

1 H.315

2 Introduced by Representatives Casey of Montpelier and Krasnow of South

3 Burlington

4 Referred to Committee on

5 Date:

6 Subject: Domestic relations; parental rights and responsibilities

7 Statement of purpose of bill as introduced: This bill proposes to prohibit using
8 an individual's disability as a reason to deny or restrict the rights and
9 responsibilities of a parent, prospective parent, foster parent, or guardian unless
10 doing so is in the best interests of the child.

11 An act relating to nondiscrimination concerning a parent with a disability

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

13 Sec. 1. FINDINGS AND PURPOSE

14 (a) The General Assembly finds that:

15 (1) Individuals with a disability continue to face unfair, preconceived,
16 and unnecessary societal biases as well as antiquated attitudes regarding their
17 ability to successfully parent their children or to be successful foster parents.

18 (2) Individuals with a disability face these biases and preconceived
19 attitudes in family law proceedings where parental rights and responsibilities

1 are at stake and in public and private adoption, guardianship, and foster care
2 proceedings.

3 (3) Because of these biases and attitudes, children of individuals with a
4 disability may be unnecessarily removed from their parents' care or be limited
5 in enjoying meaningful time with their parents.

6 (b) The purpose of this act is to protect the best interests of children
7 parented by individuals with a disability and children who could be parented
8 by individuals with a disability through the establishment of procedural
9 safeguards that require individuals working with the Agency of Human
10 Services and with the judicial system to be knowledgeable about the
11 Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, and the
12 procedural and equal protection rights of parents with disabilities or
13 prospective parents with disabilities.

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

15 § 665b. NONDISCRIMINATION; PARENT WITH A DISABILITY

16 (a) As used in this section:

17 (1) "Disability" with respect to an individual has the same meaning as in
18 9 V.S.A. § 4501.

19 (2) "Supportive parenting services" means services that may assist a
20 parent with a disability or prospective parent with a disability in the effective
21 use of nonvisual techniques, technology, and other alternative methods to

1 enable the parent to discharge parental responsibilities as successfully as a
2 parent who does not have a disability.

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

7 (c) Where a parent's or prospective parent's disability is alleged to have a
8 detrimental impact on a child, the party raising the allegation bears the burden
9 of proving by clear and convincing evidence that the behaviors are
10 endangering or will likely endanger the health, safety, or welfare of the child.

11 If this burden is met, the parent or prospective parent shall have the
12 opportunity to demonstrate how the implementation of supportive parenting
13 services can alleviate any concerns that have been raised. The court may
14 require that such supportive parenting services be put in place, with an
15 opportunity to review the need for continuation of such services within a
16 reasonable period of time.

17 (d) If the court determines that a disabled parent's parental rights and
18 responsibilities or right to parent-child contact should be denied or limited in
19 any manner based on the parent's disability, the court shall make specific
20 written findings stating the basis for such a determination and why the

1 provision of supportive parenting services is not a reasonable accommodation
2 that must be made to prevent such denial or limitation.

3 Sec. 3. 15A V.S.A. § 1-102 is amended to read:

4 § 1-102. WHO MAY ADOPT OR BE ADOPTED

5 (a) Subject to this title, any person may adopt or be adopted by another
6 person for the purpose of creating the relationship of parent and child between
7 them.

8 (b) If a family unit consists of a parent and the parent's partner, and
9 adoption is in the best interests of the child, the partner of a parent may adopt a
10 child of the parent. Termination of the parent's parental rights is unnecessary
11 in an adoption under this subsection.

12 (c) A prospective parent's disability shall not serve as a basis for the
13 person's denial of participation in public or private adoption when the adoption
14 is determined to be otherwise in the best interests of the child. If a court
15 determines that a disabled prospective parent's petition to adopt a child should
16 be denied, the court shall make specific written findings stating the basis for
17 such a determination and why the provision of supportive parenting services is
18 not a reasonable accommodation that must be made to prevent such denial or
19 limitation.

1 Sec. 4. 14 V.S.A. § 2628 is amended to read:

2 § 2628. GUARDIANSHIP ORDER

3 (a) If the court grants a petition for guardianship of a child under
4 subsection 2626(d) or 2627(d) of this title, the court shall enter an order
5 establishing a guardianship and naming the proposed guardian as the child's
6 guardian.

7 (b) A guardianship order issued under this section shall include provisions
8 addressing the following matters:

9 (1) the powers and duties of the guardian consistent with section 2629 of
10 this title;

11 (2) the expected duration of the guardianship, if known;

12 (3) a family plan on a form approved by the Court Administrator that:

13 (A) in a consensual case is consistent with the parties' agreement; or

14 (B) in a nonconsensual case includes, at a minimum, provisions that
15 address parent-child contact consistent with section 2630 of this title; and

16 (4) the process for reviewing the order consistent with section 2631 of
17 this title.

