Senate Calendar

THURSDAY, FEBRUARY 23, 2012
SENATE CONVENES AT: 2:00 P.M.

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ORDERS OF THE DAY

ACTION CALENDAR

UNFINISHED BUSINESS

Third Reading

S. 116.

An act relating to probate proceedings.

H. 629.

An act relating to reapportioning the initial districts of the house of representatives.

AMENDMENT TO H. 629 TO BE OFFERED BY SENATORS GALBRAITH, SEARS, HARTWELL, GIARD, ILLUZZI AND BARUTH

Senators Galbraith, Sears, Hartwell, Giard, Illuzzi and Baruth move that the Senate propose to the House that the bill be amended as follows:

First: In Sec. 1, by striking out district WINDHAM-5 in its entirety and inserting in lieu thereof the following:

WINDHAM-5	Marlboro, Newfane, and Townshend 1

Second: In Sec. 1, in district WINDHAM-BENNINGTON, following "Stamford," by inserting the word "and"

and by striking out the following: ", and that portion of the town of Townshend encompassed within a boundary beginning at the northernmost point where the boundary line of Townshend and the town of Wardsboro intersects with West Hill Road; then northerly along the eastern side and easterly along the southern side of the centerline of West Hill Road to the intersection of State Forest Road; then easterly along the southern side and southerly along the western side of the centerline of State Forest Road to the boundary of the town of Newfane; then westerly along the town line of Newfane to the boundary line of Wardsboro; then northerly along the town line of Wardsboro to the point of beginning"

PROPOSAL OF AMENDMENT TO H. 629 TO BE OFFERED BY SENATOR ILLUZZI BEFORE THIRD READING

Senator Illuzzi moves that the Senate propose to the House to amend the bill as follows:

First: By adding a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. FINDINGS AND GOALS REGARDING THE REAPPORTIONMENT OF THE INITIAL DISTRICTS OF THE HOUSE OF REPRESENTATIVES

(a) The general assembly finds that based on the interpretation of the United States Constitution as articulated by the U.S. Supreme Court in *Reynolds v. Sims*, 377 U.S. 533 (1964) and its progeny, it is obligated to reapportion legislative districts substantially on a population basis, but latitude and flexibility remain to preserve the integrity of political subdivisions and to preserve for the voters in the political subdivisions a voice in the state legislature on state matters. *See Mahan v. Howell*, 410 U.S. 315 (1973).

(b) The general assembly finds as a matter of rational state policy that all of a town's voters should be placed in the same legislative district. The dissenting opinion of *In re Hartland*, 160 Vt. 9 (1993) stressed the importance of town lines: "More significant are town lines, and this district crosses none of these. It is impossible in a rural state with a large number of towns to follow town lines without crossing county lines. Thus, the district here is consistent with the important boundary requirement of [Vermont Constitution chapter II] § 13." *Id.* at 55.

(c) It is the goal of the general assembly to avoid splitting a town into two different house representative districts, relying upon the "special circumstances," *Mahan* at 333 (J.Brennan, dissenting), authorized under the equal protection clause of the Fourteenth Amendment.

Second: By adding a new section to be numbered Sec. 3b to read as follows:

Sec. 3b. AUTHORIZATION FOR RECONSIDERATION

Nothing in this act shall prevent reconsideration of any provision contained in this act, notwithstanding the applicable provisions of Mason's Rules as incorporated into house and senate rules.

Second Reading

Favorable

H.C.R. 255.

House concurrent resolution urging the restoration of intercity bus service to Rutland City.

Reported favorably by Senator Flory for the Committee on Transportation.

(Committee vote: 5-0-0)

(No House amendments)

Favorable with Recommendation of Amendment

S. 189.

An act relating to expanding confidentiality of cases accepted by the court diversion project.

Reported favorably with recommendation of amendment by Senator Snelling for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 164(c)(1) is amended to read:

(c) All adult court diversion projects receiving financial assistance from the attorney general shall adhere to the following provisions:

(1) The diversion project shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The state's attorney shall notify, in writing, the diversion program and the court of his or her intention to refer the person to diversion. If the prosecuting attorney refers a case to diversion, the ~~information and affidavit~~ files held by the court, the state's attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

(A) the board declines to accept the case;

(B) the person declines to participate in diversion; ~~or~~

(C) the board accepts the case, but the person does not successfully complete diversion;

(D) the state's attorney recalls the referral to diversion.

Sec. 2. 3 V.S.A. § 164a is added to read:

§ 164a. RESTITUTION

A diversion program may refer an individual who has suffered a pecuniary loss as a direct result of a delinquent act or crime alleged to have been committed by a juvenile or adult accepted to its program to the restitution unit established by 13 V.S.A. § 5362 for the purpose of application for an advance payment pursuant to 13 V.S.A. § 5363(d)(1). The restitution unit may enter into a repayment contract with a juvenile or adult accepted into diversion and shall have the authority to bring a civil action to enforce the repayment contract in the event that the juvenile or adult defaults in performing the terms of the contract.

(b) The restitution unit and the diversion program shall develop a process for documenting victim loss, information sharing between the unit and diversion programs regarding the amount of restitution paid by the unit and diversion participants' contractual agreements to reimburse the unit, transmittal of payments from participants to the unit, and maintenance of the confidentiality of diversion information.

Sec. 3. 13 V.S.A. § 5362 is amended to read:

§ 5362. RESTITUTION UNIT

* * *

(c) The restitution unit shall have the authority to:

* * *

(7) Enter into a repayment contract with a juvenile or adult accepted into a diversion program and to bring a civil action to enforce the contract when a diversion program has referred an individual pursuant to 3 V.S.A. § 164a.

