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H.290

Introduced by Representatives Haas of Rochester, Batchelor of Derby, Davis
of Washington, Donahue of Northfield, Fisher of Lincoln,
Frank of Underhill, French of Randolph, Lippert of Hinesburg,
McFaun of Barre Town, Mrowicki of Putney, Pearson of
Burlington, Pugh of South Burlington, Trieber of Rockingham,
Wizowaty of Burlington and Woodward of Johnson

Referred to Committee on

Date:

Subject: Human services; department of disabilities, aging, and independent
living; adult protective services

Statement of purpose: This bill proposes to require the secretary of human
services to adopt rules governing the implementation of the statutory
responsibilities of the department of disabilities, aging, and independent living,
division of licensing and protection, with respect to adult protective services.

An act relating to adult protective services

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

~~Sec. 1. ADULT PROTECTIVE SERVICES; RULEMAKING~~

~~The secretary of human services shall adopt rules pursuant to chapter 25 of
Title 3 governing the implementation of the statutory responsibilities of the~~

1 ~~department of disabilities, aging, and independent living, division of licensing~~
2 ~~and protection, with respect to adult protective services. The rules shall~~
3 ~~include:~~

4 ~~(1) standards for the timeliness of investigations;~~

5 ~~(2) criteria for screening reports and complaints;~~

6 ~~(3) criteria for substantiating complaints;~~

7 ~~(4) a process for investigating reports and complaints, including~~
8 ~~guidance on the roles of the victim and the reporter during the investigation~~
9 ~~process;~~

10 ~~(5) guidelines for coordinating and cooperating with law enforcement;~~

11 ~~(6) criteria for when and how the division will provide protective~~
12 ~~services in accordance with a written treatment plan;~~

13 ~~(7) guidelines for investigating cases of self-neglect;~~

14 ~~(8) a process for closing an investigation; and~~

15 ~~(9) an appeals process that gives the victim and the reporter the right to~~
16 ~~participate in the appeal.~~

17 Sec. 2. EFFECTIVE DATE

18 ~~This act shall take effect on passage.~~

~~Sec. 1. ADULT PROTECTIVE SERVICES; RULEMAKING~~

~~*The secretary of human services shall adopt rules pursuant to chapter 25 of Title 3 governing the implementation of the statutory responsibilities of the department of disabilities, aging, and independent living, division of licensing and protection, with respect to adult protective services. The rules shall include:*~~

- ~~(1) criteria for screening reports and complaints;~~
~~(2) standards for priority determinations and the timeliness of investigations;~~
~~(3) criteria for substantiating complaints;~~
~~(4) a process for investigating reports and complaints, including guidance on the roles of the victim and the reporter during the investigation process;~~
~~(5) processes for responding to inquiries from victims and reporters and for meeting statutory requirements regarding notification of these individuals;~~
~~(6) standards for coordinating and cooperating with law enforcement and state's attorneys;~~
~~(7) criteria for when and how the division will arrange for protective services in accordance with a written treatment plan;~~
~~(8) criteria for distinguishing possible statutory violations from probable self-neglect;~~
~~(9) appropriate referrals for probable self-neglect;~~
~~(10) a process for closing an investigation, and~~
~~(11) an appeals process that gives the victim and the reporter the right to participate in the appeal of a substantiation.~~

~~Sec. 2. APPEAL OF UNSUBSTANTIATION~~

~~No later than January 15, 2012, the commissioner of disabilities, aging, and independent living shall make a recommendation to the house committee on human services and the senate committee on health and welfare regarding whether alleged victims of abuse or neglect should have the right to appeal a finding of unsubstantiation.~~

~~Sec. 3. EFFECTIVE DATE~~

~~This act shall take effect on passage.~~

~~Sec. 1. ADULT PROTECTIVE SERVICES REPORTS~~

- ~~(a) Beginning September 15, 2012 and by the 15th day of each month thereafter through September 2014, the commissioner of disabilities, aging, and independent living shall provide the information described in subsection~~
~~(b) of this section to the general assembly. When the general assembly is in~~

session, the commissioner shall provide the information to the house committees on human services and on judiciary and to the senate committees on health and welfare and on judiciary. When the general assembly is not in session, the commissioner shall provide the information to the chairs of the committees of jurisdiction, the health access oversight committee, and the office of legislative council.

(b) The commissioner shall provide the following information relating to the department's adult protective services activities during the preceding calendar month and for the calendar year to date:

(1) The number of:

(A) unduplicated intakes.

(B) cases open and under investigation.

(C) cases in which there was no personal contact with the alleged victim.

(2) The number of times a reporter was not contacted by the department within 48 hours after making a report.

(3) The number of cases that were not investigated pursuant to 33 V.S.A. § 6906 because:

(A) the alleged victim did not meet the statutory definition of a vulnerable adult.

(B) the allegation did not meet the statutory definition of abuse, neglect, or exploitation.

(C) the report was based on self-neglect.

(D) the report was based on "resident on resident" abuse.

