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H.728

Introduced by Representatives French of Randolph and Donahue of Northfield

Referred to Committee on

Date:

Subject: Human services; developmental disabilities; system of care

Statement of purpose of bill as introduced: This bill proposes to remove the requirement that the Commissioner of Disabilities, Aging, and Independent Living set priorities for developmental services based on available funds. It also identifies certain categories within the system of care plan that must be adopted by rule prior to taking effect.

An act relating to developmental services' system of care

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

Sec. 1. 18 V.S.A. chapter 204A is amended to read:

CHAPTER 204A: DEVELOPMENTAL DISABILITIES ACT

* * *

§ 8722. DEFINITIONS

As used in this chapter:

* * *

1 ~~(2) "Developmental disability" means a severe, chronic disability of a~~
2 person that is manifested before the person reaches ~~the age of 18~~ years of age
3 and results in:

4 ~~(A) mental retardation~~ intellectual disability, autism, or pervasive
5 developmental disorder; and

6 ~~(B) deficits in adaptive behavior at least two standard deviations~~
7 below the mean for a normative comparison group.

8 * * *

9 § 8723. DEPARTMENT OF DISABILITIES, AGING, AND
10 INDEPENDENT LIVING; DUTIES

11 ~~The department~~ Department shall plan, coordinate, administer, monitor, and
12 evaluate ~~state~~ State and federally funded services for people with
13 developmental disabilities and their families within Vermont. ~~The department~~
14 ~~of disabilities, aging, and independent living~~ Department shall be responsible
15 for coordinating the efforts of all agencies and services, government and
16 private, on a statewide basis in order to promote and improve the lives of
17 individuals with developmental disabilities. ~~Within the limits of available~~
18 ~~resources, the department~~ The Department shall:

19 (1) Promote the principles stated in section 8724 of this title and shall
20 carry out all functions, powers, and duties required by this chapter by
21 collaborating and consulting with people with developmental disabilities, their

1 ~~families, guardians, community resources, organizations, and people who~~

2 provide services throughout the state State.

3 (2) Develop, ~~and maintain, and monitor~~ an equitably and efficiently
4 allocated statewide system of community-based services that reflect the
5 choices and needs of people with developmental disabilities and their families.

6 (3) Acquire ~~and, administer, and exercise fiscal oversight over~~ funding
7 for ~~these~~ community-based services and identify needed resources and
8 legislation, including the management of State contracts.

9 (4) Establish a statewide procedure for applying for services.

10 (5) Facilitate or provide pre-service or in-service training and technical
11 assistance to service providers consistent with the system of care plan.

12 (6) ~~Provide quality assessment and quality improvement support for the~~
13 ~~services provided throughout the state. Maintain a statewide system of quality~~
14 assessment and assurance for services provided to people with a developmental
15 disability and provide quality improvement support to ensure that the
16 principles of service in section 8724 of this title are achieved.

17 (7) Encourage the establishment and development of locally
18 administered and locally controlled nonprofit services for people with
19 developmental disabilities based on the specific needs of individuals and their
20 families.

1 ~~(8) Promote and facilitate participation by people with developmental~~
2 disabilities and their families in activities and choices that affect their lives and
3 in designing services that reflect their unique needs, strengths, and cultural
4 values.

5 (9) Promote positive images and public awareness of people with
6 developmental disabilities and their families.

7 (10) Certify services that are paid for by the ~~department~~ Department.

8 (11) Establish a procedure for investigation and resolution of complaints
9 regarding the availability, quality, and responsiveness of services provided
10 throughout the ~~state~~ State.

11 (12) Identify resources and legislation needed to maintain a statewide
12 system of community-based services.

13 * * *

14 § 8725. SYSTEM OF CARE PLAN

15 (a) No later than July 1, 1997, and every three years thereafter, the
16 ~~department~~ Department shall adopt a plan for the nature, extent, allocation, and
17 timing of services consistent with the principles of service set forth in section
18 8724 of this title that will be provided to people with developmental
19 disabilities and their families. ~~Notwithstanding any other provision of law~~
20 Except for the following four categories, it is not required that the plan be
21 adopted pursuant to 3 V.S.A. chapter 25. ~~Each plan shall include:~~

1 ~~(1) priorities for continuation of existing programs or development of~~
2 new programs;

3 (2) criteria for receiving services or funding; ~~and~~

4 (3) type of services provided; and

5 (4) a process for evaluating and assessing the success of programs.

