

1 H.876

2 An act relating to miscellaneous amendments to the corrections laws

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

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

5 § 801. MEDICAL CARE OF INMATES

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

12 (b) Screenings and assessments.

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

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

20 (c) Emergency care. When there is reason to believe an inmate is in need
21 of medical care, the officers and employees shall render emergency first aid

1 and immediately secure additional medical care for the inmate in accordance
2 with the standards set forth in subsection (a) of this section. A correctional
3 facility shall have on staff at all times at least one person trained in emergency
4 first aid.

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

8 (e) Pre-existing prescriptions; definitions for subchapter.

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

1 (2) Notwithstanding subdivision (1) of this subsection, the Department
2 may defer provision of a validly prescribed medication in accordance with this
3 subsection if, in the clinical judgment of a licensed physician, a physician
4 assistant, or an advanced practice registered nurse, it is not medically necessary
5 to continue the medication at that time.

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

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

17 (5) As used in this subchapter:

18 (A) "Medically necessary" describes health care services that are
19 appropriate in terms of type, amount, frequency, level, setting, and duration to
20 the individual's diagnosis or condition, are informed by generally accepted
21 medical or scientific evidence, and are consistent with generally accepted

1 practice parameters. Such services shall be informed by the unique needs of
2 each individual and each presenting situation, and shall include a determination
3 that a service is needed to achieve proper growth and development or to
4 prevent the onset or worsening of a health condition.

5 (B) ~~“Medication-assisted treatment” shall have~~ “Medication for
6 opioid use disorder” has the same meaning as in 18 V.S.A. § 4750.

7 (f) Third-party medical provider contracts. Any contract between the
8 Department and a provider of physical or mental health services shall establish
9 policies and procedures for continuation and provision of medication at the
10 time of admission and thereafter, as determined by an appropriate evaluation,
11 which will protect the ~~mental and physical~~ health of inmates.

12 (g) Prescription medication; reentry planning.

13 (1) If an offender takes a prescribed medication while incarcerated and
14 that prescribed medication continues to be both available at the facility and
15 clinically appropriate for the offender at the time of discharge from the
16 correctional facility, the Department or its contractor shall provide the
17 offender, at the time of release, with a sufficient supply of the prescribed
18 medication, not to exceed a 14-day supply, to ensure that the inmate may
19 continue taking the medication as prescribed until the offender is able to fill a
20 new prescription for the medication in the community. The Department or its
21 contractor shall also provide the offender exiting the facility with a valid

1 prescription to continue the medication after any supply provided during
2 release from the facility is depleted.

3 (2) The Department or its contractor shall identify any necessary
4 licensed health care provider or substance use disorder treatment program, or
5 both, and schedule an intake appointment for the offender with the provider or
6 program to ensure that the offender can continue care in the community as part
7 of the offender's reentry plan. The Department or its contractor may employ
8 or contract with a case worker or health navigator to assist with scheduling any
9 health care appointments in the community.

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

11 § 801b. ~~MEDICATION-ASSISTED TREATMENT~~ MEDICATION FOR
12 OPIOID USE DISORDER IN CORRECTIONAL FACILITIES

13 (a) If an inmate receiving ~~medication-assisted treatment~~ medication for
14 opioid use disorder prior to entering the correctional facility continues to
15 receive medication prescribed in the course of ~~medication-assisted treatment~~
16 medication for opioid use disorder pursuant to section 801 of this title, the
17 inmate shall be authorized to receive that medication for as long as medically
18 necessary.

19 (b)(1) If at any time an inmate screens positive as having an opioid use
20 disorder, the inmate may elect to commence buprenorphine-specific
21 ~~medication-assisted treatment~~ medication for opioid use disorder if it is

1 deemed medically necessary by a provider authorized to prescribe
2 buprenorphine. The inmate shall be authorized to receive the medication as
3 soon as possible and for as long as medically necessary.

4 (2) Nothing in this subsection shall prevent an inmate who commences
5 ~~medication-assisted treatment~~ medication for opioid use disorder while in a
6 correctional facility from transferring from buprenorphine to methadone if:

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

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

11 (c) The licensed practitioner who makes the clinical judgment to
12 discontinue a medication shall cause the reason for the discontinuance to be
13 entered into the inmate's medical record, specifically stating the reason for the
14 discontinuance. The inmate shall be provided, both orally and in writing, with
15 a specific explanation of the decision to discontinue the medication and with
16 notice of the right to have ~~his or her~~ the inmate's community-based prescriber
17 notified of the decision. If the inmate provides signed authorization, the
18 Department shall notify the community-based prescriber in writing of the
19 decision to discontinue the medication.