(4) Of the cases not investigated pursuant to 33 V.S.A. § 6906 because the alleged victim did not meet the statutory definition of a vulnerable adult, whether any involved an alleged victim who was a resident of a facility, as defined in 33 V.S.A. § 6902(14)(A); a resident of a psychiatric hospital, as defined in 33 V.S.A. § 6902(14)(B); or receiving personal care services, as defined in 33 V.S.A. § 6902(14)(C).

(5) Of the cases not investigated pursuant to 33 V.S.A. § 6906 because the report was based on self-neglect, the services to which the reporter was referred.

(6) Reasons other than those listed in subdivision (3) for which a case was not investigated pursuant to 33 V.S.A. § 6906, such as no allegation of mistreatment, and the number of reports in each category.

(7) The number of cases in which there was no contact with the alleged victim or the reporter after the initial screening.

(8) The number of substantiations, pending substantiations, unsubstantiations, and completed investigations.

(9) For cases in which a decision was made not to investigate, the number of times the required letters were not sent to the victim or the reporter within five business days.

(10) For cases in which an investigation was completed, the number of times the required letters were not sent to the alleged victim, reporter, or alleged perpetrator within five business days.

(11) The length of time between when:

(A) the department received a report and when a decision was made regarding whether or not to investigate.

(B) the department received a report and when the investigator contacted the alleged victim.

(C) the department received a report and when the investigation was completed.

(12) As of the last day of the month, the number of permanent full-time equivalent employees and vacancies, the number of temporary full-time equivalent employees and vacancies, the position titles of all employees and vacant positions, and the employees' caseloads.

(13) The number of:

(A) cases that resulted in a written coordinated treatment plan pursuant to 33 V.S.A. § 6907(a), protective services as defined in 33 V.S.A. § 6902(9), or a plan of care as defined in 33 V.S.A. § 6902(8).

(B) individuals put on the abuse and neglect registry as a result of a substantiation.

(C) referrals to law enforcement agencies.

(D) times a penalty was imposed pursuant to 33 V.S.A. § 6913.

(E) actions for intermediate sanctions brought pursuant to 33 V.S.A. § 7111.

(c) Beginning in September 2013, the commissioner shall also include in each monthly report all of the information described in subsection (b) of this section for the same month of the preceding calendar year in order to allow for year-to-year comparison.

Sec. 2. DATA ANALYSIS

The secretary of human services and the commissioner of disabilities, aging, and independent living shall examine the accuracy and consistency of the August 2012 data provided to the chairs of the committees of jurisdiction, the health access oversight committee, and the office of legislative council pursuant to Sec. 1 of this act. The secretary and commissioner shall submit a report to the chairs of the committees of jurisdiction, the health access oversight committee, and the office of legislative council by September 30, 2012 summarizing their findings regarding the accuracy of the data and the extent to which the data are internally consistent.

Sec. 3. ADULT PROTECTIVE SERVICES EVALUATION

(a) The secretary of human services and the commissioner of disabilities, aging, and independent living shall jointly issue a request for proposals to conduct an independent evaluation of the adult protective services provided by the department of disabilities, aging, and independent living's division of licensing and protection.

(b) The evaluation shall examine:

(1) the effectiveness of the adult protective services provided;

(2) the division's responsiveness to complaints;

(3) the appropriateness of the level of investigation into complaints;

(4) the adequacy of training for adult protective services staff;

(5) the ability of vulnerable adults to access adult protective services;

(6) the division's rules, protocols, and practices for prioritizing, responding to, and investigating complaints;

(7) the sufficiency of adult protective services staffing levels in the division;

(8) the number of reports, substantiations, and reversals by the commissioner or the human services board;

(9) the role that the division does or should play in assessing and providing emergency protective services to vulnerable adults;

(10) best practices from other states that would improve the division's ability to protect vulnerable adults from abuse and exploitation;

(11) the scope and effectiveness of current adult protective services public education efforts;

(12) public perception of and satisfaction with adult protective services;

(13) the relationship between the units of survey and certification and adult protective services in the division of licensing and protection in the department of disabilities, aging, and independent living with respect to investigations of abuse, exploitation, and neglect; and

(14) such other areas as the entity conducting the evaluation deems appropriate.

(c) No later than March 1, 2013, the entity conducting the evaluation shall provide an interim report regarding its work to date to the house committees on human services and on judiciary and the senate committees on health and welfare and on judiciary. No later than October 1, 2013, the entity conducting the evaluation shall provide the final report of its findings and recommendations to the chairs of the house committees on human services and on judiciary and the senate committees on health and welfare and on judiciary, to the health access oversight committee, and to the office of legislative council.

(d) The secretary of human services and the commissioner of disabilities, aging, and independent living shall report, upon request, on the status of the contract and the evaluation to the chairs of the house committees on human

services and on judiciary and the senate committees on health and welfare and on judiciary and to the health access oversight committee.

Sec. 4. TRANSFER

A transfer of up to \$75,000.00 is authorized from the department of Vermont health access long-term care program or the department of disabilities, aging, and independent living to the secretary of human services to implement the provisions of this act.

Sec. 5. REPEAL

Sec. 12 of No. 79 of the Acts of 2005 (adult protective services annual report) is repealed.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.