Sec. 4. 13 V.S.A. § 5363 is amended to read:

§ 5363. CRIME VICTIMS' RESTITUTION SPECIAL FUND

(a) There is hereby established in the state treasury a fund to be known as the crime victims' restitution special fund, to be administered by the restitution unit established by section 5362 of this title, and from which payments may be made to provide restitution to crime victims.

(b)(1) There shall be deposited into the fund:

(A) All monies collected by the restitution unit pursuant to section 7043 and subdivision 5362(c)(7) of this title.

(B) All fees imposed by the clerk of court and designated for deposit into the fund pursuant to section 7282 of this title.

(C) All monies donated to the restitution unit or the crime victims' restitution special fund.

(D) Such sums as may be appropriated to the fund by the general assembly.

* * *

(d)(1) The restitution unit is authorized to advance up to $10,000.00 to a victim or to a deceased victim's heir or legal representative if the victim:

(A) was first ordered by the court to receive restitution on or after July 1, 2004;

(B) is a natural person or the natural person's legal representative; and

(C) has not been reimbursed under subdivision (2) of this subsection.

(D) is a natural person and has been referred to the restitution unit by a diversion program pursuant to section 164a of Title 3.

* * *

Sec. 5. 13 V.S.A. § 7043(n) is amended to read:

(n) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure of an offender aged 18 or older shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

(Committee vote: 5-0-0)

Reported favorably by Senator Snelling for the Committee on Appropriations.

(Committee vote: 5-0-2)

S. 217.

An act relating to closely held benefit corporations.

Reported favorably with recommendation of amendment by Senator Ashe for the Committee on Finance.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 11A V.S.A. chapter 21 is amended to read:

CHAPTER 21. BENEFIT CORPORATIONS

* * *

§ 21.03. DEFINITIONS

(a) As used in this chapter:

* * *

(2) "Benefit director" means:

(A) a director designated as a benefit director of a benefit corporation as provided in section 21.10 of this title; or

(B) a person with one or more of the powers, duties, or rights of a benefit director to the extent provided in the articles of incorporation or shareholder agreement of a close corporation pursuant to section 21.10(e) of this title.

* * *

§ 21.09. STANDARD OF CONDUCT FOR DIRECTORS

(a) Each director of a benefit corporation, in discharging his or her duties as a director, including the director's duties as a member of a committee:

(1) shall, in determining what the director reasonably believes to be in the best interests of the benefit corporation, consider the effects of any action or inaction upon:

(A) the shareholders of the benefit corporation;

(B) the employees and workforce of the benefit corporation and its subsidiaries and suppliers;

(C) the interests of customers to the extent they are beneficiaries of the general or specific public benefit purposes of the benefit corporation;

(D) community and societal considerations, including those of any community in which offices or facilities of the benefit corporation or its subsidiaries or suppliers are located;

(E) the local and global environment; and

(F) the long-term and short-term interests of the benefit corporation, including the possibility that those interests may be best served by the continued independence of the benefit corporation;

(2) may consider any other pertinent factors or the interests of any other group that the director determines are appropriate to consider;

(3) shall not be required to give priority to the interests of any particular person or group referred to in subdivisions (1) or (2) of this subsection over the

interests of any other person or group unless the benefit corporation has stated in its articles of incorporation its intention to give priority to interests related to the accomplishment of its general or specific public benefit ~~purpose in its articles of incorporation~~ purposes; and

(4) shall not be subject to a different or higher standard of care when an action or inaction might affect control of the benefit corporation.

* * *

(e) ~~A director of a benefit corporation shall have a fiduciary duty only to those persons entitled to bring a benefit enforcement proceeding against the benefit corporation under section 21.13 of this title.~~ A director of a benefit corporation shall not have any ~~fiduciary~~ duty to a person who is a beneficiary of the general or specific public benefit purposes of the benefit corporation arising only from the person's status as a beneficiary. If a benefit corporation has adopted a provision in its articles of incorporation authorized by section 2.02(b)(4) of this title, the provision shall also apply to a failure by a director to discharge his or her duties in accordance with this chapter.

§ 21.10. BENEFIT DIRECTOR

(a) ~~The~~ Except as provided in subsection (e) of this section, the board of directors of a benefit corporation shall include at least one director who shall be designated a "benefit director" and shall have, in addition to all of the powers, duties, rights, and immunities of the other directors of the benefit corporation, the powers, duties, rights, and immunities provided in this section.

* * *

(e) If the articles of incorporation of a benefit corporation that is a close corporation dispense with ~~a~~ or restrict the discretion or powers of the board of directors pursuant to sections 20.08 and 20.09 of this title, then the articles of incorporation ~~shall provide that~~ or the shareholder agreement shall specify the persons who ~~perform the duties of a board of directors shall include at least one person with~~ shall exercise the powers, duties, and rights~~, and immunities of a~~ of the board of directors and the benefit director, as provided in this chapter. A person who exercises one or more of the powers, duties, or rights of a benefit director pursuant to this subsection:

(1) is not required to be independent of the benefit corporation;

(2) shall have the immunities of a benefit director;

(3) may share the powers, duties, and rights of a benefit director with one or more other persons; and

(4) shall not be subject to the procedures for election or removal of directors provided in subchapter 1 of chapter 8 of this title unless the person is

also a director of the benefit corporation or the articles of incorporation or shareholder agreement make those procedures applicable.

