

Immigrant Minor Standby Guardianship Program

Vermont Legal Aid seeks to amend the minor guardianship statute to clarify the process for **undocumented parents who seek to create a family preparedness plan for their children in the event the parent faces immigration enforcement**. S. 95 will enhance the existing statute to describe the stand-by guardianship process.

The passage of this bill will enable undocumented parents to choose a trusted adult to care for their children specifically in the event of detention or deportation. This change meets the purpose of chapter 111 of Title 14, by serving the best interests of children through a plan for temporary responsibility for the children and family reunification.

Background: In response to requests for critical legal support for undocumented parents, Vermont Legal Aid created a project that connects clients with free volunteer legal representation. Vermont Legal Aid staff members and volunteer attorneys meet with parents and proposed guardians to fill out Powers of Attorney and minor guardianship documents. This initiative helps undocumented parents make a plan about who cares for their children if the parent is placed in immigration proceedings. This process helps prevent children from being placed in CHINS proceedings and allows guardians to reunite children with their parents if they are deported to their nation of origin.

How the project works:

- The parents create a family preparedness plan which includes identifying a trusted adult to care for their children in the event of detention or deportation (it is the parent's responsibility to identify someone). The trusted adult must have a lawful immigration status.
- The parents and the trusted adult come to a free legal clinic. At the clinic we have paid interpreters and trained volunteer attorneys.
- At the clinic the volunteer attorney, the parent, and potential guardian fill out Power of Attorney forms and Minor Guardianship forms.
 - The Minor Guardianship forms will be filed by the volunteer attorney with the Probate Court if the parent is picked up by immigration authorities.
- This project does not prevent the deportation of undocumented children.
 - However, if the parents are picked up, and the undocumented child is not, it allows the family plan to be put in place.
 - This project helps prevent the undocumented child from going into DCF custody.

This project does not give advice on immigration questions.

Currently, the minor guardianship statute does not specifically describe a process for stand-by guardianships in the event of an emergency. This statute would codify this process.

The current need:

Hundreds of Vermont families are living with the threat of increased immigration enforcement daily. These individuals are our neighbors and enrich our communities. Over 200 families living in Vermont have undocumented parents with U.S. citizen children. There are hundreds more families in Vermont with both undocumented parents and undocumented children. Dozens of families contact our intake line with requests for assistance monthly.

This project helps undocumented parents with U.S. citizen children, and those with undocumented children.

- U.S. citizen children need a family plan, because the U.S. government cannot deport U.S. citizens.
- Undocumented children need a family plan too. When an undocumented parent is detained, the undocumented child is not always detained. It depends on if the child is with the parent or not (the parent could be picked up in a workplace raid or at a roadside stop).

This statutory change is a simple solution that empowers parents to appoint a trusted adult to make choices about who cares for their children through while also keeping more children out of DCF custody. DCF has no way to reunify children with parents outside of the United States, so this process prevents children from being placed in CHINS proceedings until age 18.

Avoiding DCF Custody

Without a Power of Attorney and Minor Guardianship plan, these children will be placed in DCF custody. Should the parent be deported, DCF does not have a way to reunite the child with the parent. The **Department of Children and Families** supports this project and agrees that **“the well-being of children of immigrant parents who have been detained by U.S. Immigration and Customs Enforcement is best promoted through efforts to establish safe and appropriate legal guardianship arrangements with people already known to the children whenever possible.”** DCF entered into a written agreement with Vermont Legal Aid recognizing that this kind of placement with trusted adults is better than DCF custody.

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