

1 H.512

2 Introduced by Committee on Judiciary

3 Date:

4 Subject: Judiciary; minor and technical amendments

5 Statement of purpose of bill as introduced: This bill proposes a number of
6 miscellaneous amendments to statutes related to the courts and the Judiciary.

7 An act relating to miscellaneous court and Judiciary related amendments

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

9 Sec. 1. 12 V.S.A. § 5 is amended to read:

10 § 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

11 (a) The Court shall not permit public access via the Internet to criminal, ~~or~~
12 family, or probate case records. The Court may permit criminal justice
13 agencies, as defined in 20 V.S.A. § 2056a, Internet access to criminal case
14 records for criminal justice purposes, as defined in section 2056a.

15 * * *

16 Sec. 2. 12 V.S.A. § 5169 is amended to read:

17 § 5169. JUDGMENT FOR PLAINTIFF; COMMISSIONERS; WAIVER

18 (a) When the issue is determined in favor of the plaintiff, or if the person
19 interested defaults, the court shall render judgment that partition be made and
20 appoint three disinterested residents of the county as commissioners. The

1 commissioners shall make partition of the estate and set off each share of the
2 several persons interested, according to their respective titles, and shall award
3 to the plaintiff reasonable costs against the adverse party.

4 (b) Notwithstanding subsection (a) of this section, the parties may, with the
5 approval of the court, waive the use of commissioners and have all matters
6 decided by the court at a bench trial.

7 Sec. 3. 14 V.S.A. § 107 is amended to read:

8 § 107. ALLOWANCE OF WILL; CUSTODY OF PROPERTY

9 * * *

10 (b) Objections to allowance of the will must be filed in writing not less
11 than ~~three business~~ seven days prior to the hearing. In the event that no timely
12 objections are filed, the will may be allowed without hearing if it meets criteria
13 set out in section 108 of this title.

14 * * *

15 Sec. 4. 15 V.S.A. § 293(b) is amended to read:

16 (b) Any legal presumption of parentage as set forth in ~~section 308 of this~~
17 ~~title~~ 15C V.S.A. § 401 shall be sufficient basis for initiating a support action
18 under this section without any further proceedings to establish parentage. If a
19 party raises an objection to the presumption, the court may determine the issue
20 of parentage as part of the support action. If no written objection to the
21 presumption is raised, an order under this section shall constitute a judgment
22 on the issue of parentage.

1 Sec. 5. 15A V.S.A. § 1-110 is amended to read:

2 § 1-110. NOTICE OF INTENT TO RETAIN PARENTAL RIGHTS

3 * * *

4 (b) Each probate division of the superior court shall ~~forward~~ maintain a
5 notice filed with that court under subsection (a) of this section, ~~to the probate~~
6 ~~division of the superior court in the district of Chittenden,~~ within an electronic
7 database ~~which that~~ shall serve as a central repository for all such notices.

8 Sec. 6. 33 V.S.A. § 4921 is amended to read:

9 § 4921. DEPARTMENT'S RECORDS OF ABUSE AND NEGLECT

10 * * *

11 (d) Upon request, Department records created under this subchapter shall
12 be disclosed to:

13 (1) the Court, parties to the juvenile proceeding, and the child's
14 ~~guardian ad litem~~ court-appointed special advocate if there is a pending
15 juvenile proceeding or if the child is in the custody of the Commissioner;

16 * * *

17 Sec. 7. 33 V.S.A. § 5110 is amended to read:

18 § 5110. CONDUCT OF HEARINGS

19 * * *

20 (c) There shall be no publicity given by any person to any proceedings
21 under the authority of the juvenile judicial proceedings chapters except with

1 the consent of the child, the child's ~~guardian ad litem~~ court-appointed special
2 advocate, and the child's parent, guardian, or custodian. A person who
3 violates this provision may be subject to contempt proceedings pursuant to
4 Rule 16 of the Vermont Rules for Family Proceedings.

5 Sec. 8. 33 V.S.A. § 5112 is amended to read:

6 § 5112. ATTORNEY AND ~~GUARDIAN AD LITEM~~ COURT-APPOINTED
7 SPECIAL ADVOCATE FOR CHILD

8 (a) The court shall appoint an attorney for a child who is a party to a
9 proceeding brought under the juvenile judicial proceedings chapters.

10 (b) The court shall appoint a ~~guardian ad litem~~ court-appointed special
11 advocate for a child under 18 years of age who is a party to a proceeding
12 brought under the juvenile judicial proceedings chapters. In a delinquency
13 proceeding, a parent, guardian, or custodian of the child may serve as a
14 ~~guardian ad litem~~ court appointed special advocate for the child, providing his
15 or her interests do not conflict with the interests of the child. The ~~guardian ad~~
16 ~~litem~~ court-appointed special advocate appointed under this section shall not
17 be a party to that proceeding or an employee or representative of such party.