* * *

§ 21.11. STANDARD OF CONDUCT FOR OFFICERS

* * *

(e) ~~An officer of a benefit corporation shall have a fiduciary duty only to those persons entitled to bring a benefit enforcement proceeding against the benefit corporation under section 21.13 of this title.~~ An officer of a benefit corporation shall not have any ~~fiduciary~~ duty to a person that is a beneficiary of the general or specific public benefit purposes of the benefit corporation arising only from the person's status as a beneficiary.

(f) The articles of incorporation of a benefit corporation may set forth a provision eliminating or limiting the liability of an officer to the benefit corporation or its shareholders for money damages for any action taken, or any failure to take any action, solely as an officer, based on a failure to discharge his or her own duties in accordance with this chapter, except liability for:

(1) the amount of a financial benefit received by an officer to which the officer is not entitled;

(2) an intentional or reckless infliction of harm on the benefit corporation or its shareholders; or

(3) an intentional or reckless criminal act.

* * *

§ 21.14. ANNUAL BENEFIT REPORT

* * *

(e) If a benefit corporation is a close corporation that has dispensed with or restricted the discretion or powers of the board of directors, the annual benefit report shall describe the person or persons who exercise the powers, duties, and rights and have the immunities of the board of directors and the benefit director.

(Committee vote: 6-0-1)

NEW BUSINESS

S. 237.

An act relating to the genuine progress indicator.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE AND INTENT

(a) Purpose. The purpose of the genuine progress indicator ("GPI") is to measure the state of Vermont's economic, environmental, and societal well-being as a supplement to the measurement derived from the gross state product.

(b) Intent. It is the intent of the general assembly that once established, the GPI will assist state government in decision-making by providing an additional basis for budgetary decisions, including outcomes-based budgeting; measuring progress in the application of policy and programs; and as a tool to identify public policy priorities.

Sec. 2. GENUINE PROGRESS INDICATOR

(a) Establishment; maintenance.

(1) The secretary of administration shall accept the offer of the Gund Institute for Ecological Economics of the University of Vermont (the "Gund Institute") to work in cooperation to establish, and shall thereafter make use of and maintain, the genuine progress indicator (GPI). In establishing the GPI, the secretary of administration, in cooperation with the Gund Institute, shall create a Vermont data committee to inventory existing datasets and to make recommendations that may be useful to all data users in Vermont's state government, nonprofits, and businesses.

(2) The GPI shall add positive factors and subtract negative factors that are not counted by standard gross state product accounting practices.

(3) The GPI shall use standard genuine progress indicator methodology and additional factors to enhance the indicator, including basic human rights principles.

(b) Accessibility. Once established, the GPI and its underlying datasets that are submitted by the Gund Institute to the secretary of administration shall be posted on the state of Vermont website.

(c) Updating data. The secretary of administration shall cooperate in providing data to the Gund Institute as necessary in order to update and maintain the GPI.

Sec. 3. REPORT

By January 1, 2019, the secretary of administration shall report to the house and senate committees on government operations regarding the usefulness of the genuine progress indicator.

Sec. 4. DATASETS

Any datasets submitted by the Gund Institute to the secretary of administration pursuant to this act shall be considered a public record under chapter 5 of Title 1.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

And that when so amended the bill ought to pass.

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 112.

An act relating to bail for persons charged with lewd and lascivious conduct with a child.

Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. EFFECTIVE DATE

This act shall taken effect on passage.

(Committee vote: 5-0-0)

Favorable with Proposal of Amendment

H. 630.

An act relating to reforming Vermont's mental health system.

Reported favorably with recommendation of proposal of amendment by Senator Ayer for the Committee on Health and Welfare.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

(a) It is the intent of the general assembly to strengthen Vermont's existing mental health care system by offering a continuum of community and peer services, as well as a range of acute inpatient beds throughout the state. This

system of care shall be designed to provide flexible and recovery-oriented treatment opportunities and to ensure that the mental health needs of Vermonters are served.

(b) It is also the intent of the general assembly that the agency of human services fully integrate all mental health services with all substance abuse, public health, and health care reform initiatives, consistent with the goals of parity.

Sec. 1a. 18 V.S.A. chapter 174 is added to read:

CHAPTER 174. MENTAL HEALTH SYSTEM OF CARE

§ 7251. PRINCIPLES FOR MENTAL HEALTH CARE REFORM

The general assembly adopts the following principles as a framework for reforming the mental health care system in Vermont:

(1) The state of Vermont shall meet the needs of individuals with mental health conditions, including the needs of individuals in the custody of the commissioner of corrections, and the state's mental health system shall reflect excellence, best practices, and the highest standards of care.

(2) Long-term planning shall look beyond the foreseeable future and present needs of the mental health community. Programs shall be designed to be responsive to changes over time in levels and types of needs, service delivery practices, and sources of funding.

(3) Vermont's mental health system shall provide a coordinated continuum of care by the departments of mental health and of corrections, designated hospitals, designated agencies, and community and peer partners to ensure that individuals with mental health conditions receive care in the most integrated and least restrictive settings available. Individuals' treatment choices shall be honored to the extent possible.

(4) The mental health system shall be integrated into the overall health care system, including the location of any new inpatient psychiatric facilities adjacent to or incorporated with a medical hospital.

(5) Vermont's mental health system shall be geographically and financially accessible. Resources shall be distributed based on demographics and geography to increase the likelihood of treatment as close to the patient's home as possible. All ranges of services shall be available to individuals who need them, regardless of individuals' ability to pay.

(6) The state's mental health system shall ensure that the legal rights of individuals with mental health conditions are protected.