6 (b) ~~Each plan shall be~~ The Commissioner shall determine plan priorities
7 based upon information obtained from people with developmental disabilities,
8 their families, guardians, and people who provide the services and shall include
9 a comprehensive needs assessment, demographic information about people
10 with developmental disabilities, information about existing services used by
11 individuals and their families, characteristics of unserved and under served
12 individuals and populations and the reasons for these gaps in service, and the
13 varying community needs and resources. ~~The commissioner shall determine~~
14 ~~the priorities of the plan based on funds available to the department.~~

15 (c) No later than 60 days before adopting the plan, the ~~commissioner~~
16 Commissioner shall submit the proposed plan to the ~~advisory board~~ Advisory
17 Board, established in section 8733 of this title, for advice and
18 recommendations, ~~except that the Commissioner shall submit those categories~~
19 within the plan subject to 3 V.S.A. chapter 25 to the Advisory Board at the
20 commencement of the public comment period. The Advisory Board shall

1 ~~provide the Commissioner with written comments on the proposed plan, and, if~~
2 applicable, may submit public comments pursuant to 3 V.S.A. chapter 25.

3 (d) The Commissioner may make annual revisions to the plan as deemed
4 necessary in accordance with the process set forth in this section. The
5 Commissioner shall submit the proposed revisions to the Advisory Board
6 established in section 8733 of this title for comment within the timeframe
7 established by subsection (c) of this section.

8 (e) ~~The department~~ Notwithstanding 2 V.S.A. § 20(d), on or before
9 January 15 of each year, the Department shall report annually to the governor
10 Governor and the general assembly committees of jurisdiction regarding
11 implementation of the plan and shall make annual revisions as needed, the
12 extent to which the principles of service set forth in section 8724 of this title
13 are achieved, and whether people with a developmental disability have any
14 unmet service needs, including the number of people on waiting lists for
15 developmental services.

16 * * *

17 Sec. 2. EFFECTIVE DATE

18 This act shall take effect on July 1, 2014.

Sec. 1. 18 V.S.A. chapter 204A is amended to read:

CHAPTER 204A. DEVELOPMENTAL DISABILITIES ACT

** * **

~~§ 8722. DEFINITIONS~~

~~As used in this chapter:~~

~~* * *~~

~~(2) "Developmental disability" means a severe, chronic disability of a person that is manifested before the person reaches ~~the age of 18~~ years of age and results in:~~

~~(A) ~~mental retardation~~ intellectual disability, autism, or pervasive developmental disorder; and~~

~~(B) deficits in adaptive behavior at least two standard deviations below the mean for a normative comparison group.~~

~~* * *~~

~~§ 8723. DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT LIVING; DUTIES~~

~~The ~~department~~ Department shall plan, coordinate, administer, monitor, and evaluate ~~state~~ State and federally funded services for people with developmental disabilities and their families within Vermont. The ~~department of disabilities, aging, and independent living~~ Department shall be responsible for coordinating the efforts of all agencies and services, government and private, on a statewide basis in order to promote and improve the lives of individuals with developmental disabilities. Within the limits of available resources, the ~~department~~ Department shall:~~

~~(1) Promote promote the principles stated in section 8724 of this title and shall carry out all functions, powers, and duties required by this chapter by collaborating and consulting with people with developmental disabilities, their families, guardians, community resources, organizations, and people who provide services throughout the state. State;~~

~~(2) Develop and develop, maintain, and monitor an equitably and efficiently allocated statewide system of community-based services that reflect the choices and needs of people with developmental disabilities and their families;~~

~~(3) Acquire and acquire, administer, and exercise fiscal oversight over funding for these community-based services and identify needed resources and legislation, including the management of State contracts;~~

~~(4) identify resources and legislation needed to maintain a statewide system of community-based services;~~

~~(5) Establish establish a statewide procedure for applying for services;~~

~~(5)(6) Facilitate facilitate or provide pre-service or in-service training and technical assistance to service providers consistent with the system of care plan;~~

~~(6)(7) Provide quality assessment and quality improvement support for the services provided throughout the state. maintain a statewide system of quality assessment and assurance for services provided to people with~~

~~developmental disabilities and provide quality improvement support to ensure
that the principles of service in section 8724 of this title are achieved;~~

~~(7)(8) *Encourage encourage* the establishment and development of
locally administered and locally controlled nonprofit services for people with
developmental disabilities based on the specific needs of individuals and their
families;~~

~~(8)(9) *Promote promote* and facilitate participation by people with
developmental disabilities and their families in activities and choices that
affect their lives and in designing services that reflect their unique needs,
strengths, and cultural values;~~

~~(9)(10) *Promote promote* positive images and public awareness of
people with developmental disabilities and their families;~~

~~(10)(11) *Certify certify* services that are paid for by the ~~department.~~
Department; and~~

~~(11)(12) *Establish establish* a procedure for investigation and resolution
of complaints regarding the availability, quality, and responsiveness of
services provided throughout the ~~state~~ State.~~

* * *

§ 8725. SYSTEM OF CARE PLAN

* * *

~~(d) The department Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the Department shall report annually to the governor Governor and the general assembly committees of jurisdiction regarding implementation of the plan and shall make annual revisions as needed, the extent to which the principles of service set forth in section 8724 of this title are achieved, and whether people with developmental disabilities have any unmet service needs, including the number of people on waiting lists for developmental services.~~

~~***~~

~~Sec. 2. SYSTEM OF CARE STUDY COMMITTEE~~

~~(a) Creation. There is created a System of Care Study Committee to examine the process by which people with developmental disabilities and their families receive State-funded services, including the manner in which the System of Care Plan is created and reviewed prior to taking effect.~~

~~(b) Membership. The Study Committee shall be composed of the following 12 members:~~

~~(1) a representative of the House Committee on Appropriations, who shall be appointed by the Speaker of the House;~~

~~(2) a representative of the House Committee on Human Services, who shall be appointed by the Speaker of the House;~~

~~(3) a representative of the Senate Committee on Appropriations, who shall be appointed by the Committee on Committees;~~

~~(4) a representative of the Senate Committee on Health and Welfare, who shall be appointed by the Committee on Committees;~~

~~(5) the Commissioner of Disabilities, Aging, and Independent Living or a designee;~~

~~(6) the Director of the Department of Disabilities, Aging, and Independent Living's Developmental Disabilities Services Division;~~

~~(7) a representative of the Vermont Developmental Disabilities Council;~~

~~(8) a representative of the Vermont Council on Developmental and Mental Health Services;~~

~~(9) a representative of the Green Mountain Self Advocates;~~

~~(10) a representative of Vermont Family Network;~~

~~(11) a consumer or family member representing the State Program Standing Committee for Developmental Disabilities, who shall be appointed by the Standing Committee; and~~

~~(12) a nongovernmental member of the Developmental Disabilities Services Imagine the Future Task Force, who shall be appointed by the Task Force and who shall ensure that the findings and recommendations of the Task Force are included in the discussions of the Study Committee.~~

~~(c) Powers and duties. The Study Committee shall examine the process by which people with developmental disabilities and their families receive State-funded services, including the following tasks:~~

~~(1) review 18 V.S.A. chapter 204A;~~

~~(2) assess how Vermont's existing developmental disability service system compares with other programs administered by the Agency of Human Services in terms of prioritizing who receives services among the population of eligible recipients;~~

~~(3) identify concerns or shortcomings in the existing process for serving people with developmental disabilities and their families, if any;~~

~~(4) identify opportunities during the development of the System of Care Plan to augment community participation, legislative participation, or both, as necessary; and~~

~~(5) identify specific legislative changes to 18 V.S.A. chapter 204A that would ensure equitable distribution of services to people with developmental disabilities and their families, if necessary.~~

~~(d) Assistance. The Study Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council.~~

~~(e) Recommended Legislation.~~

~~(1) On or before December 15, 2014, the Study Committee shall submit a report containing its findings and recommendations, including any proposed~~

~~legislative changes to 18 V.S.A. chapter 204A, to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare.~~

~~(2) Any member or members of the Study Committee who do not support the report submitted by a majority of Study Committee members may prepare and submit a minority report to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare.~~

~~(f) Meetings.~~

~~(1) The house member representing the Committee on Human Services shall call the first meeting of the Study Committee to occur on or before August 15, 2014.~~

~~(2) The Study Committee shall select a chair from among its legislative members at the first meeting.~~

~~(3)(A) A majority of the members of the Study Committee shall be physically present at the same location to constitute a quorum.~~

~~(B) A member may vote only if physically present at the meeting location.~~

~~(4) The Study Committee shall cease to exist on January 1, 2015.~~

~~(g) Reimbursement.~~

~~(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Study Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than four meetings.~~

~~(2) Other members of the Study Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than four meetings.~~

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

Sec. 1. 18 V.S.A. chapter 204A is amended to read:

CHAPTER 204A. DEVELOPMENTAL DISABILITIES ACT

** * **

§ 8722. DEFINITIONS

As used in this chapter:

** * **

(2) "Developmental disability" means a severe, chronic disability of a person that is manifested before the person reaches ~~the age of 18~~ years of age and results in:

(A) ~~mental retardation~~ intellectual disability, autism, or pervasive developmental disorder; and

(B) deficits in adaptive behavior at least two standard deviations below the mean for a normative comparison group.

* * *

§ 8723. DEPARTMENT OF DISABILITIES, AGING, AND
INDEPENDENT LIVING; DUTIES

The ~~department~~ Department shall plan, coordinate, administer, monitor, and evaluate ~~state~~ State and federally funded services for people with developmental disabilities and their families within Vermont. The ~~department of disabilities, aging, and independent living~~ Department shall be responsible for coordinating the efforts of all agencies and services, government and private, on a statewide basis in order to promote and improve the lives of individuals with developmental disabilities. Within the limits of available resources, the ~~department~~ Department shall:

(1) ~~Promote~~ promote the principles stated in section 8724 of this title and shall carry out all functions, powers, and duties required by this chapter by collaborating and consulting with people with developmental disabilities, their families, guardians, community resources, organizations, and people who provide services throughout the ~~state~~. State;

(2) ~~Develop and~~ develop, maintain, and monitor an equitably and efficiently allocated statewide system of community-based services that reflect

the choices and needs of people with developmental disabilities and their families;

(3) ~~Acquire and~~ acquire, administer, and exercise fiscal oversight over funding for these community-based services and identify needed resources and legislation, including the management of State contracts;

(4) identify resources and legislation needed to maintain a statewide system of community-based services;

(5) ~~Establish~~ establish a statewide procedure for applying for services;

(5)(6) ~~Facilitate~~ facilitate or provide pre-service or in-service training and technical assistance to service providers consistent with the system of care plan;

(6)(7) ~~Provide quality assessment and quality improvement support for the services provided throughout the state. maintain a statewide system of quality assessment and assurance for services provided to people with developmental disabilities and provide quality improvement support to ensure that the principles of service in section 8724 of this title are achieved;~~

(7)(8) ~~Encourage~~ encourage the establishment and development of locally administered and locally controlled nonprofit services for people with developmental disabilities based on the specific needs of individuals and their families;

~~(8)(9)~~ ~~Promote~~ promote and facilitate participation by people with developmental disabilities and their families in activities and choices that affect their lives and in designing services that reflect their unique needs, strengths, and cultural values;

~~(9)(10)~~ ~~Promote~~ promote positive images and public awareness of people with developmental disabilities and their families;

~~(10)(11)~~ ~~Certify~~ certify services that are paid for by the ~~department~~ Department; and

~~(11)(12)~~ ~~Establish~~ establish a procedure for investigation and resolution of complaints regarding the availability, quality, and responsiveness of services provided throughout the ~~state~~ State.

* * *

§ 8725. SYSTEM OF CARE PLAN

~~(a) No later than July 1, 1997, and every~~ Every three years thereafter, the ~~department~~ Department shall adopt a plan for the nature, extent, allocation, and timing of services consistent with the principles of service set forth in section 8724 of this title that will be provided to people with developmental disabilities and their families. ~~Notwithstanding any other provision of law, it is not required that the plan be adopted pursuant to 3 V.S.A. chapter 25.~~ Each plan shall include the following categories, which shall be adopted by rule pursuant to 3 V.S.A. chapter 25:

(1) *priorities for continuation of existing programs or development of new programs;*

(2) *criteria for receiving services or funding; ~~and~~*

(3) *type of services provided; and*

(4) *a process for evaluating and assessing the success of programs.*

(b)(1) ~~Each plan shall be~~ *The Commissioner shall determine plan priorities based upon:*

(A) *information obtained from people with developmental disabilities, their families, guardians, and people who provide the services ~~and~~ shall include:*

(B) *a comprehensive needs assessment, that includes:*

(i) *demographic information about people with developmental disabilities;*

(ii) *information about existing services used by individuals and their families;*

(iii) *characteristics of unserved and ~~under-served~~ underserved individuals and populations; and*

(iv) *the reasons for these gaps in service, and the varying community needs and resources.*

(2) ~~The commissioner shall determine the priorities of the plan based on funds available to the department~~ *Once the plan priorities are determined, the*

Commissioner shall consider funds available to the Department in allocating resources.

(c) No later than 60 days before adopting the proposed plan, the ~~commissioner~~ Commissioner shall submit ~~the proposed plan~~ it to the ~~advisory board~~ Advisory Board, established in section 8733 of this title, for advice and recommendations, except that the Commissioner shall submit those categories within the plan subject to 3 V.S.A. chapter 25 to the Advisory Board at least 30 days prior to filing the proposed plan in accordance with the Vermont Administrative Procedure Act. The Advisory Board shall provide the Commissioner with written comments on the proposed plan. It may also submit public comments pursuant to 3 V.S.A. chapter 25.

(d) The Commissioner may make annual revisions to the plan as deemed necessary in accordance with the process set forth in this section. The Commissioner shall submit any proposed revisions to the Advisory Board established in section 8733 of this title for comment within the time frame established by subsection (c) of this section.

(e) ~~The department~~ Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year, the Department shall report ~~annually~~ to the ~~governor~~ Governor and the ~~general assembly~~ committees of jurisdiction regarding implementation of the plan ~~and shall make annual revisions as needed, the extent to which the principles of service set forth in section 8724 of this title~~

are achieved, and whether people with a developmental disability have any unmet service needs, including the number of people on waiting lists for developmental services.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.