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H.689

Introduced by Representatives Hango of Berkshire and Rachelson of
Burlington

Referred to Committee on

Date:

Subject: Child abuse and neglect; identification; reporting

Statement of purpose of bill as introduced: This bill proposes to require the
Commissioner for Children and Families to enter into memoranda of
understanding with military authorities to establish
protocols and procedures for child abuse and neglect allegations, assessments,
and investigations involving military personnel. This bill also proposes to
require the Department for Children and Families to collect the military status
of the parents or other persons responsible for the child's care once a report is
accepted as valid and to share such information with the appropriate military
authorities.

An act relating to child abuse and neglect allegations involving military
personnel

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

Sec. 1. 33 V.S.A. chapter 1, subchapter 1 is amended to read:

Subchapter 1. Policy, Organization, Powers, and Duties

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§ 102. DEFINITIONS AND CONSTRUCTION

(a) As used in this chapter:

(1) “Aid” means financial assistance.

(2) “Assistance,” when not modified by an adjective, means general assistance or public assistance, or both.

(3) “Benefits” means aid or commodities furnished under chapter 17 of this title.

(4) “Commissioner” means the Commissioner for Children and Families.

(5) “Department” means the Department for Children and Families.

(6) “Federal department” or “federal agency” means a department or agency of the United States of America.

(7) “Guardian” means a legal guardian appointed by a Probate Division of the Superior Court or by a court in a divorce or other proceeding or action.

(8) “Military Authorities” means:

(a) The Vermont National Guard as defined by Title 20, Vermont Statutes Annotated Chapter 21; or

(b) Any program established in Vermont by the U.S. Department of Defense to address child abuse and neglect in military families, such as the Military Family Advocacy Program

(9) “Public assistance” means aid provided by the Department under Title IV, XVI, or XIX of the Social Security Act.

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~~(9)~~(10) “Regulation” means a rule or regulation.

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1 (c) The Commissioner or the Governor, whenever the federal law so
2 provides, may cooperate with the federal government in providing relief and
3 work relief and community work and training programs in the State.

4 (d)(1) The Commissioner, with the approval of the Attorney General, may
5 enter into reciprocal agreements with social and child welfare agencies in other
6 states in matters relating to social welfare, children, and families.

7 (2) Notwithstanding any other provision of law to the contrary, the
8 Commissioner shall enter memoranda of understanding with Military Authorities
9 to address child abuse and neglect reports, assessments, and investigations in
10 accordance with chapter 49 of this title. Such memoranda of understanding
11 shall establish procedures and protocols for:

12 (A) identifying a child in a report of suspected child abuse or neglect as a
13 dependent of a military personnel;

14 (B) identifying an individual alleged to have committed child abuse
15 or neglect as a military personnel;

16 (C) reporting to the appropriate Military Authorities when a child
17 abuse or neglect investigation implicating military personnel is initiated; and

18 (D) reporting to the appropriate Military Authorities when a child
19 abuse or neglect investigation implicating military personnel is substantiated; and

20 (E) maintaining confidentiality requirements under federal and State
21 law.

22 (e) The Commissioner shall ensure the provision of services to children and

23 adolescents with a severe emotional disturbance in coordination with the
24 Secretary of Education and the Commissioners of Mental Health and of

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1 Disabilities, Aging, and Independent Living in accordance with the provisions
2 of chapter 43 of this title.

3 (f) Notwithstanding any other provision of law, the Commissioner may
4 delegate to any appropriate employee of the Department any of the
5 administrative duties and powers imposed on ~~him or her~~ the Commissioner by
6 law, with the exception of the duties and powers enumerated in this section.
7 The delegation of authority and responsibility shall not relieve the
8 Commissioner of accountability for the proper administration of the
9 Department.

10 (g) The Commissioner may publicly disclose findings or information about
11 any case of child abuse or neglect that has resulted in the fatality or near
12 fatality of a child, including information obtained under chapter 49 of this title,
13 unless the State's Attorney or Attorney General who is investigating or
14 prosecuting any matter related to the fatality requests the Commissioner to
15 withhold disclosure, in which case the Commissioner shall not disclose any
16 information until completion of any criminal proceedings related to the fatality
17 or until the State's Attorney or Attorney General consents to disclosure,
18 whichever occurs earlier.