(7) Oversight and accountability shall be built into all aspects of the mental health system.

(8) Vermont's mental health system shall be adequately funded and financially sustainable to the same degree as other health services.

§ 7252. DEFINITIONS

As used in this chapter:

(1) "Adult outpatient services" means flexible services responsive to individuals' preferences, needs, and values that are necessary to stabilize, restore, or improve the level of social functioning and well-being of individuals with mental health conditions, including individual and group treatment, medication management, psychosocial rehabilitation, and case management services.

(2) "Designated agency" means a designated community mental health and developmental disability agency as described in subsection 8907(a) of this title.

(3) "Designated area" means the counties, cities, or towns identified by the department of mental health that are served by a designated agency.

(4) "Enhanced programming" means targeted, structured, and specific intensive mental health treatment and psychosocial rehabilitation services for individuals in individualized or group settings.

(5) "Intensive residential recovery facility" means a licensed program under contract with the department of mental health that provides a safe, therapeutic, recovery-oriented residential environment to care for individuals with one or more mental health conditions who need intensive clinical interventions to facilitate recovery in anticipation of returning to the community. This facility shall be for individuals not in need of acute inpatient care and for whom the facility is the least restrictive and most integrated setting.

(6) "Mobile support team" means professional and peer support providers who are able to respond to an individual where he or she is located during a crisis situation.

(7) "Noncategorical case management" means service planning and support activities provided for adults by a qualified mental health provider, regardless of program eligibility criteria or insurance limitations.

(8) "No refusal system" means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provide high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(9) "Participating hospital" means a hospital under contract with the department of mental health to participate in the no refusal system.

(10) "Peer" means an individual who has a personal experience of living with a mental health condition or psychiatric disability.

(11) "Peer services" means support services provided by trained peers or peer-managed organizations focused on helping individuals with mental health and other co-occurring conditions to support recovery.

(12) "Psychosocial rehabilitation" means a range of social, educational, occupational, behavioral, and cognitive interventions for increasing the role performance and enhancing the recovery of individuals with serious mental illness, including services that foster long-term recovery and self-sufficiency.

(13) "Recovery-oriented" describes a category of mental health services that is responsive to individuals' preferences, needs, and values and that empowers an individual to take responsibility for his or her sustained health, wellness, and recovery.

(14) "Warm line" means a nonemergency telephone response line operated by trained peers for the purpose of active listening and assistance with problem-solving for persons in need of such support.

§ 7253. CLINICAL RESOURCE MANAGEMENT AND OVERSIGHT

The commissioner of mental health, in consultation with health care providers as defined in section 9432 of this title, including designated hospitals, designated agencies, individuals with mental health conditions, and other stakeholders, shall design and implement a clinical resource management system that ensures the highest quality of care and facilitates long-term, sustained recovery for individuals in the custody of the commissioner.

(1) For the purpose of coordinating the movement of individuals across the continuum of care to the most appropriate services, the clinical resource management system shall:

(A) ensure that all individuals in the care and custody of the commissioner receive the highest quality and least restrictive care necessary;

(B) develop a process for receiving direct patient input on treatment opportunities and the location of services;

(C) use state-employed clinical resource management coordinators to work collaboratively with community partners, including designated agencies, hospitals, individuals with mental health conditions, and peer groups, to ensure access to services for individuals in need. Clinical resource management coordinators or their designees shall be available 24 hours a day, seven days a

week to assist emergency service clinicians in the field to access necessary services;

(D) use an electronic, web-based bed board to track in real time the availability of bed resources across the continuum of care;

(E) use specific level-of-care descriptions, including admission, continuing stay, and discharge criteria, and a mechanism for ongoing assessment of service needs at all levels of care;

(F) specify protocols for medical clearance, bed location, transportation, information sharing, census management, and discharge or transition planning;

(G) coordinate transportation resources so that individuals may access the least restrictive mode of transport consistent with safety needs;

(H) ensure that to the extent patients' protected health information pertaining to any identifiable person that is otherwise confidential by state or federal law is used within the clinical resource management system, the health information exchange privacy standards and protocols as described in subsection 9351(e) of this title shall be followed;

(I) review the options for the use of ambulance transport, with security as needed, as the least restrictive mode of transport consistent with safety needs required pursuant to section 7511 of this title; and

(J) ensure that individuals under the custody of the commissioner being served in designated hospitals, intensive residential recovery facilities, and the secure residential recovery facility shall have access to a mental health patient representative. The patient representative shall advocate for patients and shall also foster communication between patients and health care providers. The department of mental health shall contract with an independent, peer-run organization to staff the full-time equivalent of a patient representative.

(2) For the purpose of maintaining the integrity and effectiveness of the clinical resource management system, the department of mental health shall:

(A) require a designated team of clinical staff to review the treatment received and clinical progress made by individuals within the commissioner's custody;

(B) coordinate care across the mental and physical health care systems as well as ensure coordination within the agency of human services, particularly the department of corrections, the department of health's alcohol and drug abuse programs, and the department of disabilities, aging, and independent living;

(C) coordinate service delivery with Vermont's Blueprint for Health and health care reform initiatives, including the health information exchange as defined in section 9352 of this title and the health benefit exchange as defined in 33 V.S.A. § 1803;

(D) use quality indicators, manageable data requirements, and quality improvement processes to monitor, evaluate, and continually improve the outcomes for individuals and the performance of the clinical resource management system;

(E) actively engage stakeholders and providers in oversight processes; and

(F) provide mechanisms for dispute resolution.

