

1 Introduced by House Committee on Corrections and Institutions
2 Referred to Committee on
3 Date:
4 Subject: Corrections; medical care; earned time
5 Statement of purpose of bill as introduced: This bill proposes to make
6 amendment to various corrections laws. Specifically, this bill proposes to
7 mandate the Department of Corrections or its third-party medical provider to
8 provide medically-necessary medications and prescriptions to inmates, in
9 addition to coordinating support services, upon release from a correctional
10 facility; expands the Department’s earned time program to include credit for
11 pursuing educational degrees and certifications, as well as vocational
12 programs; requires the Department to facilitate to provision of identification
13 cards to inmates upon release from a correctional facility; creates a study
14 committee to enhance family visitation at correctional facilities for people who
15 identify as father-figures, male guardians, or male parents with visitation
16 rights; and mandates a Department report to transition away from the use of
17 privately-operated, for-profit, or out-of-state correctional facilities to house
18 Vermont inmates and ultimately prohibits the use of such facilities in 2034.

19 An act relating to miscellaneous amendments to the corrections laws

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

2 Sec. 1. 28 V.S.A. § 801 is amended to read:

3 § 801. MEDICAL CARE OF INMATES

4 (a) Provision of medical care. The Department shall provide health care for
5 inmates in accordance with the prevailing medical standards. When the
6 provision of such care requires that the inmate be taken outside the boundaries
7 of the correctional facility wherein the inmate is confined, the Department
8 shall provide reasonable safeguards, when deemed necessary, for the custody
9 of the inmate while he or she is confined at a medical facility.

10 (b) Screenings and assessments.

11 (1) Upon admission to a correctional facility for a minimum of 14
12 consecutive days, each inmate shall be given a physical assessment unless
13 extenuating circumstances exist.

14 (2) Within 24 hours after admission to a correctional facility, each
15 inmate shall be screened for substance use disorders as part of the initial and
16 ongoing substance use screening and assessment process. This process
17 includes screening and assessment for opioid use disorders.

18 (c) Emergency care. When there is reason to believe an inmate is in need
19 of medical care, the officers and employees shall render emergency first aid
20 and immediately secure additional medical care for the inmate in accordance
21 with the standards set forth in subsection (a) of this section. A correctional

1 facility shall have on staff at all times at least one person trained in emergency
2 first aid.

3 (d) Policies. The Department shall establish and maintain policies for the
4 delivery of health care in accordance with the standards in subsection (a) of
5 this section.

6 (e) Pre-existing prescriptions; no private right of action; definitions.

7 (1) Except as otherwise provided in this subsection, an inmate who is
8 admitted to a correctional facility while under the medical care of a licensed
9 physician, a licensed physician assistant, or a licensed advanced practice
10 registered nurse and who is taking medication at the time of admission
11 pursuant to a valid prescription as verified by the inmate's pharmacy of record,
12 primary care provider, other licensed care provider, or as verified by the
13 Vermont Prescription Monitoring System or other prescription monitoring or
14 information system, including buprenorphine, methadone, or other medication
15 prescribed in the course of medication-assisted treatment, shall be entitled to
16 continue that medication and to be provided that medication by the Department
17 pending an evaluation by a licensed physician, a licensed physician assistant,
18 or a licensed advanced practice registered nurse.

19 (2) Notwithstanding subdivision (1) of this subsection, the Department
20 may defer provision of a validly prescribed medication in accordance with this
21 subsection if, in the clinical judgment of a licensed physician, a physician

1 assistant, or an advanced practice registered nurse, it is not medically necessary
2 to continue the medication at that time.

3 (3) The licensed practitioner who makes the clinical judgment to
4 discontinue a medication shall cause the reason for the discontinuance to be
5 entered into the inmate’s medical record, specifically stating the reason for the
6 discontinuance. The inmate shall be provided, both orally and in writing, with
7 a specific explanation of the decision to discontinue the medication and with
8 notice of the right to have his or her community-based prescriber notified of
9 the decision. If the inmate provides signed authorization, the Department shall
10 notify the community-based prescriber in writing of the decision to discontinue
11 the medication.