1 (d)(1) As part of reentry planning, the Department shall commence
2 ~~medication-assisted treatment~~ medication for opioid use disorder prior to an
3 ~~inmate's~~ offender's release if:

4 (A) the ~~inmate~~ offender screens positive for an opioid use disorder;

5 (B) ~~medication-assisted treatment~~ medication for opioid use disorder
6 is medically necessary; and

7 (C) the ~~inmate~~ offender elects to commence ~~medication-assisted~~
8 ~~treatment~~ medication for opioid use disorder.

9 (2) If ~~medication-assisted treatment~~ medication for opioid use disorder
10 is indicated and despite best efforts induction is not possible prior to release,
11 the Department shall ensure comprehensive care coordination with a
12 community-based provider.

13 (3) If an offender takes a prescribed medication as part of medication for
14 opioid use disorder while incarcerated and that prescription medication is both
15 available at the facility and clinically appropriate for the offender at the time of
16 discharge from the correctional facility, the Department or its contractor shall
17 provide the offender, at the time of release, with a legally permissible supply to
18 ensure that the offender may continue taking the medication as prescribed prior
19 to obtaining the prescription medication in the community.

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~~ Medication for Opioid Use Disorder for: (1) Office-Based
3 Opioid Treatment Providers Prescribing Buprenorphine; and (2) Opioid
4 Treatment Providers.”

5 (2) As part of reentry planning, the Department shall inform and offer
6 care coordination to an offender to expedite access to counseling and
7 behavioral therapies within the community.

8 (3) As part of reentry planning, the Department or its contractor shall
9 identify any necessary licensed health care provider or an opioid use disorder
10 treatment program, or both, and schedule an intake appointment for the
11 offender with the providers or treatment program, or both, to ensure that the
12 offender can continue treatment in the community as part of the offender’s
13 reentry plan. The Department or its contractor may employ or contract with a
14 case worker or health navigator to assist with scheduling any health care
15 appointments in the community.

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

17 § 818. EARNED TIME; REDUCTION OF TERM

18 (a) Rule adoption. On or before September 1, ~~2020~~ 2024, the Department
19 of Corrections shall file a proposed rule pursuant to 3 V.S.A. chapter 25
20 implementing an earned time program to become effective on January 1, ~~2024~~
21 2025. The Commissioner shall adopt rules to carry out the provisions of this

1 section as an emergency rule and concurrently propose them as a permanent
2 rule. The emergency rule shall be deemed to meet the standard for the
3 adoption of emergency rules pursuant to 3 V.S.A. § 844(a).

4 (b) Earned time program; generally. The earned time program
5 implemented pursuant to this section shall comply with the following
6 standards:

7 (1) The program shall be available for all sentenced offenders, including
8 furloughed offenders, provided that the program shall not be available to
9 offenders on probation or parole, to offenders eligible for a reduction of term
10 pursuant to section 811 of this title, to offenders sentenced to serve an
11 interrupted sentence, or to offenders sentenced to life without parole.
12 Offenders currently serving a sentence shall be eligible to begin earning a
13 reduction in term when the earned time program becomes effective.

14 (A) Notwithstanding this subdivision (1), when an offender has been
15 convicted of a disqualifying offense, the offender's ability to participate and
16 earn time in the program shall be determined pursuant to subdivision (5) of this
17 subsection.

18 (B) Notwithstanding this subdivision (1), beginning on January 1,
19 2025, the program shall be available to offenders on parole.

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

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

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

6 (3) An offender who receives post-adjudication treatment in a residential
7 setting for a substance use disorder shall earn a reduction of one day in the
8 minimum and maximum sentence for each day that the offender receives the
9 inpatient treatment. While a person is in residential substance abuse treatment,
10 ~~he or she~~ the person shall not be eligible for earned time except as provided in
11 this subsection.

12 (4) The Department shall:

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

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

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

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

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

10 (c) Definitions. As used in this section:

11 (1) "Disqualifying offense" means:

12 (A) murder in violation of 13 V.S.A. § 2301;

13 (B) voluntary manslaughter in violation of 13 V.S.A. § 2304;

14 (C) kidnapping in violation of 13 V.S.A. § 2405;

15 (D) lewd and lascivious conduct with a child in violation of

16 13 V.S.A. § 2602, provided that the offense shall not be considered a

17 disqualifying offense if the offender is under 18 years of age, the child is at

18 least 12 years of age, and the conduct is consensual;

19 (E) sexual assault in violation of 13 V.S.A. § 3252(a) or (b);

20 (F) aggravated sexual assault in violation of 13 V.S.A. § 3253; or

1 (G) aggravated sexual assault of a child in violation of 13 V.S.A.