§ 7254. INTEGRATION OF THE TREATMENT FOR MENTAL HEALTH, SUBSTANCE ABUSE, AND PHYSICAL HEALTH

(a) The director of health care reform and the commissioners of mental health, of health, and of Vermont health access and the Green Mountain Care board or designees shall ensure that the redesign of the mental health delivery system established in this act is an integral component of the health care reform efforts established in 3 V.S.A. § 2222a. Specifically, the director, commissioners, and board shall confer on planning efforts necessary to ensure that the following initiatives are coordinated and advanced:

(1) any health information technology projects;

(2) the integration of health insurance benefits in the Vermont health benefit exchange to the extent feasible under federal law;

(3) the integration of coverage under Green Mountain Care;

(4) the Blueprint for Health;

(5) the reformation of payment systems for health services to the extent allowable under federal law or under federal waivers; and

(6) other initiatives as necessary.

(b) The department of banking, insurance, securities, and health care administration shall ensure that private payers are educated about their obligation to reimburse providers for less restrictive and less expensive alternatives to hospitalization.

§ 7255. SYSTEM OF CARE

The commissioner of mental health shall coordinate a geographically diverse system and continuum of mental health care throughout the state that may include at least the following:

(1) peer services, which may include:

(A) a warm line;

(B) peer-provided transportation services; and

(C) peer-supported crisis services.

(2) comprehensive and coordinated community services to serve children, families, and adults at all stages of mental illness;

(3) peer-supported programs that allow minimal use of medication and facilitate hospital diversion through a nontraditional, interpersonal, and psychosocial approach to recovery;

(4) housing subsidies or other programs for the purpose of fostering stable and appropriate living conditions to support recovery;

(5) intensive residential recovery facilities;

(6) appropriate adequate psychiatric inpatient capacity for voluntary patients;

(7) appropriate adequate psychiatric inpatient capacity for involuntary inpatient treatment services, including patients receiving treatment through court order from the civil and criminal courts; and

(8) a secure residential recovery facility.

§ 7256. REPORTING REQUIREMENTS

Notwithstanding 2 V.S.A. § 20(d), the department of mental health shall report annually on or before January 15 to the senate committee on health and welfare and the house committee on human services regarding the extent to which individuals with mental health conditions receive care in the most integrated and least restrictive setting available. The report shall address:

(1) Utilization of services across the continuum of mental health services;

(2) Adequacy of the capacity at each level of care across the continuum of mental health services;

(3) Patient experience of care and satisfaction; and

(4) Clinical, social, and legal outcomes.

Sec. 2. DELETED

Sec. 3. DELETED

Sec. 4. DELETED

Sec. 5. DELETED

Sec. 6. PEER SERVICES

The commissioner of mental health is authorized to contract for new peer services and to expand existing programs managed by peers that provide support to individuals living with or recovering from mental illness. Peer services shall be aimed at helping individuals with mental illness achieve recovery through improved physical and mental health, increased social and community connections and supports, and the avoidance of mental health crises and psychiatric hospitalizations. The commissioner of mental health shall:

(1) Establish a warm line or warm lines accessible statewide which shall be staffed at all times to ensure that individuals with a mental health condition have access to peer support;

(2) Establish new peer services focused on reducing the need for inpatient services;

(3) Improve the quality, infrastructure, and workforce development of peer services; and

(4) Develop peer-run transportation services.

Sec. 7. COMMUNITY SERVICES

To improve existing community services and to create new opportunities for community treatment, the commissioner of mental health is authorized to:

(1) Improve emergency responses, mobile support teams, noncategorical case management, adult outpatient services, and alternative residential opportunities at designated agencies.

(A) Each designated agency shall provide the scope and category of services most responsive to the needs of designated areas, as determined by the commissioner of mental health.

(B) Designated agencies shall work collaboratively with law enforcement officials, local hospitals, and peers to integrate services and expand treatment opportunities for individuals living with or recovering from mental illness.

(2) Contract for at least four additional short-term crisis beds in designated agencies for the purpose of preventing or diverting individuals from hospitalization when clinically appropriate and for the purpose of increasing regional access to crisis beds.

(3) Contract for a voluntary five-bed residence for individuals seeking to avoid or reduce reliance on medication or having an initial episode of psychosis. The residence shall be peer supported and noncoercive, and treatment shall be focused on a nontraditional, interpersonal, and psychosocial

approach, with minimal use of psychotropic medications to facilitate recovery in individuals seeking an alternative to traditional hospitalization.

(4) Provide housing subsidies to individuals living with or recovering from mental illness for the purpose of fostering stable and appropriate living conditions. If necessary to achieve successful housing outcomes, housing subsidies may be provided without an agreement to accept certain services as a condition of assistance. The department of mental health shall ensure that housing subsidies are monitored and managed in coordination with other relevant community services and supports.

Sec. 8. INTENSIVE RESIDENTIAL RECOVERY FACILITIES

(a) To support the development of intensive residential recovery facilities, the commissioner of mental health is authorized to contract for:

(1) Fifteen beds located in northwestern Vermont;

(2) Eight beds located in southeastern Vermont; and

(3) Eight beds located in either central or southwestern Vermont or both.

(b) Notwithstanding 18 V.S.A. § 9435(b), all facilities contracted for under subsection (a) of this section shall be subject to the certificate of approval process, which shall take into consideration the recommendations of a panel of stakeholders appointed by the commissioner to review each proposal and conduct a public hearing.