12 (4) It is not the intent of the General Assembly that this subsection shall
13 create a new or additional private right of action.

14 (5) As used in this subchapter:

15 (A) “Medically necessary” describes health care services that are
16 appropriate in terms of type, amount, frequency, level, setting, and duration to
17 the individual’s diagnosis or condition, are informed by generally accepted
18 medical or scientific evidence, and are consistent with generally accepted
19 practice parameters. Such services shall be informed by the unique needs of
20 each individual and each presenting situation, and shall include a determination

1 that a service is needed to achieve proper growth and development or to
2 prevent the onset or worsening of a health condition.

3 (B) “Medication-assisted treatment” shall have the same meaning as
4 in 18 V.S.A. § 4750.

5 (f) Third-party medical provider contracts. Pursuant to the requirements of
6 this section and any other applicable law, Any any contract between the
7 Department and a provider of physical or mental health services shall establish
8 policies and procedures for continuation and provision of medication at the
9 time of admission and thereafter, as determined by an appropriate evaluation,
10 which will protect the mental and physical health of inmates.

11 (g) Medical care; reentry planning.

12 (1) The Department or the provider of physical or mental health services
13 shall provide an inmate with a 14-day supply of any validly prescribed
14 medication and a valid prescription to continue the medication at the time of
15 release from a correctional facility.

16 (2) The Department or the provider of physical or mental health services
17 shall identify a licensed practitioner, a substance abuse treatment program, or
18 both, and schedule an intake appointment for the inmate with the practitioner
19 or treatment program so that the inmate can continue any medically necessary
20 treatment upon release from a correctional facility as part of the inmate’s

1 reentry plan. The Department or the provider may employ or contract with a
2 health navigator to assist with scheduling.

3 Sec. 2. 28 V.S.A. § 801b is amended to read:

4 § 801b. MEDICATION-ASSISTED TREATMENT IN CORRECTIONAL
5 FACILITIES

6 (a) If an inmate receiving medication-assisted treatment prior to entering
7 the correctional facility continues to receive medication prescribed in the
8 course of medication-assisted treatment pursuant to section 801 of this title, the
9 inmate shall be authorized to receive that medication for as long as medically
10 necessary.

11 (b)(1) If at any time an inmate screens positive as having an opioid use
12 disorder, the inmate may elect to commence buprenorphine-specific
13 medication-assisted treatment if it is deemed medically necessary by a provider
14 authorized to prescribe buprenorphine. The inmate shall be authorized to
15 receive the medication as soon as possible and for as long as medically
16 necessary.

17 (2) Nothing in this subsection shall prevent an inmate who commences
18 medication-assisted treatment while in a correctional facility from transferring
19 from buprenorphine to methadone if:

20 (A) methadone is deemed medically necessary by a provider
21 authorized to prescribe methadone; and

1 (B) the inmate elects to commence methadone as recommended by a
2 provider authorized to prescribe methadone.

3 (c) The licensed practitioner who makes the clinical judgment to
4 discontinue a medication shall cause the reason for the discontinuance to be
5 entered into the inmate’s medical record, specifically stating the reason for the
6 discontinuance. The inmate shall be provided, both orally and in writing, with
7 a specific explanation of the decision to discontinue the medication and with
8 notice of the right to have his or her community-based prescriber notified of
9 the decision. If the inmate provides signed authorization, the Department shall
10 notify the community-based prescriber in writing of the decision to discontinue
11 the medication.

12 (d)(1) As part of reentry planning, the Department shall commence
13 medication-assisted treatment prior to an inmate’s release if:

14 (A) the inmate screens positive for an opioid use disorder;

15 (B) medication-assisted treatment is medically necessary; and

16 (C) the inmate elects to commence medication-assisted treatment.

