

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 876
3 entitled “An act relating to miscellaneous amendments to the corrections laws”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

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

8 § 801. MEDICAL CARE OF INMATES

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

15 (b) Screenings and assessments.

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

19 (2) Within 24 hours after admission to a correctional facility, each
20 inmate shall be screened for substance use disorders as part of the initial and

1 ongoing substance use screening and assessment process. This process
2 includes screening and assessment for opioid use disorders.

3 (c) Emergency care. When there is reason to believe an inmate is in need
4 of medical care, the officers and employees shall render emergency first aid
5 and immediately secure additional medical care for the inmate in accordance
6 with the standards set forth in subsection (a) of this section. A correctional
7 facility shall have on staff at all times at least one person trained in emergency
8 first aid.

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

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

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

1 use disorder, shall be entitled to continue that medication and to be provided
2 that medication by the Department pending an evaluation by a licensed
3 physician, a licensed physician assistant, or a licensed advanced practice
4 registered nurse.

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

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

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

21 (5) As used in this subchapter:

1 (A) “Medically necessary” describes health care services that are
2 appropriate in terms of type, amount, frequency, level, setting, and duration to
3 the individual’s diagnosis or condition, are informed by generally accepted
4 medical or scientific evidence, and are consistent with generally accepted
5 practice parameters. Such services shall be informed by the unique needs of
6 each individual and each presenting situation, and shall include a determination
7 that a service is needed to achieve proper growth and development or to
8 prevent the onset or worsening of a health condition.

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

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

16 (g) Prescription medication; reentry planning.

17 (1) If an offender takes a prescribed medication while incarcerated and
18 that prescribed medication continues to be both available at the facility and
19 clinically appropriate for the offender at the time of discharge from the
20 correctional facility, the Department or its contractor shall provide the
21 offender, at the time of release, with a sufficient supply of the prescribed

1 medication, not to exceed a 14-day supply, to ensure that the inmate may
2 continue taking the medication as prescribed until the offender is able to fill a
3 new prescription for the medication in the community. The Department or its
4 contractor shall also provide the offender exiting the facility with a valid
5 prescription to continue the medication after any supply provided during
6 release from the facility is depleted.

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

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

15 § 801b. ~~MEDICATION-ASSISTED TREATMENT~~ MEDICATION FOR

16 OPIOID USE DISORDER IN CORRECTIONAL FACILITIES

17 (a) If an inmate receiving ~~medication-assisted treatment~~ medication for
18 opioid use disorder prior to entering the correctional facility continues to
19 receive medication prescribed in the course of ~~medication-assisted treatment~~
20 medication for opioid use disorder pursuant to section 801 of this title, the

1 inmate shall be authorized to receive that medication for as long as medically
2 necessary.

3 (b)(1) If at any time an inmate screens positive as having an opioid use
4 disorder, the inmate may elect to commence buprenorphine-specific
5 ~~medication-assisted treatment~~ medication for opioid use disorder if it is
6 deemed medically necessary by a provider authorized to prescribe
7 buprenorphine. The inmate shall be authorized to receive the medication as
8 soon as possible and for as long as medically necessary.

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

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

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

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

1 notified of the decision. If the inmate provides signed authorization, the
2 Department shall notify the community-based prescriber in writing of the
3 decision to discontinue the medication.

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

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

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

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

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

16 (3) If an offender takes a prescribed medication as part of medication for
17 opioid use disorder while incarcerated and that prescription medication is both
18 available at the facility and clinically appropriate for the offender at the time of
19 discharge from the correctional facility, the Department or its contractor shall
20 provide the offender, at the time of release, with a legally permissible supply to

1 ensure that the offender may continue taking the medication as prescribed prior
2 to obtaining the prescription medication in the community.

3 (e)(1) Counseling or behavioral therapies shall be provided in conjunction
4 with the use of medication for medication-assisted treatment as provided for in
5 the Department of Health’s “~~Rule Governing Medication-Assisted Therapy for~~
6 ~~Opioid Dependence~~ Medication for Opioid Use Disorder for: (1) Office-Based
7 Opioid Treatment Providers Prescribing Buprenorphine; and (2) Opioid
8 Treatment Providers.”

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

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

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

21 § 818. EARNED TIME; REDUCTION OF TERM

1 (a) Rule adoption. On or before September 1, ~~2020~~ 2024, the Department
2 of Corrections shall file a proposed rule pursuant to 3 V.S.A. chapter 25
3 implementing an earned time program to become effective on January 1, ~~2024~~
4 2025. The Commissioner shall adopt rules to carry out the provisions of this
5 section as an emergency rule and concurrently propose them as a permanent
6 rule. The emergency rule shall be deemed to meet the standard for the
7 adoption of emergency rules pursuant to 3 V.S.A. § 844(a).

8 (b) Earned time program; generally. The earned time program
9 implemented pursuant to this section shall comply with the following
10 standards:

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

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

1 (B) Notwithstanding this subdivision (1), beginning on January 1,
2 2025, the program shall be available to offenders on parole.

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

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

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

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

16 (4) The Department shall:

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

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

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

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

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

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

16 (1) "Disqualifying offense" means:

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

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

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

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

21 13 V.S.A. § 2602, provided that the offense shall not be considered a

1 disqualifying offense if the offender is under 18 years of age, the child is at
2 least 12 years of age, and the conduct is consensual;

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

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

5 (G) aggravated sexual assault of a child in violation of 13 V.S.A.
6 § 3253a.

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

10 Sec. 4. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

11 REVIEW; EARNED TIME EDUCATIONAL CREDITS

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

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

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

2 § 115. NONDRIVER IDENTIFICATION CARDS

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

10 (2) As part of reentry planning, the Department of Corrections shall
11 inquire with the individual to be released about the individual's desire to obtain
12 a nondriver identification card or any driving credential, if eligible, and inform
13 the individual about the differences, including any costs to the individual.

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

18 Sec. 6. FAMILY VISITATION; STUDY COMMITTEE; REPORT

19 (a) Creation. There is created the Family Friendly Visitation Study
20 Committee to examine how the Department of Corrections can facilitate

1 greater family friendly visitation methods for all inmates who identify as
2 parents, guardians, and parents with visitation rights.

3 (b) Membership. The Study Committee shall be composed of the
4 following members:

5 (1) the Commissioner of Corrections or designee;

6 (2) the Child, Family, and Youth Advocate or designee;

7 (3) a representative from Lund’s Kids-A-Part program;

8 (4) the Commissioner for Children and Families or designee; and

9 (5) a representative from the Vermont Network Against Domestic and
10 Sexual Violence.

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

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

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

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

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

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

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

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

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

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

16 (f) Meetings.

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

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

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

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

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

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

8 Sec. 7. OUT-OF-STATE CORRECTIONAL FACILITIES; TRANSITION;
9 REPORT

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

16 (b) Report. On or before January 1, 2026, the Department of Corrections,
17 in consultation with the Office of the State Auditor, the Judiciary, the
18 Department of Buildings and General Services, the Department of State's
19 Attorneys and Sheriffs, the Office of the Defender General, and the Law
20 Enforcement Advisory Board, shall submit a written report in the form of an
21 actionable plan to the House Committee on Corrections and Institutions and

1 the Senate Committee on Judiciary detailing the feasibility of necessary steps
2 and preparations required to transition away from contracting with privately
3 operated, for-profit, or out-of-state correctional facilities. The report shall
4 include:

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

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

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

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

20 (5) methods to reduce the number of Vermont inmates and detainees in
21 general; and

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

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

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

10 Sec. 8. NEW CORRECTIONAL FACILITIES; DESIGN AND
11 PROGRAMMING; RECOMMENDATIONS

12 On or before November 15, 2024, the Department of Buildings and General
13 Services, in consultation with the Department of Corrections, shall submit

1 recommendations to the Senate Committee on Judiciary and the House
2 Committee on Corrections and Institutions detailing the following:

3 (1) the scope and quantity of programming and services necessary to
4 operate a new women’s correctional facility, including the recommended size
5 of the facility; and

6 (2) whether it is advisable to construct a new men’s correctional facility
7 on the same campus as the women’s correctional facility or at another location.

8 Sec. 9. EFFECTIVE DATE

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

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(Committee vote: _____)

Senator _____

FOR THE COMMITTEE