Sec. 9. INPATIENT HOSPITAL BEDS

(a) To replace the services provided at the Vermont State Hospital, the department of mental health shall oversee the delivery of emergency examination and involuntary inpatient treatment services at four acute inpatient hospitals throughout the state:

(1) The department of mental health shall enter into contracts that meet the requirements of subdivision (2) of this subsection with a hospital in southeastern Vermont and a hospital in southwestern Vermont for the establishment of a 14-bed unit and a six-bed unit, respectively, contingent upon receipt by the hospitals of certificates of need pursuant to 18 V.S.A. chapter 221, subchapter 5. Certificate of need applications for the 14-bed unit and the six-bed unit, whether prepared jointly by a hospital and the department or solely by a hospital, shall be reviewed by the commissioner of mental health prior to a certificate of need approval to ensure the architectural and program proposals meet industry standards for quality of care and emotional and physical safety standards and otherwise protect patients' rights.

(2) Initial contract terms for the 14-bed unit and the six-bed unit shall require participation in the no refusal system for four years and until the

facility has recouped its initial investment. Contracts referenced in subdivision (1) of this subsection shall apply to participating hospitals, notwithstanding their status as designated hospitals, and shall contain the following requirements:

(A) Funding shall be based on the ability to treat patients with high acuity levels;

(B) Units shall be managed as part of a statewide no refusal system;

(C) Reimbursement by the state shall cover actual costs for enhanced programming and staffing;

(D) Units shall be managed to ensure access to peer supports;

(E) Participating hospitals shall maintain a stakeholder advisory group with nonexclusionary membership to ensure high quality and appropriate levels of care;

(F) The department shall be solely responsible for responding to requests for records concerning the implementation of this contract between the department and the hospital. The hospital and its employees shall cooperate and provide reasonable assistance to the department in producing records that are within the custody of the hospital that are responsive to records requests and that are not confidential by law.

(G) The state shall retain the option to renew the contract upon expiration of the initial four-year term.

(b)(1) The department of buildings and general services, with broad involvement from the department of mental health and stakeholders, shall design a 16-bed hospital owned and operated by the state in central Vermont and proximate to an existing hospital. Using fast track methods, the department of buildings and general services shall supervise the construction of the hospital. The operations of the hospital shall be under the jurisdiction of the commissioner of mental health.

(2) To foster coordination between the judiciary and mental health systems, the hospital owned and operated by the state shall contain:

(A) adequate capacity to accept individuals receiving a court order of hospitalization pursuant to 18 V.S.A. chapter 181; and

(B) a private room used and outfitted for the purpose of judicial proceedings.

(3) The commissioner of buildings and general services may purchase, lease for a period up to 99 years, or enter into a lease-purchase agreement for property in central Vermont for the purpose described in this subsection.

(4) The commissioner of buildings and general services shall inform the chairs and vice chairs of the senate committee on institutions and house committee on corrections and institutions prior to entering into an agreement pursuant to subdivision (3) of this subsection, upon substantial completion of a design pursuant to this section, prior to the commencement of construction, and when any other substantial step is taken in furtherance of this section.

(c)(1) The commissioner is authorized to contract for seven to 12 involuntary acute inpatient beds at Fletcher Allen Health Care until the hospital owned and operated by the state described in subsection (b) of this section is operational, to cover the increased cost of care; and

(2) If a viable setting is identified by the commissioner and licensed by the department of health, the commissioner is authorized to provide acute inpatient services at a temporary location and shall discontinue services at that location when the hospital owned and operated by the state described in subsection (b) of this section is operational. The department shall pursue Medicare and Medicaid certification for any such hospital or facility.

(d) To the extent amounts of potential funding from various sources are not clear upon passage of this act, the legislative intent for funding the capital costs of this section to the extent practicable is first through insurance funds that may be available for these purposes; second through the Federal Emergency Management Agency (FEMA) funds that may be available for these purposes and any required state match; third, in the case of the 14-bed unit and the six-bed unit, through a rate payment with clearly defined terms of services; and last with state capital or general funds. It is also the intent of the general assembly that, notwithstanding 32 V.S.A. §§ 134 and 135, any capital funds expended for projects described in this act that are reimbursed at a later date by insurance or FEMA shall be reallocated to fund capital projects in a future act relating to capital construction and state bonding.

Sec. 10. SECURE RESIDENTIAL RECOVERY PROGRAM

(a) The commissioner of mental health is authorized to establish and oversee a secure five-bed residential facility owned and operated by the state for individuals no longer requiring acute inpatient care, but who remain in need of treatment within a secure setting for an extended period of time. The program shall be the least restrictive and most integrated setting for each of the individual residents.

(b) The opening of the facility described in subsection (a) of this section is contingent upon the passage of necessary statutory amendments authorizing judicial orders for commitment to such a facility, which shall parallel or be included in 18 V.S.A. § 7620 (related to applications for continuation of involuntary treatment), and shall include the same level of statutory protections

for the legal rights of the residents as provided for individuals at inpatient facilities.

* * * Vermont Employees Retirement System * * *

Sec. 11. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) Unless a different meaning is plainly required by the context, the following words and phrases as used in this subchapter shall have the following meanings:

* * *

(28) "Successor in interest" means the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

Sec. 12. 3 V.S.A. § 459(d)(2)A) is amended to read:

(2)(A) Upon early retirement, a group F member, except facility employees of the department of corrections and department of corrections employees who provide direct security and treatment services to offenders under supervision in the community and Woodside facility employees, shall receive an early retirement allowance which shall be equal to the normal retirement allowance reduced by one-half of one percent for each month the member is under age 62 at the time of early retirement. Group F members who have 20 years of service as facility employees of the department of corrections, as department of corrections employees who provide direct security and treatment services to offenders under supervision in the community or as Woodside facility employees or as Vermont ~~state hospital~~ State Hospital employees, or as employees of its successor in interest, who provide direct patient care shall receive an early retirement allowance which shall be equal to the normal retirement allowance at age 55 without reduction; provided the 20 years of service occurred in one or more of the following capacities as an employee of the department of corrections, Woodside facility~~[~~, or the Vermont ~~state hospital]~~ State Hospital, or its successor in interest: facility employee, community service center employee, or court and reparative service unit employee.