18 Sec. 9. 33 V.S.A. § 5117 is amended to read:

19 § 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

20 * * *

21 (b)(1) Notwithstanding the foregoing, inspection of such records and files
22 by the following is not prohibited:

23 * * *

1 (D) court personnel, the State's Attorney or other prosecutor
2 authorized to prosecute criminal or juvenile cases under State law, the child's
3 ~~guardian ad litem~~ court-appointed special advocate, the attorneys for the
4 parties, probation officers, and law enforcement officers who are actively
5 participating in criminal or juvenile proceedings involving the child;

6 (E) the child who is the subject of the proceeding, the child's parents,
7 guardian, custodian, and ~~guardian ad litem~~ court-appointed special advocate
8 may inspect such records and files upon approval of the Family Court judge;

9 * * *

10 (c)(1) Upon motion of a party in a divorce or parentage proceeding related
11 to parental rights and responsibilities for a child or parent-child contact, the
12 Court may order that Court records in a juvenile proceeding involving the
13 same child or children be released to the parties in the divorce proceeding.

14 (2) Upon the court's own motion in a probate proceeding involving
15 adoption, guardianship, or termination of parental rights, the court may order
16 that court records in a juvenile proceeding involving the same child or children
17 be released to the Probate Division. When the court orders release of records
18 pursuant to this subdivision, the court shall notify the parties that it intends to
19 consider confidential juvenile case information and shall provide the parties
20 with access to the information in a manner that preserves its confidentiality.

1 (3) Files inspected under this subsection shall be marked: UNLAWFUL
2 DISSEMINATION OF THIS INFORMATION IS A CRIME PUNISHABLE
3 BY A FINE OF UP TO \$2,000.00. The public shall not have access to records
4 from a juvenile proceeding that are filed with the Court or admitted into
5 evidence in the divorce or parentage proceeding or in the probate proceeding.

6 * * *

7 Sec. 10. 33 V.S.A. § 5119 is amended to read:

8 § 5119. SEALING OF RECORDS

9 * * *

10 (h)(1) In matters relating to a person who was charged with a criminal
11 offense or was the subject of a delinquency petition on or after July 1, 2006,
12 and prior to the person attaining the age of majority, the files and records of
13 the Court applicable to the proceeding shall be sealed immediately if the case
14 is dismissed.

15 * * *

16 Sec. 11. 33 V.S.A. § 5124 is amended to read:

17 § 5124. POSTADOPTION CONTACT AGREEMENTS

18 * * *

19 (b) The court shall approve the postadoption contact agreement if:

20 (1)(A) it determines that the child's best interests will be served by
21 postadoption communication or contact with either or both parents; and

22 (B) in making a best interests determination, it may consider:

1 * * *

2 (ix) the recommendation of any ~~guardian ad litem~~ court-appointed
3 special advocate;

4 * * *

5 (2) it has reviewed and made each of the following a part of the court
6 record:

7 * * *

8 (D) an agreement to the postadoption contact or communication in
9 writing from the Department, the ~~guardian ad litem~~ court-appointed special
10 advocate, and the attorney for the child.

11 * * *

12 Sec. 12. 33 V.S.A. § 5225 is amended to read:

13 § 5225. PRELIMINARY HEARING; RISK ASSESSMENT

14 * * *

15 (d) ~~Guardian ad litem~~ Court-appointed special advocate. At the preliminary
16 hearing, the court shall appoint a ~~guardian ad litem~~ special advocate for the
17 child. The ~~guardian ad litem~~ court-appointed special advocate may be the
18 child's parent, guardian, or custodian. On its own motion or motion by the
19 child's attorney, the court may appoint a ~~guardian ad litem~~ special advocate
20 other than a parent, guardian, or custodian.

21 (e) Admission; denial. At the preliminary hearing, a denial shall be entered
22 to the allegations of the petition, unless the juvenile, after adequate

1 consultation with the ~~guardian ad litem~~ court-appointed special advocate and
2 counsel, enters an admission. If the juvenile enters an admission, the
3 disposition case plan required by section 5230 of this title may be waived and
4 the court may proceed directly to disposition, provided that the juvenile, the
5 custodial parent, the State's Attorney, the ~~guardian ad litem~~ court-appointed
6 special advocate, and the Department agree.

