

House Calendar

Wednesday, January 10, 2024

8th DAY OF THE ADJOURNED SESSION

House Convenes at 3:00 P.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Favorable with Amendment

H. 27

An act relating to coercive controlling behavior and abuse prevention orders

Rep. Arsenault of Williston, for the Committee on Judiciary, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 15 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

~~The following words as used in this chapter shall have the following meanings~~ As used in this chapter:

(1) “Abuse” means:

(A) the occurrence of one or more of the following acts between family or household members:

~~(A)(i) Attempting~~ attempting to cause or causing physical harm;

~~(B)(ii) Placing~~ placing another in fear of imminent serious physical harm;

~~(C)(iii) Abuse~~ abuse to children as defined in 33 V.S.A. chapter 49, subchapter 2;

~~(D)(iv) Stalking~~ stalking as defined in 12 V.S.A. § 5131(6); or

~~(E)(v) Sexual~~ sexual assault as defined in 12 V.S.A. § 5131(5); or

(B) coercive controlling behavior between family or household members.

(2)(A) “Coercive controlling behavior” means a pattern of conduct that recklessly causes or has the effect of causing a reasonable person:

(i) to fear for the plaintiff’s safety or the safety of a family member; or

(ii) to suffer substantial emotional distress.

(B) “Coercive controlling behavior” does not include:

(i) conduct between a child under 18 years of age and the child’s parent or guardian involving the exercise of a parent’s constitutional right to the care, custody, and control of the parent’s child;

(ii) conduct taken by a plaintiff to protect themselves, the plaintiff’s family or household members, or an animal that is connected to the family from the risk of present or future harm; or

(iii) constitutionally protected activity.

(3) “Household members” means persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or who have dated. “Dating” means a social relationship of a romantic nature. Factors that the court may consider when determining whether a dating relationship exists or existed include:

(A) the nature of the relationship;

(B) the length of time the relationship has existed;

(C) the frequency of interaction between the parties; and

(D) the length of time since the relationship was terminated, if applicable.

~~(3)~~(4) A “foreign abuse prevention order” means any protection order issued by the court of any other state that contains provisions similar to relief provisions authorized under this chapter, the Vermont Rules for Family Proceedings, 33 V.S.A. chapter 69, or 12 V.S.A. chapter 178.

~~(4)~~(5) “Other state” and “issuing state” shall mean any state other than Vermont and any federally recognized Indian tribe, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia.

~~(5)~~(6) A “protection order” means any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil and criminal courts, other than support or child custody orders, whether obtained by filing an independent action or as a pendente lite order in another proceeding ~~so long as~~, provided that any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

~~(6)~~(7) [Repealed.]

Sec. 2. 15 V.S.A. § 1101a is added to read:

§ 1101a. LEGISLATIVE INTENT; COERCIVE CONTROLLING

BEHAVIOR

(a) It is the intent of the General Assembly to recognize that coercive controlling behavior is a form of abuse.

(b) The inclusion of coercive controlling behavior within the definition of “abuse” in section 1101 of this title and the language included in that section is derived from the 2022 Model Code on Domestic and Family Violence issued by the National Council of Juvenile and Family Court Judges.

(c) As identified in the model code, coercive controlling behavior may include a pattern of any of the following:

(1) monitoring or surveilling the plaintiff’s daily personal activities;

(2) manipulating the plaintiff’s mental health status to the detriment of the plaintiff;

(3) isolating the plaintiff from family or friends or the opportunity to participate in a faith community, employment, education, or other support networks;

(4) repeatedly humiliating, threatening, or intimidating the plaintiff;

(5) threatening to harm or abduct the plaintiff or the plaintiff’s children;

(6) committing or threatening to commit harm to an animal that is connected to the family;

(7) threatening deportation or to contact local or federal authorities based on actual or perceived immigration status of the plaintiff or the plaintiff’s family or threatening to jeopardize the immigration application status of the plaintiff or the plaintiff’s family;

(8) depriving the plaintiff of the means needed for independence, resistance, or escape, such as denying or impeding the plaintiff’s access to a vehicle, banking services, or the plaintiff’s own identification documents;

(9) controlling, regulating, or monitoring the plaintiff’s finances or economic resources; or

(10) controlling the reproductive autonomy of the plaintiff through force, threat of force, or intimidation, including placing unreasonable pressure on the plaintiff to become pregnant, deliberately interfering with the plaintiff’s contraceptive use or access to reproductive health information, or using coercive tactics to control or attempt to control pregnancy outcomes.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee Vote: 8-3-0)

H. 72

An act relating to a harm-reduction criminal justice response to drug use

Rep. Small of Winooski, for the Committee on Human Services, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4254 is amended to read:

§ 4254. IMMUNITY FROM LIABILITY; OVERDOSE PREVENTION

* * *

(j)(1) The following persons shall not be cited, arrested, or prosecuted for unlawful possession of a regulated drug in violation of this chapter or subject to the property forfeiture provisions of this chapter for participation in or with an overdose prevention center that has been approved pursuant to subsection (m) of this section:

(A) a person using the services of an overdose prevention center;

(B) a staff member or administrator of an overdose prevention center, including a health care professional, manager, employee, or volunteer; or

(C) a property owner who owns real property at which an overdose prevention center is located and operates.

