interactive, audio-  
8 video connection or by telephone.

9           (d) A person may seek a review under this section ~~no~~ not more than once  
10 every 36 months.

11           (e) Within 30 days ~~of~~ after the date on which the Commissioner ~~mailed~~  
12 sent notice of the decision pursuant to this section, a person may appeal the  
13 decision to the Human Services Board. The notice shall contain specific  
14 instructions concerning the information necessary for the person to prepare any  
15 future expungement request. The person shall be prohibited from challenging  
16 ~~his or her~~ the substantiation at such hearing, and the sole ~~issue~~ issues before the  
17 Board shall be whether the Commissioner abused ~~his or her~~ the  
18 Commissioner's discretion in ~~denial of~~ denying the petition for expungement  
19 or the petition challenging the child protection level designation. The hearing  
20 shall be on the record below, and determinations of credibility of witnesses  
21 made by the Commissioner shall be given deference by the Board.



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Sec. 9. 33 V.S.A. § 4916d is amended to read:

§ 4916d. AUTOMATIC EXPUNGEMENT OF REGISTRY RECORDS

Registry entries concerning a person ~~who~~ whose conduct was substantiated for behavior occurring before the person reached 10 years of age shall be expunged when the person reaches ~~the age of 18~~ years of age, provided that the person has had no additional substantiated Registry entries. ~~A person substantiated for behavior occurring before the person reached 18 years of age and whose name has been listed on the Registry for at least three years may file a written request with the Commissioner seeking a review for the purpose of expunging an individual Registry record in accordance with section 4916c of this title.~~

Sec. 10. 33 V.S.A. § 4922 is amended to read:

§ 4922. RULEMAKING

(a) ~~The Commissioner shall develop rules to implement this subchapter. On or before September 1, 2025, the Commissioner shall file proposed rules pursuant to 3 V.S.A. chapter 25 implementing the provisions of this subchapter to become effective on January 1, 2026.~~ On or before September 1, 2025, the Commissioner shall file proposed rules pursuant to 3 V.S.A. chapter 25 implementing the provisions of this subchapter to become effective on January 1, 2026. These shall include:

- (1) rules setting forth criteria for determining whether to conduct an assessment or an investigation;
- (2) rules setting out procedures for assessment and service delivery;

- 1 (3) rules outlining procedures for investigations;
- 2 (4) rules for conducting the administrative review conference;
- 3 (5) rules regarding access to and maintenance of Department records of
- 4 investigations, assessments, reviews, and responses; ~~and~~
- 5 (6) rules regarding the tiered Registry as required by section 4916 of this
- 6 title;
- 7 (7) rules establishing substantiation categories that require entry onto the
- 8 Registry and alternatives to substantiation that do not require entry onto the
- 9 Registry;
- 10 (8) rules requiring notice and appeal procedures for alternatives to
- 11 substantiation;
- 12 (9) rules creating procedures for how substantiation recommendations
- 13 are made by the Department district offices and how substantiation
- 14 determinations are made by the Department central office; and
- 15 (10) rules implementing subsections 4916(c) and (e) of this title.

16 \* \* \*

17 Sec. 11. CHILD ABUSE AND NEGLECT; INTERVIEWS; CAPABILITIES;

18 REPORT

19 (a) On or before November 15, 2024, the Department for Children and

20 Families shall submit a written report to the Senate Committee on Health and

21 Welfare and the House Committee on Human Services examining the

1 Department's capabilities and resources necessary to safely, securely, and  
2 confidentially store any interviews recorded during a child abuse and neglect  
3 investigation.

4 (b) The report required pursuant to subsection (a) of this section shall  
5 include the Department's proposed model policy detailing the types of  
6 interviews that should be recorded and the storage, safety, and confidentiality  
7 requirements of such interviews.

8 Sec. 12. EFFECTIVE DATE

9 This act shall take effect on September 1, 2024.