2 § 3253a.

3 (2) “Interrupted sentence” means a sentence that is not served
4 continuously, including a sentence to be served in intervals or a sentence to the
5 work crew.

6 Sec. 4. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

7 REVIEW; EARNED TIME EDUCATIONAL CREDITS

8 (a) The Joint Legislative Justice Oversight Committee shall review whether
9 the Department of Corrections’ earned time program should permit earned
10 time for educational credits. The review shall include consideration of
11 expanding such a program to include offenders and parolees. The review shall
12 also include an examination of the current operation and effectiveness of the
13 Department’s victim notification system and whether it has the capabilities to
14 handle an expansion of the earned time program.

15 (b) On or before November 15, 2024, the Committee shall submit any
16 recommendations to the Senate Committee on Judiciary and the House
17 Committee on Corrections and Institutions.

18 Sec. 5. 23 V.S.A. § 115 is amended to read:

19 § 115. NONDRIVER IDENTIFICATION CARDS

20 * * *

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 any driving credential, if eligible, and inform
10 the individual about the differences, including any costs to the individual.

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. 6. 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 all inmates who identify as
19 parents, guardians, and parents with visitation rights.

20 (b) Membership. The Study Committee shall be composed of the
21 following 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;
- 4 (4) the Commissioner for Children and Families or designee; and
- 5 (5) a representative from the Vermont Network Against Domestic and
- 6 Sexual Violence.

7 (c) Powers and duties. The Study Committee shall study methods and
8 approaches to better family friendly visitation for inmates who identify as
9 parents, guardians, and parents with visitation rights, including the following
10 issues:

11 (1) establishing a Department policy that facilitates family friendly
12 visitation to inmates who identify as parents, guardians, and parents with
13 visitation rights;

14 (2) assessing correctional facility capacity and resources needed to
15 facilitate greater family friendly visitation to inmates who identify as parents,
16 guardians, and parents with visitation rights;

17 (3) evaluating the possibility of locating inmates at correctional facilities
18 closer to family;

19 (4) assessing how inmate discipline at a correctional facility affects
20 family visitation;

1 (5) examining the current Kids-A-Part visitation program and
2 determining steps to achieve parity with the objectives pursuant to subsection
3 (a) of this section;

4 (6) exploring more family friendly visiting days and hours; and

5 (7) consulting with other stakeholders on relevant issues as necessary.

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

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

12 (f) Meetings.

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

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

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

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

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

20 (g) Compensation and reimbursement. Members of the Study Committee
21 who are not employees of the State of Vermont and who are not otherwise

1 compensated or reimbursed for their attendance shall be entitled to
2 compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010
3 for not more than six meetings per year.

4 Sec. 7. OUT-OF-STATE CORRECTIONAL FACILITIES; TRANSITION;
5 REPORT

6 (a) Intent. It is the intent of the General Assembly that, by 2034, the
7 practice of Vermont inmates being housed in privately operated, for-profit, or
8 out-of-state correctional facilities shall be prohibited so that corporations are
9 not enriched for depriving the liberty of persons sentenced to imprisonment. It
10 is the further intent of the General Assembly that such a prohibition does not
11 affect inmates that are incarcerated pursuant to an interstate compact.

12 (b) Report. On or before January 1, 2026, the Department of Corrections,
13 in consultation with the Office of the State Auditor, the Judiciary, the
14 Department of Buildings and General Services, the Department of State's
15 Attorneys and Sheriffs, the Office of the Defender General, and the Law
16 Enforcement Advisory Board, shall submit a written report in the form of an
17 actionable plan to the House Committee on Corrections and Institutions and
18 the Senate Committee on Judiciary detailing the feasibility of necessary steps
19 and preparations required to transition away from contracting with privately
20 operated, for-profit, or out-of-state correctional facilities. The report shall
21 include:

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

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

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

11 (4) plans to enhance the capabilities of Vermont-based correctional
12 facilities and to employ the use of alternatives to incarceration in anticipation
13 of any changes to Vermont's incarcerative population resulting from the
14 termination of contracts with privately operated, for-profit, or out-of-state
15 correctional facilities; and

16 (5) any recommendations for legislative action that may be necessary to
17 transition away from contracting with privately operated, for-profit, or out-of-
18 state correctional facilities.

19 (c) Collaboration. In preparation of its report pursuant to subsection (b) of
20 this section, the Department shall collaborate with all relevant government
21 agencies, relevant community organizations, and relevant advocacy groups.

1 (d) Legislative consideration. The written report submitted pursuant to
2 subsection (b) of this section shall be considered for legislative action during
3 the 2026 legislative session.

4 Sec. 8. EFFECTIVE DATE

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