(2) The immunity provisions of this subsection apply only to the use and derivative use of evidence gained as a proximate result of participation in or with an overdose prevention center.

(k) An overdose prevention center:

(1) provides a space supervised by health care professionals or other trained staff where persons who use drugs can consume preobtained drugs and medication for substance use disorder;

(2) provides harm reduction supplies, including sterile injection supplies; collects used hypodermic needles and syringes; and provides secure hypodermic needle and syringe disposal services;

(3) answers questions on safer consumption practices;

(4) administers first aid, if needed, and monitors and treats potential overdoses;

(5) provides referrals to addiction treatment, medical services, and social services;

(6) educates participants on the risks of contracting HIV and viral hepatitis, wound care, and safe sex education;

(7) provides overdose prevention education and distributes overdose reversal medications, including naloxone;

(8) educates participants regarding proper disposal of hypodermic needles and syringes;

(9) provides reasonable security of the program site;

(10) establishes operating procedures for the program as well as eligibility criteria for program participants; and

(11) trains staff members to deliver services offered by the program.

(l) The Department of Health, in consultation with stakeholders and health departments of other states that have overdose prevention centers, shall develop operating guidelines for overdose prevention centers.

(m)(1) An entity may apply to the Department of Health for approval to operate an overdose prevention center. Entities may apply to establish and operate more than one program, and services may be provided at a fixed location or a mobile unit, or both. A safe syringe program may apply to operate an overdose prevention center.

(2) If an applicant complies with all applicable laws, rules, and operating guidelines adopted pursuant to subsection (l) of this section, the application shall be approved within 45 days after receipt. If the application is denied, the applicant shall be provided with a written explanation of the basis for the denial and the steps necessary to remedy the application. The applicant may resubmit the application and the Department shall have 45 days to respond. Approval for a program shall be for a period of two years and may be renewed.

(n) An entity operating an overdose prevention center shall make publicly available the following information annually on or before January 15:

(1) the number of program participants;

(2) deidentified demographic information of program participants;

(3) the number of overdoses and the number of overdoses reversed on-site;

(4) the number of times emergency medical services were contacted and responded for assistance;

(5) the number of times law enforcement were contacted and responded for assistance; and

(6) the number of participants directly and formally referred to other services and the type of services.

Sec. 2. 18 V.S.A. § 4475(2) is amended to read:

(2) “Organized community-based needle exchange program” means a program approved by the Commissioner of Health under section 4478 of this title, the purpose of which is to provide access to clean needles and syringes; ~~and which is operated by an AIDS service organization, a substance abuse treatment provider, or a licensed health care provider or facility.~~ Such programs shall be operated in a manner that is consistent with the provisions of 10 V.S.A. chapter 159 (waste management; hazardous waste), and any other applicable laws.

Sec. 3. 18 V.S.A. § 4478 is amended to read:

§ 4478. NEEDLE EXCHANGE PROGRAMS

The Department of Health, in ~~collaboration~~ consultation with the ~~statewide harm reduction coalition~~ community stakeholders, shall develop operating guidelines for needle exchange programs. If a program complies with such operating guidelines and with existing laws and regulations, it shall be approved by the Commissioner of Health. ~~Such operating guidelines shall be established no later than September 30, 1999. A needle exchange program may apply to be an overdose prevention center pursuant to section 4254 of this title.~~

Sec. 4. 33 V.S.A. § 2004 is amended to read:

§ 2004. MANUFACTURER FEE

(a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs that are paid for by the Department of Vermont Health Access for individuals participating in Medicaid, Dr. Dynasaur, or VPharm shall pay a fee to the Agency of Human Services. The fee shall be ~~1.75~~ 2.25 percent of the previous calendar year’s prescription drug spending by the Department and shall be assessed based on manufacturer labeler codes as used in the Medicaid rebate program.

(b) Fees collected under this section shall fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633; analysis of prescription drug data needed by the Office of the

Attorney General for enforcement activities; the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A; the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2; statewide unused prescription drug disposal initiatives; prevention of prescription drug misuse, abuse, and diversion; the Substance Misuse Prevention Oversight and Advisory Council established in 18 V.S.A. § 4803; treatment of substance use disorder; exploration of nonpharmacological approaches to pain management; a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; the purchase and distribution of fentanyl testing strips; the purchase and distribution of naloxone to emergency medical services personnel; ~~and~~ any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents; and grants to overdose prevention centers to address the harms of the opioid epidemic. The fees shall be collected in the Evidence-Based Education and Advertising Fund established in section 2004a of this title.

(c) The Secretary of Human Services or designee shall make rules for the implementation of this section.

