

1 H.600

2 Introduced by Representatives Casey of Montpelier and Krasnow of South

3 Burlington

4 Referred to Committee on

5 Date:

6 Subject: Domestic relations; parental rights and responsibilities

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

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

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

13 Sec. 1. FINDINGS AND PURPOSE

14 The General Assembly finds that:

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

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

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

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

6 (4) It is important to protect the best interests of children parented by
7 individuals with a disability and children who could be parented by individuals
8 with a disability through the establishment of procedural safeguards that
9 require adherence to the Americans with Disabilities Act and respect for the
10 due process and equal protection rights of parents with a disability or
11 prospective parents with a disability in the context of child welfare, foster care,
12 family law, and adoption.

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

14 § 665b. NONDISCRIMINATION; PARENT WITH A DISABILITY

15 (a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 § 2628. GUARDIANSHIP ORDER

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

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

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

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

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

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

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

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

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

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

4 Sec. 5. 33 V.S.A. § 4907 is added to read:

5 § 4907. NONDISCRIMINATION

6 An individual's disability shall not serve as a basis for denial of foster care
7 when the appointment is determined to be otherwise in the best interests of the
8 child.

9 Sec. 6. EFFECTIVE DATE

10 This act shall take effect on July 1, 2024.