17 (2) If medication-assisted treatment is indicated and despite best efforts
18 induction is not possible prior to release, the Department shall ensure
19 comprehensive care coordination with a community-based provider.

20 (e)(1) Counseling or behavioral therapies shall be provided in conjunction
21 with the use of medication for medication-assisted treatment as provided for in

1 the Department of Health’s “Rule Governing Medication-Assisted Therapy for
2 Opioid Dependence for: (1) Office-Based Opioid Treatment Providers
3 Prescribing Buprenorphine; and (2) Opioid Treatment Providers.”

4 (2) As part of reentry planning, the Department shall educate and offer
5 coordination to the inmate for counseling and behavioral therapies with a
6 community-based provider.

7 Sec. 3. 28 V.S.A. § 818 is amended to read:

8 § 818. EARNED TIME; REDUCTION OF TERM

9 (a) Rule adoption. On or before September 1, 2020, the Department of
10 Corrections shall file a proposed rule pursuant to 3 V.S.A. chapter 25
11 implementing an earned time program to become effective on January 1, 2021.
12 The Commissioner shall adopt rules to carry out the provisions of this section
13 as an emergency rule and concurrently propose them as a permanent rule. The
14 emergency rule shall be deemed to meet the standard for the adoption of
15 emergency rules pursuant to 3 V.S.A. § 844(a). The rules adopted pursuant to
16 this section shall equally apply to individuals on parole as to individuals on
17 furlough.

18 (b) Earned time program; generally. The earned time program
19 implemented pursuant to this section shall comply with the following
20 standards:

1 (1) The program shall be available for all sentenced offenders, including
2 furloughed offenders, provided that the program shall not be available to
3 offenders on probation or parole, to offenders eligible for a reduction of term
4 pursuant to section 811 of this title, to offenders sentenced to serve an
5 interrupted sentence, or to offenders sentenced to life without parole.

6 Offenders currently serving a sentence shall be eligible to begin earning a
7 reduction in term when the earned time program becomes effective.

8 Notwithstanding this subdivision (1), when an offender has been convicted of a
9 disqualifying offense, the offender’s ability to participate and earn time in the
10 program shall be determined pursuant to subdivision (5) of this subsection.

11 (2) Offenders shall earn a reduction of seven days in the minimum and
12 maximum sentence for each month during which the offender:

13 (A) is not adjudicated of a major disciplinary rule violation; and

14 (B) is not reincarcerated from the community for a violation of
15 release conditions, provided that an offender who loses a residence for a reason
16 other than fault on the part of the offender shall not be deemed reincarcerated
17 under this subdivision.

18 (3) An offender who receives post-adjudication treatment in a residential
19 setting for a substance use disorder shall earn a reduction of one day in the
20 minimum and maximum sentence for each day that the offender receives the
21 inpatient treatment. While a person is in residential substance abuse treatment,

1 ~~he or she~~ the person shall not be eligible for earned time except as provided in
2 this subsection.

3 (4) The Department shall:

4 (A) ensure that all victims of record are notified of the earned time
5 program at its outset and made aware of the option to receive notifications
6 from the Department pursuant to this subdivision;

7 (B) provide timely notice not less frequently than every 90 days to
8 the offender any time the offender receives a reduction in ~~his or her~~ the
9 offender's term of supervision pursuant to this section;

10 (C) maintain a system that documents and records all such reductions
11 in each offender's permanent record; and

12 (D) record any reduction in an offender's term of supervision
13 pursuant to this section on a monthly basis and ensure that victims who want
14 information regarding changes in scheduled release dates have access to such
15 information.

16 (5) Notwithstanding 1 V.S.A. § 214, an offender who was serving a
17 sentence for a disqualifying offense on January 1, 2021 shall not earn any
18 earned time sentence reductions under this section after the effective date of
19 this act. This subdivision (5) shall not be construed to limit or affect earned
20 time that an offender has earned on or before the effective date of this act.

