Senate proposal of amendment

H. 657

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

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * 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.~~

~~(B) The value of assets accumulated from the earnings of adults and children in participating families and from any federal or Vermont earned income tax credit shall be excluded for purposes of determining continuing eligibility for the Reach Up program.~~ The Department shall not impose an asset limit for the purpose of initial and continuing eligibility for the Reach Up program.

* * *

* * * Social Security Benefits for Youth in Foster Care * * *

Sec. 2. 33 V.S.A. § 4902 is amended to read:

§ 4902. DEFINITIONS

As used in this chapter:

(1) "Child" means a person under 18 years of age committed by the Family Division of the Superior Court to the Department for Children and Families.

(2) "Commissioner" means the Commissioner for Children and Families.

(3) "Department" means the Department for Children and Families.

(4) "Foster care" means care of a child, for a valuable consideration, in a child care institution or in a family other than that of the child's parent, guardian, or relative.

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

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

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

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

(9) "Social Security benefits" means a child's RSDI benefits, SSI benefits, or both, as applicable.

(10) "SSI benefits" means a child's Supplemental Security Income benefits under 42 U.S.C. chapter 7, subchapter XVI (Title XVI of the Social Security Act).

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

§ 4907. FOSTER CARE; SOCIAL SECURITY BENEFITS

(a) The Department shall not use any portion of a child's Social Security benefits to offset the State's costs for the child's maintenance except to maintain the child's eligibility for SSI benefits and to avoid a violation of federal asset or resource limits.

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

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

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

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

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

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

(5) provide an annual accounting of the use, application, or conservation of the child's Social Security benefits, including any payments made under subsection (b) of this section, to the child; the child's parent, legal guardian, or counsel; the Family Division of the Superior Court; and the Office of the Child, Youth, and Family Advocate.

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

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

§ 4908. UNACCOMPANIED YOUTH

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

(b) Definitions. As used in this section:

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

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

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

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

(D) a child or youth abandoned in hospitals;

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

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

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

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

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

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

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

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

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

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

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

(D) the Chief Juvenile Defender or designee; or

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

(d) Proof of certification.

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

(B) The Department shall post the certification form and information about this section on its website, including who is eligible for certification and

which individuals and entities can complete the certification form pursuant to this section.

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

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

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

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

(i) the youth; or

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

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

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

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

(G) apply for a student loan;

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

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

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

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

(e) Use of certification form. A health care professional shall accept the completed form as proof of the youth's status as a certified unaccompanied

youth. Entities that provide housing, services, or benefits authorized under this section may keep a copy of the form or card in the youth's medical file.

(f) Consent of a parent or guardian.

(1) A certification issued pursuant to subsection (c) of this section shall authorize an unaccompanied youth to obtain benefits and services listed in subsection (d) of this section. A person, provider, or health care professional shall not require the consent of a parent or guardian as a condition of providing a benefit or service authorized under subsection (d) of this section.

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

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

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

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

§ 1311. UNLAWFUL SHELTERING; AIDING A RUNAWAY CHILD

* * *

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

(1) knowingly shelters a runaway child;

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

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

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

(1) a shelter, or the directors, agents, or employees of a shelter, designated by the Commissioner for Children and Families pursuant to

33 V.S.A. § 5304, provided that the requirements of 33 V.S.A. § 5303(b) are satisfied; ~~and~~

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

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

* * *

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

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

§ 5017. FEES FOR COPIES

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

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

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

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

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

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

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

§ 115. NONDRIVER IDENTIFICATION CARDS

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

* * *

(3) The Commissioner shall require payment of a fee of $29.00 at the time application for an identification card is made, except that an initial nondriver identification card shall be issued at no charge to:

(A) an individual who surrenders the individual's license in connection with a suspension or revocation under subsection 636(b) of this title due to a physical or mental condition; or

(B) 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; and

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

* * *

* * * Unaccompanied Youth; License and Privilege Cards * * *

Sec. 7. 23 V.S.A. § 608 is amended to read:

§ 608. FEES

* * *

(c)(1) Individuals under 23 years of age who were 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 shall be provided with operator's licenses or operator privilege cards at no charge.

(2) No additional fee shall be due for a motorcycle endorsement 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.

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

(1) Original issuance: $20.00.

(2) Renewal every four years: $20.00.

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

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

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

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

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

§ 617. LEARNER'S PERMIT

* * *

(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 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.

(3) A motorcycle learner's permit may be renewed only twice upon payment of a $24.00 fee. An unaccompanied youth who has obtained a certification pursuant to 33 V.S.A. § 4908 and 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 shall not be charged a fee for the renewal of a motorcycle learner's permit.

* * *

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

(2) An unaccompanied youth who has obtained a certification pursuant to 33 V.S.A. § 4908 and an applicant 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 shall not be charged a fee for a learner's permit or a duplicate or renewal thereof.

* * *

* * * Transportation of Children * * *

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

§ 5123. TRANSPORTATION OF A CHILD

(a) As used in this section:

(1) "Least restrictive" has the same meaning as in section 5130 of this chapter.

(2) "Mechanical restraint" has the same meaning as in section 5130 of this chapter.