7 * * *

8 Sec. 13. 33 V.S.A. § 5254 is amended to read:

9 § 5254. NOTICE OF EMERGENCY CARE ORDER AND TEMPORARY
10 CARE HEARING

11 * * *

12 (c) Notice to other parties. The Court shall notify the following persons of
13 the date and time of the temporary care hearing:

14 * * *

15 (4) A ~~guardian ad litem~~ court-appointed special advocate for the child.

16 * * *

17 Sec. 14. 33 V.S.A. § 5257 is amended to read:

18 § 5257. FILING OF INITIAL CASE PLAN

19 (a) If a temporary care order is issued granting custody to the
20 Commissioner, the Department shall prepare and file with the Court an initial
21 case plan for the child and the family within 60 days of the child's removal
22 from the home. The Department shall provide a copy of the case plan to the

1 parties, their attorneys, and the ~~guardian ad litem~~ court-appointed special
2 advocate.

3 * * *

4 Sec. 15. 33 V.S.A. § 5282 is amended to read:

5 § 5282. REPORT FROM THE DEPARTMENT

6 * * *

7 (c) A report filed pursuant to this section is privileged and shall not be
8 disclosed to any person other than:

9 * * *

10 (4) the youth, the youth's attorney, and the youth's ~~guardian ad litem~~
11 court-appointed special advocate;

12 * * *

13 Sec. 16. 33 V.S.A. § 5306 is amended to read:

14 § 5306. NOTICE OF EMERGENCY CARE ORDER AND TEMPORARY
15 CARE HEARING

16 * * *

17 (d) Notice to other parties. The Court shall notify the following persons of
18 the date and time of the temporary care hearing:

19 * * *

20 (4) A ~~guardian ad litem~~ court-appointed special advocate for the child.

21 * * *

22 Sec. 17. 33V.S.A. § 5307 is amended to read:

1 § 5307. TEMPORARY CARE HEARING
2 * * *

3 (c) The following persons shall be present at the temporary care hearing:

4 * * *

5 (3) The child's ~~guardian ad litem~~ court-appointed special advocate.

6 * * *

7 Sec. 18. 33 V.S.A. § 5314 is amended to read:

8 § 5314. FILING OF INITIAL CASE PLAN

9 (a) If a temporary care order is issued transferring legal custody of the
10 child to the Commissioner, the Department shall prepare and file with the
11 Court an initial case plan for the child and the family within 60 days of
12 removal of a child from home. The Department shall provide a copy of the
13 case plan to the parties, their attorneys, and the ~~guardian ad litem~~ court-
14 appointed special advocate.

15 * * *

Sec. 18a. 15 V.S.A. § 752 is amended to read:

§ 752. MAINTENANCE

** * **

*(b) The maintenance order shall be in such amounts and for such periods
of time as the court deems just, after considering all relevant factors,
including:*

(1) *the financial resources of the party seeking maintenance, the property apportioned to the party, the party's ability to meet his or her needs independently, and the extent to which a provision for support of a child living with the party contains a sum for that party as custodian;*

(2) *the time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;*

(3) *the standard of living established during the civil marriage;*

(4) *the duration of the civil marriage;*

(5) *the age and the physical and emotional condition of each spouse;*

(6) *the ability of the spouse from whom maintenance is sought to meet his or her reasonable needs while meeting those of the spouse seeking maintenance;*

(7) *inflation with relation to the cost of living; and*

(8) *the following guidelines:*

<i>Length of marriage</i>	<i>% of the difference between parties' gross incomes</i>	<i>Duration of alimony award as % length of marriage</i>
<i>0 to <5 <u>≥</u>5 years</i>	<i>0-20 <u>16</u>%</i>	<i>No alimony or short-term alimony up to one year</i>

5 to < \geq10 years	15-35 <u>12-20%</u>	20-50% (1-5 yrs)
10 to < \geq 15 years	20-40 <u>16-33%</u>	40-60% (3-9 yrs)
15 to < \geq 20 years	24-45 <u>20-37%</u>	40-70% (6-14 yrs)
20+ years	30-50 <u>24-41%</u>	45% (9-20+ yrs)

(8) the following guidelines:

<i>Length of marriage</i>	<i>% of the difference between parties' gross incomes</i>	<i>Duration of alimony award as % length of marriage</i>
0 to <5 years	0-20 <u>16%</u>	No alimony or short-term alimony up to one year
5 to <10 years	15-35 <u>12-29%</u>	20-50% (1-5 yrs)
10 to <15 years	20-40 <u>16-33%</u>	40-60% (3-9 yrs)
15 to <20 years	24-45 <u>20-37%</u>	40-70% (6-14 yrs)
20+ years	30-50 <u>24-41%</u>	45% (9-20+ yrs)

1 Sec. 19. EFFECTIVE DATE

2 This act shall take effect on July 1, 2019.