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H.657

An act relating to various programming and requirements within the
Department for Children and Families

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

* * * Removing Reach Up Asset Limit * * *

Sec. 1. 33 V.S.A. § 1103 is amended to read:

§ 1103. ELIGIBILITY AND BENEFIT LEVELS

* * *

(c) The Commissioner shall adopt rules for the determination of eligibility
for the Reach Up program and benefit levels for all participating families that
include the following provisions:

* * *

~~(5)(A) The asset limitation shall be \$9,000.00 for families for the
purposes of determining initial and continuing eligibility for the Reach Up
program, and the following savings accounts shall not be considered in the
calculation for determining the asset limitation:~~

~~(i) a retirement account, such as an individual retirement
arrangement (IRA), a defined contribution plan qualified under 26 U.S.C.
§ 401(k), or any similar account as defined in 26 U.S.C. § 408; and~~

~~(ii) a qualified child education savings account, such as the
Vermont Higher Education Investment Plan, established in 16 V.S.A. § 2877,
or any similar plan qualified under 26 U.S.C. § 529.~~

1 (5) “Qualified ABLÉ account” means an ABLÉ account, as that term is
2 defined in section 8002 of this title, or an account established pursuant to any
3 qualified state ABLÉ program created pursuant to 26 U.S.C. § 529A (section
4 529A of the Internal Revenue Code of 1986).

5 (6) “Representative payee” means the person appointed by the Social
6 Security Administration to manage Social Security benefits for a child.

7 (7) “RSDI benefits” means a child’s retirement, survivors, or disability
8 insurance benefits under 42 U.S.C. chapter 7, subchapter II (Title II of the
9 Social Security Act).

10 (8) “Social Security Act” means the Social Security Act, 42 U.S.C.
11 chapter 7, as may be amended.

12 (9) “Social Security benefits” means a child’s RSDI benefits, SSI
13 benefits, or both, as applicable.

14 (10) “SSI benefits” means a child’s Supplemental Security Income
15 benefits under 42 U.S.C. chapter 7, subchapter XVI (Title XVI of the Social
16 Security Act).

17 Sec. 3. 33 V.S.A. § 4907 is added to read:

18 § 4907. FOSTER CARE; SOCIAL SECURITY BENEFITS

19 (a) The Department shall not use any portion of a child’s Social Security
20 benefits to offset the State’s costs for the child’s maintenance except to

1 maintain the child's eligibility for SSI benefits and to avoid a violation of
2 federal asset or resource limits.

3 (b) Upon the request of the child or the child's foster care provider, the
4 Department, in its capacity as representative payee for a child, may use the
5 child's Social Security benefits for the child's unmet needs beyond the amount
6 that the State is obligated, required, or agrees to pay for the care of the child.

7 (c) In its capacity as representative payee for a child and with the assistance
8 of the State Treasurer, the Department shall:

9 (1) establish an account for the child, which shall be a qualified ABLE
10 account for any child receiving SSI benefits;

11 (2) monitor any federal asset or resource limits for the child's SSI
12 benefits;

13 (3) ensure that the child's best interests are served by using the child's
14 Social Security benefits for the child's unmet needs or conserving the child's
15 Social Security benefits in a way that avoids violating any federal asset or
16 resource limits that would affect the child's ability to receive SSI benefits;

17 (4) appeal any denied application for SSI benefits submitted on behalf of
18 a child; and

19 (5) provide an annual accounting of the use, application, or conservation
20 of the child's Social Security benefits, including any payments made under
21 subsection (b) of this section, to the child; the child's parent, legal guardian, or

1 counsel; the Family Division of the Superior Court; and the Office of the
2 Child, Youth, and Family Advocate.

3 * * * Enabling Unaccompanied Youth to Obtain Certain Services Without
4 Parental Consent * * *

5 Sec. 4. 33 V.S.A. § 4908 is added to read:

6 § 4908. UNACCOMPANIED YOUTH

7 (a) Legislative intent. In instances in which severe family dysfunction such
8 as abuse, neglect, child abandonment, or lack of financial support has left a
9 youth who is 16 or 17 years of age homeless, and other supports such as foster
10 care are deemed inappropriate, it is the intent of the General Assembly to
11 provide an unaccompanied youth with the resources necessary to obtain
12 services and benefits that the unaccompanied youth's peers can obtain with the
13 consent of a parent or guardian.

14 (b) Definitions. As used in this section:

15 (1) "Homeless child or youth" means an individual who lacks a fixed,
16 regular, and adequate nighttime residence, including:

17 (A) a child or youth sharing the housing of other persons due to loss
18 of housing, economic hardship, or a similar reason;

19 (B) a child or youth living in motels, hotels, trailer parks, or camping
20 grounds due to the lack of alternative adequate accommodations;

1 (C) a child or youth living in emergency or transitional shelters;

2 (D) a child or youth abandoned in hospitals;

3 (E) a child or youth living in a primary nighttime residence that is a
4 public or private place not designed for or ordinarily used as a regular sleeping
5 accommodation for human beings;

6 (F) a child or youth living in cars, parks, public spaces, abandoned
7 buildings, substandard housing, bus or train stations, or similar settings; or

8 (G) a migratory child who qualifies as homeless because the child is
9 living in the circumstances described in this subdivision (1).