* * *

Sec. 5. 33 V.S.A. § 2004a is amended to read:

§ 2004a. EVIDENCE-BASED EDUCATION AND ADVERTISING FUND

(a) The Evidence-Based Education and Advertising Fund is established in the State Treasury as a special fund to be a source of financing for activities relating to fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633; for analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities; for the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A; for the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2; for statewide unused prescription drug disposal initiatives; for the prevention of prescription drug misuse, abuse, and diversion; for the Substance Misuse Prevention Oversight and Advisory Council established in 18 V.S.A. § 4803; for treatment of substance use disorder; for exploration of nonpharmacological approaches to pain management; for a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; for the purchase and distribution of fentanyl testing strips; for the purchase and distribution of naloxone to emergency medical services personnel; ~~and~~ for the support of any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents; and grants to overdose prevention centers

to address the harms of the opioid epidemic. Monies deposited into the Fund shall be used for the purposes described in this section.

* * *

Sec. 6. PILOT PROGRAM; OVERDOSE PREVENTION CENTERS

In fiscal year 2025, \$1,000,000.00 is authorized from the Evidence-Based Education and Advertising Fund pursuant to 33 V.S.A. § 2004a to the Department of Health for the purpose of awarding one or more grants for fixed-site or mobile overdose prevention centers to applicants that demonstrate the ability to run such a program in accordance with the requirements of Sec. 1 of this act. The Department shall award grants based on an applicant's ability to establish such sites in accordance with guidelines established by the Department for overdose prevention centers.

Sec. 7. STUDY; OVERDOSE PREVENTION CENTERS

(a) On or before December 1, 2024, the Department of Health shall contract with a researcher or independent consulting entity with expertise in the field of rural addiction or overdose prevention centers, or both, to study the impact of overdose prevention center pilot programs authorized in Sec. 6 of this act in their respective communities. The study shall evaluate the current impacts of the overdose crisis in Vermont, as well as any changes up to four years following the implementation of the overdose prevention center pilot programs. The work of the researcher or independent consulting entity shall be governed by the following goals:

(1) the current state of the overdose crisis and deaths across the State of Vermont and the impact of overdose prevention center pilot programs on the overdose crisis and deaths across Vermont, with a focus on the communities where pilot programs are established;

(2) the current crime rates in communities where the overdose prevention center pilot programs will be established and the impact of overdose prevention center pilot programs on crime rates in communities where the overdose prevention center pilot programs are established;

(3) the current rates of syringe litter in communities where overdose prevention center pilot programs will be established and the impact of overdose prevention center pilot programs on the rates of syringe litter where overdose prevention center pilot programs are established;

(4) the current number of emergency medical services response calls related to overdoses across Vermont, with a focus on the communities where pilot programs will be established, and the impact of overdose prevention

center pilot programs on the number of emergency response calls related to overdoses;

(5) the current rate of syringe service program participant uptake of treatment and recovery services and the impact of overdose prevention center pilot programs on the rates of participant uptake of treatment and recovery services; and

(6) the impact of overdose prevention center pilot programs on the number of emergency response calls related to overdoses across Vermont, with a focus on the communities where pilot programs are established.

(b) The Department of Health shall collaborate with the researcher or independent consulting agency to provide the General Assembly with interim annual reports on or before January 15 of each year with a final report containing the results of the study and any recommendations on or before January 15, 2029.

Sec. 8. APPROPRIATION; STUDY; OVERDOSE PREVENTION
CENTERS

In fiscal year 2025, \$300,000.00 is appropriated to the Department of Health from the General Fund for the purpose of funding the study of the impact of overdose prevention center pilot programs authorized in Sec. 7 of this act.

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee Vote: 9-2-0)

Rep. Kornheiser of Brattleboro, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Human Services.

(Committee Vote: 10-2-0)

Rep. Bluemle of Burlington, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Human Services.

(Committee Vote: 8-4-0)

For Informational Purposes

**Public Hearing on the Governor's Initial and Supplemental
Recommended FY 2024 Budget Adjustment**

The Vermont House Committee on Appropriations will hold a **public hearing on Wednesday, January 10, 2024 at 1:00 p.m.** via in-person or videoconference.

The Committee will take testimony on the Governor's recommended budget adjustments at the above date and time. **Anyone interested in testifying should sign up in advance of the hearing through the following online form:** <https://legislature.vermont.gov/links/public-hearing-on-the-2024-budget-adjustment-act>

no later than 10:00 a.m. on January 9, 2024. Instructions on how to access and participate in the hearing will be sent once you have signed up for the hearing.

The hearing will be available to watch live on YouTube at the following link:

<https://legislature.vermont.gov/committee/streaming/house-appropriations>

For more information about the format of these events, contact Erin Viera at eviera@leg.state.vt.us. Written testimony is encouraged and can be submitted electronically through email at testimony@leg.state.vt.us or mailed to the House Committee on Appropriations, c/o Erin Viera, 115 State Street, Montpelier, VT 05633.