18 (c) An individual's disability shall not serve as a basis for denial of
19 guardianship of a child when the appointment is determined to be otherwise in
20 the best interests of the child. If a court determines that a disabled individual's
21 appointment as a guardian should be denied or limited in any manner, the court

1 shall make specific written findings stating the basis for such a determination
2 and why the provision of supportive services is not a reasonable
3 accommodation that must be made to prevent such denial or limitation.

4 Sec. 5. 33 V.S.A. § 101 is amended to read:

5 § 101. POLICY

6 It is the policy of the State of Vermont that:

7 (1) Its social and child welfare programs shall provide assistance and
8 benefits to persons of the State in proven need ~~thereof~~ and eligible for ~~such~~
9 assistance and benefits under the provisions of this title.

10 (2) It is the purpose of its social and child welfare laws to establish and
11 support programs that contribute to the prevention of dependency and social
12 maladjustment and contribute to the rehabilitation and protection of persons of
13 the State.

14 (3) Assistance and benefits shall be administered promptly, with due
15 regard for the preservation of family life, and without restriction of individual
16 rights or discrimination on account of race, religion, political affiliation, or
17 place of residence within the State.

18 (4) The Department and the Family and Probate Divisions of the
19 Superior Court shall comply with Section 504 of the Rehabilitation Act of
20 1973, 29 U.S.C. § 794, and the Fourteenth Amendment to the U.S.

1 Constitution, prior to taking any action pursuant to chapters 49–53 of this title
2 that could impact the parental rights of a person with a disability.

3 (5) Assistance and benefits shall be so administered as to maintain and
4 encourage dignity, self-respect, and self-reliance. It is the legislative intent
5 that assistance granted shall be adequate to maintain a reasonable standard of
6 health and decency based on current cost of living indices. Notwithstanding
7 this subdivision, the Department will amend rules that establish new maximum
8 Reach Up grant amounts only when the General Assembly has taken
9 affirmative action to increase or decrease the Reach Up financial assistance
10 appropriation.

11 ~~(5)~~(6) The programs of the Department for Children and Families shall
12 be designed to strengthen family life for the care and protection of children; to
13 assist and encourage the use by any family of all available personal and
14 reasonable community resources to this end; and to provide substitute care of
15 children only when the family, with the use of available resources, is unable to
16 provide the necessary care and protection to ensure the right of any child to
17 sound health and to normal physical, mental, spiritual, and moral development.

18 Sec. 6. 33 V.S.A. § 4907 is added to read:

19 § 4907. NONDISCRIMINATION

20 An individual's disability shall not:

1 (1) be presumed to have an adverse effect on the physical or emotional
2 well-being of a child; or

3 (2) serve as a basis for denial of foster care when the appointment is
4 determined to be otherwise in the best interests of the child.

5 Sec. 7. 33 V.S.A. § 5114 is amended to read:

6 § 5114. BEST INTERESTS OF THE CHILD

7 (a) At the time of a permanency review under section 5321 of this title, a
8 modification hearing under section 5113 of this title, or at any time a petition
9 or request to terminate all residual parental rights of a parent without limitation
10 as to adoption is filed by the Commissioner or the attorney for the child, the
11 court shall consider the best interests of the child in accordance with the
12 following:

13 (1) the interaction and interrelationship of the child with ~~his or her~~
14 parents, siblings, foster parents, if any, and any other person who may
15 significantly affect the child's best interests;

16 (2) the child's adjustment to ~~his or her~~ home, school, and community;

17 (3) the likelihood that the parent will be able to resume or assume
18 parental duties within a reasonable period of time;

19 (4) whether the parent has played and continues to play a constructive
20 role, including personal contact and demonstrated emotional support and
21 affection, in the child's welfare; and

1 (5) if the court determines that a disabled parent’s parental rights and
2 responsibilities should be terminated based on the parent’s disability, the court
3 shall make written findings stating the basis for the determination and why
4 providing supportive parenting services is not a reasonable accommodation to
5 prevent the termination of rights and responsibilities.

6 (b) Except in cases where a petition or request to terminate all residual
7 parental rights of a parent without limitation as to adoption is filed by the
8 Commissioner or the attorney for the child, the court shall also consider
9 whether the parent is capable of playing a constructive role, including
10 demonstrating emotional support and affection, in the child’s welfare.

11 Sec. 8. EFFECTIVE DATE

12 This act shall take effect on July 1, 2025.