10 (2) “School district homeless liaison” means an employee designated by
11 a school district to act as a liaison for homeless children and youths.

12 (3) “Unaccompanied youth” means a homeless child or youth 16 or 17
13 years of age who is not in the physical custody of a parent or guardian.

14 (c) Certification. An unaccompanied youth may become certified if the
15 youth is:

16 (1) found by a school district homeless liaison or other appropriate staff
17 person to be an unaccompanied youth; or

18 (2) believed to qualify as an unaccompanied youth, by:

19 (A) the director of an emergency shelter program funded by the
20 State;

1 (B) the director of a runaway or homeless youth program funded by
2 the U.S. Department of Health and Human Services or the U.S. Department of
3 Housing and Urban Development or designee;

4 (C) a continuum of care lead agency or designee;

5 (D) the Chief Juvenile Defender or designee; or

6 (E) the Vermont Network Against Domestic and Sexual Violence or
7 designee.

8 (d) Proof of certification.

9 (1)(A) The Department shall contract with a community organization
10 that serves homeless and runaway youth in Vermont to develop a standardized
11 form that shall be used by the entities specified in subsection (c) of this section
12 to certify qualifying unaccompanied youths. The front of the form shall
13 include the circumstances that qualify the youth; the date the youth was
14 certified; the name, title, and signature of the certifying individual; and
15 confirmation from the certifying individual that the individual has completed a
16 human trafficking training in the past two years. This section shall be
17 reproduced in its entirety on the back of the form.

18 (B) The Department shall post the certification form and information
19 about this section on its website, including who is eligible for certification and
20 which individuals and entities can complete the certification form pursuant to
21 this section.

1 (2) Without the consent of a parent or guardian, a certified
2 unaccompanied youth may use the completed form to:

3 (A) apply at no charge for a nondriver identification card pursuant to
4 23 V.S.A. § 115, a learner’s permit pursuant to 23 V.S.A. § 617, or an
5 operator’s license or operator’s privilege card pursuant to 23 V.S.A. § 608;

6 (B) obtain a vital event certificate at no charge pursuant to 18 V.S.A.
7 § 5017;

8 (C) consent to care by health care professionals licensed or certified
9 in Vermont, including medical care; dental care; mental health care services,
10 including psychological counseling and treatment, psychiatric treatment, and
11 substance use prevention and treatment services; and surgical diagnosis and
12 treatment, including medical diagnosis and treatment, such as preventive care
13 and care provided in a health care facility, as defined in 18 V.S.A. § 9432, for:

14 (i) the youth; or

15 (ii) the youth’s child, if the certified unaccompanied youth is
16 unmarried, is the parent of the child, and has actual custody of the child;

17 (D) enter into a contract for housing or obtain admission to a shelter
18 or transitional housing;

19 (E) obtain employment, pursuant to 21 V.S.A. chapter 5, subchapter
20 4;

1 (F) purchase an automobile and obtain an automobile liability policy
2 that meets the requirements of 23 V.S.A. chapter 11;

3 (G) apply for a student loan;

4 (H) obtain admission to high school or postsecondary school and
5 participate in school activities, including extracurricular activities and field
6 trips;

7 (I) open an account at a State- or federally chartered bank or credit
8 union;

9 (J) receive services for victims of domestic or sexual violence, as
10 appropriate; and

11 (K) participate in a court diversion program pursuant to 3 V.S.A.
12 §§ 163 and 164 or the Youth Substance Awareness Safety Program pursuant to
13 7 V.S.A. § 656.

14 (e) Use of certification form. A health care professional shall accept the
15 completed form as proof of the youth's status as a certified unaccompanied
16 youth. Entities that provide housing, services, or benefits authorized under this
17 section may keep a copy of the form or card in the youth's medical file.

18 (f) Consent of a parent or guardian.

19 (1) A certification issued pursuant to subsection (c) of this section shall
20 authorize an unaccompanied youth to obtain benefits and services listed in
21 subsection (d) of this section. A person, provider, or health care professional

1 shall not require the consent of a parent or guardian as a condition of providing
2 a benefit or service authorized under subsection (d) of this section.

3 (2) For the purposes of implementing subdivision (d)(2)(I) of this
4 section, the Commissioner of Financial Regulation shall ensure that minimum
5 youth certification requirements are met for the purpose of making it legally
6 permissible for a bank, credit union, or insurance company to contract with an
7 unaccompanied youth without the consent of a parent or guardian and with the
8 understanding that the unaccompanied youth may not have a permanent
9 physical address.