21 (c) Earned time; education credits.

1 (1) Notwithstanding the provision of subdivision (b)(1) of this section
2 prohibiting offenders on parole from participating in the earned time program,
3 the earned time program shall be available to offenders on parole to earn a
4 reduction in term for completing an apprenticeship, a trade certification
5 program, or a higher education degree or other credential awarded by an
6 accredited institution of higher education.

7 (2) Offenders shall earn a reduction in term in accordance with the
8 requirements of this subdivision (2).

9 (A) Offenders shall earn a reduction of seven days in the maximum
10 sentence for each month during which the offender:

11 (i) completes all coursework required by the offender’s course of
12 study; and

13 (ii) is not reincarcerated from the community for a violation of
14 release conditions, provided that an offender who loses a residence for a reason
15 other than fault on the part of the offender shall not be deemed reincarcerated
16 under this subdivision.

17 (B) The Department shall verify completion of the offender’s
18 coursework.

19 (3) The Department shall designate apprenticeships, trade certification
20 programs, or accredited institutions of higher education whose course of study
21 qualifies for the earned time program.

1 (m)(1) An individual sentenced to serve a period of imprisonment of six
2 months or more committed to the custody of the Commissioner of Corrections
3 who is eligible for a nondriver identification card under the requirements of
4 this section shall, upon proper application and in advance of release from a
5 correctional facility, be provided with a nondriver identification card for a fee
6 of \$0.00.

7 (2) As part of reentry planning, the Department of Corrections shall
8 inquire with the individual to be released about the individual’s desire to obtain
9 a nondriver identification card or a driver privilege card and inform the
10 individual about the differences.

11 (3) If the individual desires a nondriver identification card, the
12 Department of Corrections shall coordinate with the Department of Motor
13 Vehicles to provide an identification card for the individual at the time of
14 release.

15 Sec. 5. FAMILY VISITATION; STUDY COMMITTEE; REPORT

16 (a) Creation. There is created the Family Friendly Visitation Study
17 Committee to examine how the Department of Corrections can facilitate
18 greater family friendly visitation methods for inmates who are guardians and
19 identify as father-figures.

20 (b) Membership. The Committee shall be composed of the following
21 members:

- 1 (1) the Commissioner of Corrections or designee;
- 2 (2) the Child, Family, and Youth Advocate or designee;
- 3 (3) a representative from Lund’s Kids-A-Part program; and
- 4 (4) the Commissioner of the Department of Children and Families or
- 5 designee.

6 (c) Powers and duties. The Study Committee shall study methods and
7 approaches to better family-friendly visitation for inmates who are guardians
8 and identifying father-figure family visitation, including the following issues:

9 (1) establishing a Department policy that facilitates family-friendly
10 visitation to inmates who identify as father-figures, male guardians, or male
11 parents with visitation rights.

12 (2) assessing correctional facility capacity and resources needed to
13 facilitate greater family-friendly visitation to inmates who identify as father-
14 figures, male guardians, or male parents with visitation rights.

15 (3) locating inmates at correctional facilities that are closer to family;

16 (4) determining how inmates are disciplined at a correctional facility
17 and how that may affect family visitation;

18 (5) examining the current Kids-A-Part visitation program and
19 determining steps to achieve parity with the objectives pursuant to subsection

20 (a) of this section.

21 (6) consulting with other stakeholders on relevant issues as necessary.

1 (d) Assistance. The Study Committee shall have the administrative,
2 technical, and legal assistance of the Department of Corrections.

3 (e) Report. On or before January 15, 2025, the Study Committee shall
4 submit a written report to the House Committee on Corrections and Institutions
5 and the Senate Committee on Judiciary with its findings and any
6 recommendations for legislative action.

7 (f) Meetings.

8 (1) The Commissioner of Corrections or designee shall call the first
9 meeting of the Study Committee to occur on or before August 1, 2024.