(3) "Physical restraint" has the same meaning as in section 5130 of this chapter.

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

(5) "Soft restraint" has the same meaning as in section 5130 of this chapter.

(6) "Waist shackles" means a mechanical restraint device, typically a chain, used around the waist and to which the child's wrists may be chained or cuffed.

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

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

(2) respects the privacy of the child; and

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

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

~~(c)~~(d) The Commissioner shall ~~ensure supervisory review of every decision to transport a child using mechanical restraints. When transportation with restraints for a particular child is approved, the reasons for the approval shall~~

~~be documented in writing~~ provide education materials complying with this section that outline the legal requirements for the secure transportation of children to individuals designated pursuant to subsection (c) of this section and shall obtain verification that all designated individuals have reviewed the education materials.

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

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

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

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

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

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

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

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

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

(k)(1) Annually, on or before January 15, the Department for Children and Families shall submit a written report to the House Committee on Human Services; the Senate Committee on Health and Welfare; and the Office of the Child, Youth, and Family Advocate addressing the number of secure transports of children during the previous year, including, for those transported with restraints:

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

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

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

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

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

(F) the purpose of the transport.

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

(l) Annually, on or before January 15, the Department of State's Attorneys and Sheriffs shall submit a written report to the House Committee on Human Services; the Senate Committee on Health and Welfare; the Department for Children and Families; and the Office of the Child, Youth, and Family Advocate addressing the number of court-ordered transports of minors conducted by the State transport deputies pursuant to 24 V.S.A. § 290(b) during the previous year, including:

(1) the date of birth of transported minors;

(2) whether restraint was used during transport;

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

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

(5) the purpose of the transport.

Sec. 10. REPORT; RESTRAINT IN TRANSPORTATION OF CHILDREN

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

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

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

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

(4) materials and requirements for designated contractors;

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

(6) other information the Department deems relevant.

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

Sec. 11. USE OF FORCE POLICY

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

* * * Restraint and Seclusion * * *

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

§ 5130. NON-TRANSPORT RELATED RESTRAINT AND SECLUSION

(a) As used in this section:

(1) "Chemical restraint" means any medication used to manage behavior or restrict freedom of movement that is not a standard treatment or dosage for the individual's condition.

(2) "Child" or "children" means a child or children in the Department's custody or receiving care or services in a program regulated or licensed by the Department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) If a child is placed in physical restraint or seclusion pursuant to subsection (e) of this section, the child shall be released immediately when there is no longer a serious and immediate risk of physical harm to the child or others.

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

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

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

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

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

(i) Notice of the use of restraint or seclusion on a child in the Department's custody shall be provided to the Department; the child's parent or guardian;

the child's guardian ad litem; and the child's attorney, if applicable, within 24 hours.

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

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

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

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

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

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

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

(n) Notwithstanding subsection (b) of this section, a child detained in a secure residential program may be subjected to a strip search if a pat search has led to probable cause to believe that the child has possession of contraband that poses a threat of serious bodily harm to the child or others and the child

has refused to voluntarily turn over the contraband. The child shall be given the opportunity before and at any time after the commencement of a search to voluntarily relinquish the suspected contraband, whereupon the search will be discontinued. Notice and reporting requirements shall be the same as for use of restraint or seclusion under this section. Body cavity searches shall not be permitted under any circumstances.

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

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

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

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

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

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

Sec. 14. REPORT; CHILDREN IN CORRECTIONAL FACILITIES

(a) On or before January 1, 2027, the Departments for Children and Families and of Corrections shall submit a written report to the House Committees on Human Services and on Corrections and Institutions and to the Senate Committees on Health and Welfare and on Institutions regarding the use of restraint and seclusion on minors detained in Department of Corrections' facilities and potential means for reducing physical and psychological trauma from restraint and seclusion. In preparing the required report, the Departments shall consult with a work group composed of the Office of the Child, Youth, and Family Advocate; the Office of the Defender

General, Juvenile Division; Voices for Vermont's Children; the Vermont Federation of Families for Children's Mental Health; Disability Rights Vermont; and a young adult with lived experience of being detained in a Department of Corrections facility, appointed by the Office of the Child, Youth, and Family Advocate.

(b) Members of the work group who are not participating in their professional capacity shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than five meetings. These payments shall be made from monies appropriated to the Office of the Child, Youth, and Family Advocate.

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

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

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

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

Sec. 16. PRENATAL ENGAGEMENT AND FAMILY SUPPORT WORKING GROUP

(a) Creation. There is created the Prenatal Engagement and Family Support Working Group to examine the Department for Children and Families' current practice of using a pregnancy calendar to monitor and track certain pregnant individuals in Vermont and provide recommendations on alternatives to a pregnancy calendar and ways to support pregnant individuals in need of services.

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

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

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

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

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

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

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

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

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

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

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

(11) the Director of the Office of the Defender General's Juvenile Division or designee;

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

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

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

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

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

(f) Meetings.

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

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

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

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

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

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

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

(a) This section and Sec. 10 (report; restraint in transportation), Sec. 11 (use of force policy), Sec. 14 (report; children in correctional facilities), and Sec. 15 (proposal to extend supports for children over 17 years of age) shall take effect on passage.

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

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

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