10 (g) Immunity for liability. Any entity, provider, or health care professional
11 who relies in good faith on a certification form presented by a person who
12 claims to be a certified unaccompanied youth pursuant to this section shall be
13 immune from liability for such reliance, unless the entity, provider, or health
14 care professional acted with gross negligence.

15 (h) Applicability of Compact. Nothing in this section shall be construed as
16 altering the Interstate Compact for Juveniles.

17 Sec. 4a. 13 V.S.A. § 1311 is amended to read:

18 § 1311. UNLAWFUL SHELTERING; AIDING A RUNAWAY CHILD

19 * * *

20 (b) A person commits the crime of unlawfully sheltering or aiding a
21 runaway child if the person:

1 (1) knowingly shelters a runaway child;

2 (2) intentionally aids, helps, or assists a child to become a runaway
3 child; or

4 (3) knowingly takes, entices, or harbors a runaway child, with the intent
5 of committing a criminal act involving the child or with the intent of enticing
6 or forcing the child to commit a criminal act.

7 (c) Exempt from the prohibitions of subdivisions (b)(1) and (2) of this
8 section are:

9 (1) a shelter, or the directors, agents, or employees of a shelter,
10 designated by the Commissioner for Children and Families pursuant to
11 33 V.S.A. § 5304, provided that the requirements of 33 V.S.A. § 5303(b) are
12 satisfied; ~~and~~

13 (2) a person who has taken the child into custody pursuant to 33 V.S.A.
14 § 5251 or 5301; and

15 (3) a person providing assistance pursuant to 33 V.S.A. § 4908.

16 * * *

17 * * * Unaccompanied Youth; Vital Event Certificates * * *

18 Sec. 5. 18 V.S.A. § 5017 is amended to read:

19 § 5017. FEES FOR COPIES

20 (a) For a certified copy of a vital event certificate, the fee shall be \$10.00.

1 (b) The State Registrar shall waive the fee for certified copies of vital event
2 certificates issued to:

3 (1) an individual attesting to a lack of fixed, regular, and adequate
4 nighttime residence; ~~and~~

5 (2) an individual between 18 and 24 years of age who resided in a foster
6 home or residential child care facility between 16 and 18 years of age pursuant
7 to placement by a child-placing agency; and

8 (3) an unaccompanied youth who has obtained a certification pursuant
9 to 33 V.S.A. § 4908.

10 * * * Unaccompanied Youth; Nondriver Identification Cards * * *

11 Sec. 6. 23 V.S.A. § 115 is amended to read:

12 § 115. NONDRIVER IDENTIFICATION CARDS

13 (a)(1) Any Vermont resident may make application to the Commissioner
14 and be issued an identification card that is attested by the Commissioner as to
15 true name, correct age, residential address unless the listing of another address
16 is requested by the applicant or is otherwise authorized by law, and any other
17 identifying data as the Commissioner may require that shall include, in the case
18 of minor applicants, the written consent of the applicant's parent, guardian, or
19 other person standing in loco parentis.

20 * * *

1 (2) No additional fee shall be due for a motorcycle endorsement for an
2 individual under 23 years of age who was in the care and custody of the
3 Commissioner for Children and Families pursuant to 33 V.S.A. § 4903(4) in
4 Vermont after attaining 14 years of age.

5 (d) Individuals receiving Supplemental Security Income or Social Security
6 Disability Income and individuals with a disability as defined in 9 V.S.A.
7 § 4501 shall be provided with operator's licenses or operator privilege cards
8 for the following fees:

9 (1) Original issuance: \$20.00.

10 (2) Renewal every four years: \$20.00.

11 (3) Replacement of lost, destroyed, or mutilated card or a new name is
12 required: \$10.00.

13 (e)(1) An unaccompanied youth who has obtained a certification pursuant
14 to 33 V.S.A. § 4908 shall be provided with operator's licenses or operator
15 privilege cards at no charge.

16 (2) No additional fee shall be due for a motorcycle endorsement for an
17 unaccompanied youth who has obtained a certification pursuant to 33 V.S.A.
18 § 4908.

19 * * * Unaccompanied Youth; Learner's Permit * * *

20 Sec. 8. 23 V.S.A. § 617 is amended to read:

21 § 617. LEARNER'S PERMIT

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(b)(1) Notwithstanding the provisions of subsection (a) of this section, any licensed person may apply to the Commissioner of Motor Vehicles for a learner's permit for the operation of a motorcycle in the form prescribed by the Commissioner. The Commissioner shall offer both a motorcycle learner's permit that authorizes the operation of three-wheeled motorcycles only and a motorcycle learner's permit that authorizes the operation of any motorcycle. The Commissioner shall require payment of a fee of \$24.00 at the time application is made, except that no fee shall be charged for an unaccompanied youth who has obtained a certification pursuant to 33 V.S.A. § 4908 or for an individual under 23 years of age who was in the care and custody of the Commissioner for Children and Families pursuant to 33 V.S.A. § 4903(4) in Vermont after attaining 14 years of age.

(2) After the applicant has successfully passed all parts of the applicable motorcycle endorsement examination, other than a skill test, the Commissioner may issue to the applicant a learner's permit that entitles the applicant, subject to subsection 615(a) of this title, to operate a three-wheeled motorcycle only, or to operate any motorcycle, upon the public highways for a period of 120 days from the date of issuance. The fee for the examination shall be \$11.00, except that no fee shall be charged for an unaccompanied youth who has obtained a certification pursuant to 33 V.S.A. § 4908 or for an individual under

1 23 years of age who was in the care and custody of the Commissioner for
2 Children and Families pursuant to 33 V.S.A. § 4903(4) in Vermont after
3 attaining 14 years of age.

4 (3) A motorcycle learner's permit may be renewed only twice upon
5 payment of a \$24.00 fee. An unaccompanied youth who has obtained a
6 certification pursuant to 33 V.S.A. § 4908 and an individual under 23 years of
7 age who was in the care and custody of the Commissioner for Children and
8 Families pursuant to 33 V.S.A. § 4903(4) in Vermont after attaining 14 years
9 of age shall not be charged a fee for the renewal of a motorcycle learner's
10 permit.

11 * * *

12 (d)(1) An applicant shall pay \$24.00 to the Commissioner for each
13 learner's permit or a duplicate or renewal thereof.

14 (2) An unaccompanied youth who has obtained a certification pursuant
15 to 33 V.S.A. § 4908 and an applicant under 23 years of age who was in the
16 care and custody of the Commissioner for Children and Families pursuant to
17 33 V.S.A. § 4903(4) in Vermont after attaining 14 years of age shall not be
18 charged a fee for a learner's permit or a duplicate or renewal thereof.

19 * * *

1 * * * Transportation of Children * * *

2 Sec. 9. 33 V.S.A. § 5123 is amended to read:

3 § 5123. TRANSPORTATION OF A CHILD

4 (a) As used in this section:

5 (1) “Least restrictive” has the same meaning as in section 5130 of this
6 chapter.

7 (2) “Mechanical restraint” has the same meaning as in section 5130 of
8 this chapter.

9 (3) “Physical restraint” has the same meaning as in section 5130 of this
10 chapter.

11 (4) “Secure transport” means transport in a vehicle with disabled
12 internal controls for rear door handles and window switches, requiring the
13 driver to open them from the outside, or with a safety partition installed to
14 separate the driver from the passenger compartment. “Secure transport”
15 includes any vehicle being driven by a law enforcement officer.

16 (5) “Soft restraint” has the same meaning as in section 5130 of this
17 chapter.

18 (6) “Waist shackles” means a mechanical restraint device, typically a
19 chain, used around the waist and to which the child’s wrists may be chained or
20 cuffed.

1 **(b)** The Commissioner for Children and Families shall ensure that all
2 reasonable and appropriate measures consistent with public safety are made to
3 transport or escort a child subject to this chapter in a manner that:

4 (1) ~~reasonably avoids~~ prevents physical and psychological trauma;

5 (2) respects the privacy of the child; and

6 (3) represents the least restrictive means necessary for the safety of the
7 child.

8 ~~(b)~~**(c)** The Commissioner for Children and Families shall have the authority
9 to ~~select the person or persons who may transport a child under the~~
10 ~~Commissioner's care and custody~~ designate the professional or law
11 enforcement officers transporting children and shall authorize the method of
12 transport. A contract for transportation services shall include the requirements
13 in this section. Transportation services with noncontracted law enforcement
14 officers shall only be authorized in emergency situations or by court order.

15 ~~(e)~~**(d)** The Commissioner shall ~~ensure supervisory review of every decision~~
16 ~~to transport a child using mechanical restraints. When transportation with~~
17 ~~restraints for a particular child is approved, the reasons for the approval shall~~
18 ~~be documented in writing~~ provide education materials complying with this
19 section that outline the legal requirements for the secure transportation of
20 children to individuals designated pursuant to subsection (c) of this section and

1 shall obtain verification that all designated individuals have reviewed the
2 education materials.

3 ~~(d)~~(e) Secure transport shall only be used when the Department determines
4 and documents why it is necessary to prevent the risk of serious physical harm
5 to the child or others, based upon an individualized risk assessment.

6 ~~(e)~~(f) It is the policy of the State of Vermont that mechanical restraints are
7 not routinely used on children subject to this chapter unless circumstances
8 dictate that such methods are necessary. Soft restraints shall be the first option
9 for restraint, and other mechanical restraints shall not be utilized as a substitute
10 for soft restraints if the soft restraints are deemed adequate for safety.

11 (g) An entity contracted pursuant to subsection (c) of this section shall
12 provide documentation to the Department for the use of restraints when:

13 (1) the entity believes that the risk of serious physical harm to the child
14 or others requires the use of soft restraints before or during the transport,
15 including a description as to why less restrictive interventions could not
16 reasonably be attempted or why the attempted use of less restrictive
17 interventions was unsuccessful;

18 (2) the entity believes that the risk of serious physical harm to the child
19 or others was such that soft restraints were not adequate for safety and shall
20 include a description as to which restraint was used and why soft restraints

1 were deemed inadequate for preventing the risk of serious physical harm to the
2 child or others; or

3 (3) the use of waist shackles was determined to be the sole means of
4 preventing serious physical harm to the child or others and shall include a
5 description as to why waist shackles were the sole means of preventing the risk
6 of serious physical harm to the child or others.

7 (h) Documentation for the use of restraints shall be completed prior to
8 transport unless the circumstances that required their use occurred during the
9 course of the transport, in which case the documentation shall occur after
10 completion of the transport.

11 (i) The use of waist shackles shall be prohibited on children 12 years of age
12 or younger. The use of waist shackles on children 13 years of age or older
13 shall be assessed and determined to be the sole means of preventing serious
14 physical harm to the child or others and documented accordingly. Only
15 designated law enforcement agencies shall use waist shackles on a child
16 transported pursuant to this section.

17 (j) The Commissioner shall ensure supervisory review by the Department
18 of all documentation required by this section.

19 (k)(1) Annually, on or before January 15, the Department for Children and
20 Families shall submit a written report to the House Committee on Human
21 Services; the Senate Committee on Health and Welfare; and the Office of the

1 Child, Youth, and Family Advocate addressing the number of secure transports
2 of children during the previous year, including, for those transported with
3 restraints:

4 (A) the age, gender, and racial background of the children
5 transported;

6 (B) the number of children transported using mechanical restraints;

7 (C) whether the transport was conducted by law enforcement or a
8 private agency;

9 (D) when applicable, the type of mechanical restraint;

10 (E) the type of custody children were in when transport occurred; and

11 (F) the purpose of the transport.

12 (2) Once the Department has upgraded its technological capacity in a
13 manner that enables it to collect responsive data, information specific to
14 subdivisions (1)(B), (C), (E), and (F) of this subsection shall be collected and
15 included in the annual report with regard to all secure transports.

16 (l) Annually, on or before January 15, the Department of State's Attorneys
17 and Sheriffs shall submit a written report to the House Committee on Human
18 Services; the Senate Committee on Health and Welfare; the Department for
19 Children and Families; and the Office of the Child, Youth, and Family
20 Advocate addressing the number of court-ordered transports of minors

1 conducted by the State transport deputies pursuant to 24 V.S.A. § 290(b)

2 during the previous year, including:

3 (1) the date of birth of transported minors;

4 (2) whether restraint was used during transport;

5 (3) if restraint was used, the type of restraint;

6 (4) whether the minor's case was a delinquency, youthful offender, or
7 criminal proceeding; and

8 (5) the purpose of the transport.

9 Sec. 10. REPORT; RESTRAINT IN TRANSPORTATION

10 OF CHILDREN

11 (a) On or before December 15, 2027, the Department for Children and
12 Families shall submit a written report to the House Committee on Human
13 Services and to the Senate Committee on Health and Welfare addressing how
14 the Department is effectuating the policies set forth in 33 V.S.A. § 5123(d) and
15 2017 Acts and Resolves No. 85, Sec. E.314, including:

16 (1) contracting with law enforcement or private agencies for the
17 transport of children;

18 (2) Departmental oversight and supervisory review of the secure
19 transport of children, including transport provided by private agencies or law
20 enforcement officers;

1 (3) the mechanism used by the Department to collect and review data on
2 the application of mechanical restraints during the transport of children in
3 compliance with 33 V.S.A. § 5123(c);

4 (4) materials and requirements for designated contractors;

5 (5) written policies used to effectuate the law; and

6 (6) other information the Department deems relevant.

7 (b) As used in this section, “restraint” has the same meaning as in 33
8 V.S.A. §5130.

9 Sec. 11. USE OF FORCE POLICY

10 The Vermont Criminal Justice Council, in consultation with the Department
11 of Vermont State’s Attorneys and Sheriffs; the Office of the Child, Youth, and
12 Family Advocate; Disability Rights Vermont; and the Departments for
13 Children and Families and of Disabilities, Aging, and Independent Living shall
14 conduct a formal review to determine whether its use of force policy should
15 include an appendix to adequately address the transportation by law
16 enforcement of children under 18 years of age that is in alignment with the
17 public policy considerations for the transport of children in the custody of the
18 Department for Children and Families pursuant to 33 V.S.A. § 5123.

19 * * * Restraint and Seclusion * * *

20 Sec. 12. 33 V.S.A. § 5130 is added to read:

21 § 5130. NON-TRANSPORT RELATED RESTRAINT AND SECLUSION

1 (a) As used in this section:

2 (1) “Chemical restraint” means any medication used to manage behavior
3 or restrict freedom of movement that is not a standard treatment or dosage for
4 the individual’s condition.

5 (2) “Child” or “children” means a child or children in the Department’s
6 custody or receiving care or services in a program regulated or licensed by the
7 Department.

8 (3) “Mechanical restraint” means a type of restraint using a mechanical
9 device, material, or equipment, or garment attached to the child’s body, that
10 restricts freedom of movement or immobilizes or reduces the ability of a child
11 to move the child’s arms, legs, body, or head freely.

12 (4) “Physical restraint” means a type of restraint using a manual or
13 physical hold that restricts freedom of movement or immobilizes or reduces the
14 ability of a child to move the child’s arms, legs, body, or head freely. A
15 physical restraint shall not include a light touch to encourage a response or to
16 provide direction or guidance, provided the child is able to move away freely.

17 (5) “Prone restraint” means a physical intervention technique where an
18 individual is held face down on the individual’s stomach. “Prone restraint”
19 does not include a physical restraint that involves a momentary initial hold in a
20 prone position while transitioning to an evidence-based, safer form of restraint
21 that is not considered to be a prohibited form of physical restraint.

1 (6) “Seclusion” means involuntary confinement of a child in a segregated
2 room or area from which the child is prevented or from which the child
3 reasonably believes that the child is prevented from leaving, whether the door
4 is locked or not. “Seclusion” does not include a voluntary time out under staff
5 supervision for a short period of time in an unlocked room at the child’s
6 request.

7 (7) “Strip search” means a search that requires a child to remove or
8 arrange some clothing so as to permit a visual inspection of the child’s breasts,
9 buttocks, or genitalia. “Strip search” does not include a pat down through the
10 child’s clothing to determine whether contraband is present.

11 (8) “Least restrictive” means the minimum intervention necessary to
12 prevent harm to the child or to another, maximizing a child’s autonomy,
13 ensuring that restrictions are proportionate to the risk of harm, and ensuring
14 involuntary measures are only permitted as a last resort when less intrusive
15 methods have failed.

16 (9) “Soft restraint” means a mechanical restraint device that uses soft
17 material or fabric that is padded and designed to safely fit around the limbs of
18 an individual to limit mobility in order to prevent self-harm or harm to others.

19 (10) “Secure residential program” means a secure residential treatment
20 program that employs locked or inoperable doors and windows to prevent a
21 child from leaving the building.

1 (b) The Department shall not use or authorize the use of prone restraints,
2 mechanical restraints, chemical restraints, or strip searches on a child.

3 (c) Seclusion or physical restraint shall not be used for punishment,
4 disciplinary purposes, the protection of property, or any other reason other than
5 as a safety measure of last resort to prevent a serious and immediate risk of
6 harm to the child or others.

7 (d) A staff member shall use other less restrictive interventions, unless less
8 restrictive interventions have failed or would be ineffective in stopping
9 imminent danger of physical injury or property damage.

10 (e) After attempting to use less restrictive interventions, a staff member
11 trained in accordance with rule may physically restrain a child or place a child
12 in seclusion if the staff member:

13 (1) determines that the child's behavior poses a serious and immediate
14 risk of physical harm to the child or others;

15 (2) conducts the physical restraint or seclusion in a manner that respects
16 the child's privacy and limits physical and psychological trauma; and

17 (3) after initiation of the intervention, explains to the child the reasons
18 for the physical restraint or seclusion and informs the child of the
19 circumstances that allow release from the physical restraint or seclusion.

20 (f) If a child is placed in physical restraint or seclusion pursuant to
21 subsection (e) of this section, the child shall be released immediately when

1 there is no longer a serious and immediate risk of physical harm to the child or
2 others.

3 (g)(1) Restraint or seclusion lasting more than 10 minutes shall require
4 supervisory approval and oversight. Restraint or seclusion lasting more than
5 30 minutes shall require clinical and administrative consultation, approval, and
6 oversight. A child shall not be held for more than one hour in restraint or
7 seclusion without an in-person assessment by a clinician and authorization by
8 the administrator on duty.

9 (2) A child in seclusion shall be provided constant uninterrupted
10 supervision by a qualified staff member employed by the program who is
11 familiar to the child.

12 (h) Nothing in this section shall be construed to:

13 (1) include a locked bedroom during regular sleeping hours in a secure
14 residence as seclusion; or

15 (2) conflict with any law providing greater or additional protections to
16 minors.

17 (i) Notice of the use of restraint or seclusion on a child in the Department's
18 custody shall be provided to the Department; the child's parent or guardian; the
19 child's guardian ad litem; and the child's attorney, if applicable, within
20 24 hours.

1 (j) The program or staff member using seclusion or restraint shall
2 document its use and provide a copy of each recorded use of seclusion or
3 restraint, including a copy of any audio or visual recording, to the
4 Commissioner. Upon request, the audio or video shall be provided through
5 secure means of transmission and shall include blurring to protect the identity
6 of any other children in the program who are not in custody of the Department.
7 The documentation shall include a description of the child's specific behaviors
8 justifying the use of the intervention. The Department shall forward complete
9 documentation of each use of restraint or seclusion to the Office of the Child,
10 Youth, and Family Advocate within two business days.

11 (k) The Department shall collect the following data on the use of seclusion
12 and physical restraint, by placement type; program name; and the age, gender,
13 and racial background of the child:

14 (1) the specific types of the seclusion or physical restraint used; and

15 (2) the length of time a child was secluded or physically restrained, as
16 applicable.

17 (l)(1) Prior to contracting with any program for the care of a child in the
18 Department's custody, the Department shall conduct a review of any records
19 from the prior five years regarding the safety of children in the program's care,
20 including any violations of the program's licensing status and any resulting
21 remediation.

1 (2) The Department shall remove any Vermont child from risk of harm
2 and shall initiate a search for alternative providers if an out-of-state residential
3 provider is determined to be in violation of the standards in the contract
4 regarding restraint and seclusion or in violation of its state's licensing entity.

5 (m) Notwithstanding subsection (b) of this section, a child detained in a
6 secure residential program may be restrained with mechanical restraints for a
7 momentary initial hold to enable relocation of the child to a less restrictive
8 method of intervention if necessitated to prevent serious and immediate harm
9 to the child or others, except that under no circumstances shall a garment
10 adjacent to the child's body that restricts freedom of movement or immobilizes
11 or reduces the ability of a child to move the child's arms, legs, body, or head
12 freely be utilized. The procedures and standards established under this section,
13 including notice and reporting requirements, shall apply.

14 (n) Notwithstanding subsection (b) of this section, a child detained in a
15 secure residential program may be subjected to a strip search if a pat search has
16 led to probable cause to believe that the child has possession of contraband that
17 poses a threat of serious bodily harm to the child or others and the child has
18 refused to voluntarily turn over the contraband. The child shall be given the
19 opportunity before and at any time after the commencement of a search to
20 voluntarily relinquish the suspected contraband, whereupon the search will be
21 discontinued. Notice and reporting requirements shall be the same as for use

1 of restraint or seclusion under this section. Body cavity searches shall not be
2 permitted under any circumstances.

3 (o) The Department shall post on the Family Division's scorecard or
4 another prominent location on its website the rates of restraint and seclusion
5 used on children in licensed programs and the number of uses of secure
6 transport and of restraint used during transport. The Department shall update
7 this information at least annually.

8 (p) The Department shall develop and adopt rules pursuant to 3 V.S.A.
9 chapter 25, in collaboration with the Office of the Child, Youth, and Family
10 Advocate and in consultation with stakeholders implementing this section,
11 including requirements for staff training; standards for supervisory oversight,
12 recordkeeping, and reporting by residential programs; oversight
13 responsibilities of the Department; and any other necessary standards.

14 Sec. 13. 33 V.S.A. § 5130(l) is amended to read:

15 (l)(1) Prior to contracting with any program for the care of a child in the
16 Department's custody, the Department shall conduct a review of any records
17 from the prior five years regarding the safety of children in the program's care,
18 including any violations of the program's licensing status and any resulting
19 remediation.

20 (2) When contracting with an out-of-state program, the Department shall
21 include a requirement that the program adhere to the provisions of this section.

1 (3) The Department shall remove any Vermont child from risk of harm
2 and shall initiate a search for alternative providers if an out-of-state residential
3 provider is determined to be in violation of the standards in the contract
4 regarding restraint and seclusion or in violation of its state’s licensing entity.

5 Sec. 14. REPORT; CHILDREN IN CORRECTIONAL FACILITIES

6 (a) On or before January 1, 2027, the Departments for Children and
7 Families and of Corrections shall submit a written report to the House
8 Committees on Human Services and on Corrections and Institutions and to the
9 Senate Committees on Health and Welfare and on Institutions regarding the
10 use of restraint and seclusion on minors detained in Department of
11 Corrections’ facilities and potential means for reducing physical and
12 psychological trauma from restraint and seclusion. In preparing the required
13 report, the Departments shall consult with a work group composed of the
14 Office of the Child, Youth, and Family Advocate; the Office of the Defender
15 General, Juvenile Division; Voices for Vermont’s Children; the Vermont
16 Federation of Families for Children’s Mental Health; Disability Rights
17 Vermont; and a young adult with lived experience of being detained in a
18 Department of Corrections facility, appointed by the Office of the Child,
19 Youth, and Family Advocate.

20 (b) Members of the work group who are not participating in their
21 professional capacity shall be entitled to per diem compensation and

1 reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more
2 than five meetings. These payments shall be made from monies appropriated
3 to the Office of the Child, Youth, and Family Advocate.

4 * * * Judicial Review of Placements for Children Previously Under the
5 Custody of the Department for Children and Families * * *

6 Sec. 15. PROPOSAL TO EXTEND SUPPORTS FOR CHILDREN OVER
7 17 YEARS OF AGE

8 On or before November 1, 2026, the Department for Children and Families
9 shall submit a written report, in consultation with the Judicial Branch, to the
10 House Committee on Human Services and to the Senate Committee on Health
11 and Welfare with recommendations for court oversight processes that meet
12 federal requirements to allow access to federal funds for programs that may
13 support youth up to 21 years of age and that ensure sustainable use of judicial
14 resources. The report shall include any recommendations for legislative
15 action.

16 * * * Prenatal Engagement and Family Support Working Group * * *

17 Sec. 16. PRENATAL ENGAGEMENT AND FAMILY SUPPORT
18 WORKING GROUP

19 (a) Creation. There is created the Prenatal Engagement and Family
20 Support Working Group to examine the Department for Children and Families'
21 current practice of using a pregnancy calendar to monitor and track certain

1 pregnant individuals in Vermont and provide recommendations on alternatives
2 to a pregnancy calendar and ways to support pregnant individuals in need of
3 services.

4 (b) Membership. The Working Group shall be composed of the following
5 members:

6 (1) the Deputy Commissioner of the Family Services Division of the
7 Department for Children and Families;

8 (2) the Vermont Child, Youth, and Family Advocate or designee;

9 (3) the Executive Director of Vermont Family Network or designee;

10 (4) the Executive Director of Vermont Legal Aid or designee;

11 (5) the President of Planned Parenthood of Northern New England or
12 designee;

13 (6) the Executive Director of the Vermont Parent Representation Center
14 or designee;

15 (7) the Executive Director of Recovery Partners Vermont or designee;

16 (8) the Executive Director of Voices for Vermont's Children or
17 designee;

18 (9) the Director of the Department of Health's Maternal and Child
19 Health Division or designee;

20 (10) a representative, appointed by Children of Recovering Mothers'
21 Team at the Kidsafe Collaborative;

1 (11) the Director of the Office of the Defender General’s Juvenile
2 Division or designee;

3 (12) an individual with lived experience of being monitored by the
4 Department while pregnant, appointed by the Speaker of the House; and

5 (13) an individual with lived experience of being monitored by the
6 Department while pregnant, appointed by the Senate Committee on
7 Committees.

8 (c) Powers and duties. The Working Group shall study the Department for
9 Children and Families’ current practice of using a pregnancy calendar to
10 monitor and track certain pregnant individuals in Vermont and provide
11 recommendations on alternatives to a pregnancy calendar and ways to support
12 pregnant individuals in need of services.

13 (d) Assistance. For the purposes of scheduling meetings and providing
14 administrative assistance, the Working Group shall have the assistance of the
15 Department for Children and Families.

16 (e) Report. On or before November 15, 2026, the Working Group shall
17 submit a written report to the House Committee on Human Services, the
18 Senate Committee on Health and Welfare, and the House and Senate
19 Committees on Judiciary with its findings and any recommendations for
20 legislative action.

1 (f) Meetings.

2 (1) The Vermont Child, Youth, and Family Advocate or designee shall
3 call the first meeting of the Working Group to occur on or before August 1,
4 2026.

5 (2) The Working Group shall select a chair from among its members at
6 the first meeting.

7 (3) A majority of the membership shall constitute a quorum.

8 (4) The Working Group shall cease to exist on February 1, 2027.

9 (g) Compensation and reimbursement.

10 (1) Members of the Working Group who are not otherwise compensated
11 for attendance at meetings shall be entitled to per diem compensation and
12 expenses as permitted under 32 V.S.A. § 1010 for not more than five meetings.

13 (2) Members of the Working Group who are not participating in their
14 professional capacity shall be entitled to per diem compensation and
15 reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more
16 than five meetings. These payments shall be made from monies appropriated
17 to the Department for Children and Families.

18 * * * Effective Dates * * *

19 Sec. 17. EFFECTIVE DATES

20 (a) This section and Sec. 10 (report; restraint in transportation), Sec. 11
21 (use of force policy), Sec. 14 (report; children in correctional facilities), and

1 Sec. 15 (proposal to extend supports for children over 17 years of age) shall
2 take effect on passage.

3 (b) Sec. 9 (transportation of a child) and Sec. 12 (restraint and seclusion)
4 shall take effect on January 1, 2027.

5 (c) Sec. 2 (33 V.S.A. § 4902), Sec. 3 (33 V.S.A. § 4907), and Sec. 13 (33
6 V.S.A. § 5130(l)) shall take effect on July 1, 2028.

7 (d) All remaining sections shall take effect on July 1, 2026.