10 (2) The Study Committee shall meet not more than six times.

11 (3) The Commissioner of Corrections or designee shall serve as the
12 Chair of the Study Committee.

13 (4) A majority of the membership shall constitute a quorum.

14 (5) The Study Committee shall cease to exist on February 15, 2025.

15 (g) Compensation and reimbursement. Members of the Study Committee
16 who are not employees of the State of Vermont and who are not otherwise
17 compensated or reimbursed for their attendance shall be entitled to
18 compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010
19 for not more than six meetings per year.

20 Sec. 6. 28 V.S.A. § 102 is amended to read:

21 § 102. COMMISSIONER OF CORRECTIONS; APPOINTMENT;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

* * *

(c) The Commissioner is charged with the following responsibilities:

* * *

(20) ~~To utilize the Department of Buildings and General Services' competitive bidding practices in order to determine the most effective and cost-effective alternatives for housing inmates in any out of state correctional facility. [Repealed.]~~

* * *

Sec. 7. 28 V.S.A. § 817 is amended to read:

§ 817. CREATION OF WORK CAMPS; INTENT

It is the intent of the General Assembly that the creation of one or more new work camps in fiscal year 2006 and after will help alleviate overcrowded conditions in the State's correctional facilities ~~and permit Vermonters housed in out of state facilities to be brought home to Vermont.~~ The General Assembly specifically does not intend the creation of new work camps to result in an increase in the total number of Vermont offenders sentenced to incarceration. Therefore, specific plans and programs developed by the Department of Corrections shall restrict placement in new work camps to those offenders who have been convicted of a nonviolent offense and who have served a portion of their current sentence within a correctional facility. No

1 court shall impose a sentence of imprisonment to be served initially or solely
2 within the new facility.

3 Sec. 8. OUT-OF-STATE CORRECTIONAL FACILITIES; TRANSITION;
4 REPORT

5 (a) On or before January 1, 2026, the Department of Corrections shall
6 submit a written report to the House Committee on Corrections and Institutions
7 and the Senate Committee on Judiciary detailing the necessary steps and
8 preparations required to transition away from contracting with privately-
9 operated, for-profit, or out-of-state correctional facilities. The report shall
10 include:

11 (1) an assessment of the current contracts with privately-operated, for-
12 profit, or out-of-state correctional facilities, including the duration of the
13 contract, fiscal implications, and the number of inmates housed at each facility;

14 (2) strategies to transition Vermont inmates currently housed at
15 privately-operated, for-profit, or out-of-state correctional facilities to Vermont-
16 based correctional facilities or alternative rehabilitation programs;

17 (3) an analysis of the financial and operational impact of ending
18 contracts with privately-operated, for-profit, or out-of-state correctional
19 facilities, including any potential cost savings or additional expenses incurred
20 by the State;

1 (4) plans to enhance the capabilities of Vermont-based correctional
2 facilities in anticipation of any changes to Vermont’s incarcerative population
3 resulting from the termination of contracts with privately-operated, for-profit,
4 or out-of-state correctional facilities; and

5 (5) recommendations for legislative action necessary to transition away
6 from contracting with privately-operated, for-profit, or out-of-state correctional
7 facilities.

8 (b) In preparation of its report pursuant to subsection (a) of this section, the
9 Department shall collaborate with all relevant government agencies, relevant
10 community organizations and advocacy groups.

11 (c) The written report submitted pursuant to subsection (a) of this section
12 shall be considered for legislative action during the 2026 legislative session.

13 (d)

14 Sec. 9. EFFECTIVE DATE

15 This act shall take effect on July 1, 2024, except that Secs. 6 and 7 shall
16 take effect on July 1, 2034.

17

18 (Committee vote: _____)

19

20

Representative _____

21

FOR THE COMMITTEE

1

2

3

4 Sec. X. EFFECTIVE DATE

5 This act shall take effect on