* * * Executive: Human Services * * *

Sec. 13. 3 V.S.A. § 3089 is amended to read:

§ 3089. DEPARTMENT OF MENTAL HEALTH

The department of mental health is created within the agency of human services as the successor to and the continuation of the division of mental health services of the department of health. The department of mental health

shall be responsible for the operation of the Vermont ~~state hospital~~ State Hospital, or its successor in interest as defined in subdivision 455(28) of this title.

* * * Crimes and Criminal Procedure: Escape * * *

Sec. 14. 13 V.S.A. § 1501 is amended to read:

§ 1501. ESCAPE AND ATTEMPTS TO ESCAPE

* * *

(b) A person who, while in lawful custody:

* * *

(4) escapes or attempts to escape from the Vermont ~~state hospital~~ State Hospital, or its successor in interest or a participating hospital, when confined by court order pursuant to chapter 157 of ~~Title 13 or chapter 199 of Title 18~~ this title, or when transferred there pursuant to ~~section~~ 28 V.S.A. § 703 ~~of Title 28~~ and while still serving a sentence, shall be imprisoned for not more than five years or fined not more than $1,000.00, or both.

* * *

(d) As used in this section:

(1) "No refusal system" means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(2) "Participating hospital" means a hospital under contract with the department of mental health to participate in the no refusal system.

(3) "Successor in interest" shall mean the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

* * * Crimes and Criminal Procedure: Insanity as a Defense * * *

Sec. 15. 13 V.S.A. § 4815 is amended to read:

§ 4815. PLACE OF EXAMINATION; TEMPORARY COMMITMENT

* * *

(b) The order for examination may provide for an examination at any jail or correctional center, or at the state hospital, or at its successor in interest, or at such other place as the court shall determine, after hearing a recommendation by the commissioner of mental health.

* * *

(g)(1) Inpatient examination at the ~~state hospital~~ Vermont State Hospital, or its successor in interest, or a designated hospital. The court shall not order an inpatient examination unless the designated mental health professional determines that the defendant is a person in need of treatment as defined in 18 V.S.A. § 7101(17).

* * *

(3) An order for inpatient examination shall provide for placement of the defendant in the custody and care of the commissioner of mental health.

(A) If a Vermont ~~state hospital~~ State Hospital psychiatrist, or a psychiatrist of its successor in interest, or a designated hospital psychiatrist determines that the defendant is not in need of inpatient hospitalization prior to admission, the commissioner shall release the defendant pursuant to the terms governing the defendant's release from the commissioner's custody as ordered by the court. The commissioner of mental health shall ensure that all individuals who are determined not to be in need of inpatient hospitalization receive appropriate referrals for outpatient mental health services.

(B) If a Vermont ~~state hospital~~ State Hospital psychiatrist, or a psychiatrist of its successor in interest, or designated hospital psychiatrist determines that the defendant is in need of inpatient hospitalization:

(i) The commissioner shall obtain an appropriate inpatient placement for the defendant at the Vermont ~~state hospital~~ State Hospital, or its successor in interest, or a designated hospital and, based on the defendant's clinical needs, may transfer the defendant between hospitals at any time while the order is in effect. A transfer to a designated hospital outside the no refusal system is subject to acceptance of the patient for admission by that hospital.

(ii) The defendant shall be returned to court for further appearance on the following business day if the defendant is no longer in need of inpatient hospitalization, unless the terms established by the court pursuant to subdivision (2) of this section permit the defendant to be released from custody.

* * *

(i) As used in this section:

(1) "No refusal system" means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(2) "Successor in interest" shall mean the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

Sec. 15a. 13 V.S.A. § 4822(c) is amended to read:

(c) Notwithstanding the provisions of subsection (b) of this section, at least 10 days prior to the proposed discharge of any person committed under this section the commissioner of ~~developmental and~~ mental health ~~services~~ shall give notice thereof to the committing court and state's attorney of the county where the prosecution originated. In all cases requiring a hearing prior to discharge of a person found incompetent to stand trial under section 4817 of this title, the hearing shall be conducted by the committing court issuing the order under that section. In all other cases, when the committing court orders a hearing under subsection (a) of this section or when, in the discretion of the commissioner of ~~developmental and~~ mental health ~~services~~, a hearing should be held prior to the discharge, the hearing shall be held in the ~~criminal~~ family division of the superior court~~, Waterbury circuit~~ to determine if the committed person is no longer a person in need of treatment or a patient in need of further treatment as set forth in subsection (a) of this section. Notice of the hearing shall be given to the commissioner, the state's attorney of the county where the prosecution originated, the committed person and the person's attorney. Prior to the hearing, the state's attorney may enter an appearance in the proceedings and may request examination of the patient by an independent psychiatrist, who may testify at the hearing.

* * * Elections * * *

Sec. 16. 17 V.S.A. § 2103 is amended to read:

§ 2103. DEFINITIONS

As used in this title, unless the context or a specific definition requires a different reading:

* * *

(38) "State institution" means the Vermont State Hospital, or its successor in interest, correctional facilities, and other similar public institutions, established or funded, or both, by public funds within the state of Vermont, not including educational institutions.