19 Sec. 2. 33 V.S.A. chapter 49, subchapter 2 is amended to read:

20 Subchapter 2. Reporting Abuse of Children

21 * * *

1 § 4914. NATURE AND CONTENT OF REPORT; TO WHOM MADE

2 A report shall be made orally or in writing to the Commissioner or
3 designee. The Commissioner or designee shall request the reporter to follow
4 the oral report with a written report, unless the reporter is anonymous. Reports
5 shall contain the name and address or other contact information of the reporter
6 as well as the names and addresses of the child and the parents or other persons
7 responsible for the child's care, if known; the military status of the parents or
8 other persons responsible for the child's care, if any; the age of the child; the
9 nature and extent of the child's injuries together with any evidence of previous
10 abuse and neglect of the child or the child's siblings; and any other information
11 that might be helpful in establishing the cause of the injuries or reasons for the
12 neglect as well as in protecting the child and assisting the family. If a report of
13 child abuse or neglect involves the acts or omissions of the Commissioner or
14 employees of the Department, then the report shall be directed to the Secretary
15 of Human Services who shall cause the report to be investigated by other
16 appropriate Agency staff. If the report is substantiated, services shall be
17 offered to the child and to ~~his or her~~ the child's family or caretaker according
18 to the requirements of section 4915b of this title.

19 § 4915. ASSESSMENT AND INVESTIGATION

20 (a) Upon receipt of a report of abuse or neglect, the Department shall
21 promptly determine whether it constitutes an allegation of child abuse or

1 neglect as defined in section 4912 of this title. The Department shall respond
2 to reports of alleged neglect or abuse that occurred in Vermont and to out-of-
3 state conduct when the child is a resident of or is present in Vermont.

4 (b)(1) If the report is accepted as a valid allegation of abuse or neglect, the
5 Department shall determine whether to conduct an assessment as provided for
6 in section 4915a of this title or to conduct an investigation as provided for in
7 section 4915b of this title. If a report that is accepted as a valid allegation of
8 abuse or neglect contains information concerning the military status of the
9 parents or other persons responsible for the child's care, the Department shall
10 share information about the allegation with the appropriate military authorities
11 pursuant to a valid memorandum of understanding executed in accordance
12 with subdivision 105(d)(2) of this title.

13 (2) The Department shall begin either an assessment or an investigation
14 within 72 hours after the receipt of a report made pursuant to section 4914 of
15 this title, provided that it has sufficient information to proceed. The
16 Commissioner may waive the 72-hour requirement only when necessary to
17 locate the child who is the subject of the allegation or to ensure the safety of
18 the child or social worker.

19 (c) The decision to conduct an assessment shall include consideration of
20 the following factors:

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

1 (2) the accused person’s prior history of child abuse or neglect, or lack
2 thereof; and

3 (3) the accused person’s willingness or lack thereof to accept
4 responsibility for the conduct and cooperate in remediation.

5 (d) The Department shall conduct an investigation when an accepted report
6 involves allegations indicating substantial child endangerment. For purposes
7 of this section, “substantial child endangerment” includes conduct by an adult
8 involving or resulting in sexual abuse, and conduct by a person responsible for
9 a child’s welfare involving or resulting in abandonment, child fatality,
10 malicious punishment, or abuse or neglect that causes serious physical injury.
11 The Department may conduct an investigation of any report.

12 (e) The Department shall begin an immediate investigation if, at any time
13 during an assessment, it appears that an investigation is appropriate.

14 (f) The Department may collaborate with child protection, law
15 enforcement, and other departments and agencies in Vermont and other
16 jurisdictions to evaluate risk to a child and to determine the service needs of
17 the child and family. The Department may enter into reciprocal agreements
18 with other jurisdictions to further the purposes of this subchapter.

19 (g) The Department shall report to and receive assistance from appropriate
20 law enforcement in the following circumstances:

