

1 S.141

2 Introduced by Senators Giard, Brock and Starr

3 Referred to Committee on

4 Date:

5 Subject: Health; mental health; developmental disabilities, school-based
6 services

7 Statement of purpose: This bill proposes to authorize the commissioners of
8 mental health and of disabilities, aging, and independent living to enter into
9 agreements with any public or private mental health or developmental
10 disability agency for the purpose of providing specialized school-based
11 services to any child or adolescent with severe emotional disturbance or a
12 developmental disability or both.

13 An act relating to providing specialized school-based mental health and
14 developmental disability services

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

16 Sec. 1. FINDINGS AND STATEMENT OF INTENT

17 (a) Findings. The general assembly finds:

18 (1) Sec. 123(c) of No. 65 of the Acts of 2007 (the "FY 2008
19 Appropriations Act") states: "Success Beyond Six is a fiscal mechanism that
20 allows local schools and local designated agencies for community mental

1 health services to enter into contractual relationships for school-based service
2 provision supported in part through state-approved Medicaid billing in the
3 department of health – mental health division.” The Act determined that at
4 that time the contracts had been approved “conditioned on compliance with
5 Medicaid rules and general fiscal management, [and] not specifically on best
6 practice, efficiency or outcome models.”

7 (2) The FY2008 Appropriations Act required the secretary of the agency
8 of human services and the commissioner of education to convene a study
9 committee (the “Committee”) “to ensure that expenditures in this area utilize
10 best practices, yield positive outcomes, and are managed to a predictable rate
11 of growth.” The Committee issued its report on January 15, 2008 (“Report”).

12 (3) “School-based mental health services are widely recognized as
13 improving students’ access to care and improving educational achievement for
14 students with special needs” (Report, page 5).

15 (4) “School mental health programs offer increased accessibility to
16 students by reducing many of the barriers to seeking care in traditional mental
17 health settings” (Report, page 6). Among the barriers is the otherwise limited
18 availability of specialized mental health and developmental disabilities
19 services in some regions of the state.

1 (b) Statement of intent. It is the intent of the general assembly that:

2 (1) The state commit itself to supporting the provision of specialized
3 school-based services for any child or adolescent with severe emotional
4 disturbance or a developmental disability or both.

5 (2) Specialized school-based services are effective, sustainable, and
6 cost-efficient.

7 (3) Protocols are in place to ensure that:

8 (A) Schools and contracting agencies are not claiming or receiving
9 reimbursement for provision of the same service.

10 (B) Fraud, abuse, and waste are precluded or inhibited when
11 accessing any federal or state funds available in connection with school-based
12 services.

13 Sec. 2. 18 V.S.A. § 8912 is amended to read:

14 § 8912. CONTRACTS WITH NONDESIGNATED AGENCIES;

15 CONTRACTS WITH NONDESIGNATED AND DESIGNATED
16 AGENCIES FOR SCHOOL-BASED SERVICES

17 (a) Contracts with nondesignated agencies for nonschool-based services.

18 The commissioners may enter into agreements with any nondesignated local
19 community mental health and developmental disability ~~agencies~~ agency or
20 with any other public or private agency for the purpose of establishing
21 specialized nonschool-based services ~~which~~ that are needed by persons with

1 mental illness or with developmental disabilities ~~or~~, including children and
2 adolescents with a severe emotional disturbance, and that are not available
3 from designated community mental health agencies.

4 (b) Contracts for school-based services. After consultation with the
5 commissioner of education, the commissioners of mental health and of
6 disabilities, aging, and independent living may enter into agreements with any
7 public or private agency for the purpose of providing specialized school-based
8 services to any child or adolescent with severe emotional disturbance or a
9 developmental disability or both who has been determined to need the services
10 pursuant to 20 U.S.C. § 1401 et seq., Individuals with Disabilities Education
11 Improvement Act, or 29 U.S.C. § 794, Section 504 of the Rehabilitation Act.

12 (1) The commissioners shall provide the opportunity for competitive
13 bidding either by advertising for bids or receiving letters of inquiry, and the
14 commissioners and the appropriate school district or districts shall contract
15 with an agency that:

16 (A) Holds all necessary licenses relative to the services it will
17 provide.

18 (B) Meets all conditions necessary to be eligible for the receipt of
19 federal and state funds.

1 (C) Meets all conditions established by the contracting school
2 district, by federal and state law, and by state board of education rule relative
3 to the services it will provide.

4 (D) Provides research-based services and treatment, including
5 standardized assessments of short-term and long-term student behavior and
6 academic performance.

7 (E) Has the technological capability to provide data regarding student
8 behavior and academic performance and fiscal compliance to the
9 commissioners when requested and to ensure that all information relating to
10 students is presented in the aggregate and contains no information that can be
11 identified with an individual.

12 (2) The commissioners shall prepare a written report detailing the
13 reasons for selecting the successful applicant. Copies of this report and all bids
14 shall be kept on file in the offices of both commissioners and shall be available
15 for public inspection.

16 (3) The commissioners, in consultation with the commissioner of
17 education, shall develop a research-based assessment tool by which they will
18 evaluate the contracting agency's performance no less than annually, including
19 the continued compliance with the requirements of subdivision (1) of this
20 subsection, the efficiency and cost-effectiveness of its operations, and the
21 long-term effect on student behavior and academic performance.

1 (4) The commissioners, in consultation with the commissioner of
2 education, shall develop and implement a compliance program to:

3 (A) Ensure that schools and contracting agencies are not claiming or
4 receiving reimbursement for provision of the same service.

5 (B) Preclude or inhibit fraud, abuse, and waste when accessing any
6 federal or state funds available in connection with school-based services under
7 this subsection.

8 (C) Support the agreement between the agency of human services
9 and the department of education, entered into pursuant to chapter 43 of
10 Title 33, concerning children and adolescents with severe emotional
11 disturbances.

12 (5) Nothing in this subsection shall diminish the rights of children or
13 adolescents or their parents, legal guardians, or educational surrogates under
14 federal or state law.

15 Sec. 3. EFFECTIVE DATES AND TRANSITIONAL PROVISIONS

16 (a) This section and Sec. 1 of this act shall take effect on passage. Sec. 2 of
17 this act shall take effect on July 1, 2009.

18 (b) On or before July 1, 2009, the commissioners of mental health, of
19 disabilities, aging, and independent living, and of education shall develop the
20 research-based assessment tool and the compliance program required by Sec. 2

- 1 of this act and any other materials or processes necessary for implementation
- 2 of that section.