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**ACT OF THE GENERAL ASSEMBLY**

**2005-2006**

NO. 21. AN ACT RELATING TO JUDICIAL DETERMINATIONS IN JUVENILE PROCEEDINGS.

(H.515)

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

Sec. 1. 33 V.S.A. § 5513 is amended to read:

§ 5513. CRITERIA FOR DETAINING CHILDREN; ORDER OF  
DETENTION

\* \* \*

(d) In any order detaining a child, the court shall make a written finding that a child's continued residence in the home is contrary to his or her welfare. This determination may be made on an ex parte basis, provided that it is reasonably supported by information presented to the court at the time of application.

Sec. 2. 33 V.S.A. § 5515 is amended to read:

§ 5515. RELEASE FROM TEMPORARY CARE; DETENTION HEARING

\* \* \*

(f) At the conclusion of the detention hearing, the court shall make written findings on whether reasonable efforts were made to prevent unnecessary removal of the child from the home. "Reasonable efforts" means the exercise of due diligence by the department for children and families to use appropriate and available services to prevent unnecessary removal of the child from the home. When making the reasonable efforts determination, the court may find that no services were appropriate or reasonable considering the circumstances. If the court makes written findings that aggravated circumstances are present, the court may make, but shall not be required to make, written findings as to whether reasonable efforts were made to prevent removal of the child from the home. Aggravated circumstances may include:

(1) a court of competent jurisdiction has determined that the parent has subjected a child to abandonment, torture, chronic abuse, or sexual abuse;

(2) a court of competent jurisdiction has determined that the parent has been convicted of murder or manslaughter of a child;

(3) a court of competent jurisdiction has determined that the parent has been convicted of a felony crime that results in serious bodily injury to the child or another child of the parent; or

(4) the parental rights of the parent with respect to a sibling have been terminated.

(g) If, at the conclusion of the detention hearing, the court is not prepared to make findings on whether reasonable efforts were made to prevent the removal of the child from the home, that determination shall be made at the next scheduled hearing in the case but, in any event, no later than 60 days after the issuance of the initial order removing a child from the home.

(h) Any order detaining a child shall be based on a factual finding that it is contrary to the child's welfare to remain in the home.

Sec. 3. 33 V.S.A. § 5531 is amended to read:

§ 5531. PERMANENCY HEARING

\* \* \*

(f) In cases involving a child who has been removed from the home, upon the filing of a petition for a finding of reasonable efforts and a report or affidavit by the department for children and families with notice to all parties, the court shall hold a hearing within 30 days of the filing of the petition to determine, by a preponderance of the evidence, whether the department for children and families has made reasonable efforts to finalize the permanency plan for the child that is in effect at the time of the hearing. Reasonable efforts to finalize a permanency plan may consist of: (1) reasonable efforts to reunify the child and family following the child's removal from the home, where the permanency plan for the child is reunification; or (2) reasonable efforts to arrange and finalize an alternate permanent living arrangement for the child, in cases where the permanency plan for the child does not include reunification. The hearing may be consolidated with or separate from a permanency hearing.

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