* * *

(43) "No refusal system" means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(44) "Participating hospital" means a hospital under contract with the department of mental health to participate in the no refusal system.

(45) "Successor in interest" means the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

* * * General Provisions (pertaining to Mental Health) * * *

Sec. 17. 18 V.S.A. § 7101 is amended to read:

§ 7101. DEFINITIONS

As used in this part of this title, the following words, unless the context otherwise requires, shall have the following meanings:

* * *

(26) "No refusal system" means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(27) "Participating hospital" means a hospital under contract with the department of mental health to participate in the no refusal system.

(28) "Successor in interest" means the mental health hospital owned and operated by the state that provides acute inpatient care and replaces the Vermont State Hospital.

Sec. 18. 18 V.S.A. § 7108 is amended to read:

§ 7108. CANTEENS

The ~~superintendents~~ chief executive officer of the Vermont State Hospital ~~and the Training School~~, or its successor in interest, may conduct a canteen or commissary, which shall be accessible to patients, ~~students,~~ employees, and visitors of the ~~state hospital and training school~~ Vermont State Hospital, or its successor in interest, at designated hours and shall be operated by employees of the hospital ~~and the school~~. A revolving fund for this purpose is authorized. The salary of an employee of the hospital ~~or training school~~ shall be charged against the canteen fund. Proceeds from sales may be used for operation of the canteen and the benefit of the patients~~, students~~ and employees of the hospital ~~or training school~~ under the direction of the ~~superintendents~~ chief executive officer and subject to the approval of the commissioner. All balances of such funds remaining at the end of any fiscal year shall remain in such fund for use during the succeeding fiscal year. An annual report of the status of the funds shall be submitted to the commissioner.

Sec. 19. 18 V.S.A. § 7110 is amended to read:

§ 7110. CERTIFICATION OF MENTAL ILLNESS

A certification of mental illness by a licensed physician required by section 7504 of this title shall be made by a board eligible psychiatrist, a board certified psychiatrist or a resident in psychiatry, under penalty of perjury. In areas of the state where board eligible psychiatrists, board certified psychiatrists or residents in psychiatry are not available to complete admission certifications to the Vermont ~~state hospital~~ State Hospital, or its successor in interest, the commissioner may designate other licensed physicians as appropriate to complete certification for purposes of section 7504 of this title.

* * * The Department of Mental Health * * *

Sec. 20. 18 V.S.A. § 7205 is amended to read:

§ 7205. SUPERVISION OF INSTITUTIONS

(a) The department of mental health shall operate the Vermont State Hospital, or its successor in interest, and shall be responsible for patients receiving involuntary treatment ~~at a hospital designated by the department of mental health~~.

(b) The commissioner of the department of mental health, in consultation with the secretary, shall appoint a chief executive officer of the Vermont State Hospital, or its successor in interest, to oversee the operations of the hospital. The chief executive officer position shall be an exempt position.

Sec. 21. DELETED

Sec. 22. DELETED

* * * The Commissioner of Mental Health * * *

Sec. 23. 18 V.S.A. § 7401 is amended to read:

§ 7401. POWERS AND DUTIES

Except insofar as this part of this title specifically confers certain powers, duties, and functions upon others, the commissioner shall be charged with its administration. The commissioner may:

* * *

(5) supervise the care and treatment of ~~patients at the Retreat in the same manner and with the same authority that he supervises patients at the Vermont State Hospital~~ individuals within his or her custody;

* * *

(16) contract with accredited educational or health care institutions for psychiatric services at the Vermont State Hospital, or its successor in interest;

* * *

* * * Admission Procedures * * *

Sec. 24. 18 V.S.A. § 7511(a) is amended to read:

(a) The commissioner shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a person subject to this chapter to and from any inpatient setting, including escorts within a designated hospital or the Vermont ~~state hospital~~ State Hospital, or its successor in interest, or otherwise being transported under the jurisdiction of the commissioner in any manner which:

(1) prevents physical and psychological trauma;

(2) respects the privacy of the individual; and

(3) represents the least restrictive means necessary for the safety of the patient.

Sec. 25. 18 V.S.A. § 7703 is amended to read:

§ 7703. TREATMENT

(a) Outpatient or partial hospitalization shall be preferred to inpatient treatment. Emergency involuntary treatment shall be undertaken only when clearly necessary. Involuntary treatment shall be utilized only if voluntary treatment is not possible.

(b) The department shall establish minimum standards for adequate treatment as provided in this section, including requirements that law enforcement is not used as a primary source of inpatient security.

* * * Transfer of Patients * * *

Sec. 26. 18 V.S.A. § 7901 is amended to read:

§ 7901. INTRASTATE TRANSFERS

The commissioner may authorize the transfer of patients between the Vermont ~~state hospital~~ State Hospital, or its successor in interest, and designated hospitals if the commissioner determines that it would be consistent with the medical needs of the patient to do so. Whenever a patient is transferred, written notice shall be given to the patient's ~~attorney,~~ legal guardian or agent, if any, ~~spouse, parent, or parents, or, if none be known, to any other interested party in that order~~, and any other person with the consent of the patient. In all such transfers, due consideration shall be given to the relationship of the patient to his or her family, legal guardian, or friends, so as

to maintain relationships and encourage visits beneficial to the patient. Due consideration shall also be given to the separation of functions and to the divergent purposes of the Vermont ~~state hospital~~ State Hospital, or its successor in interest, and designated hospitals. No patient may be transferred to a correctional institution without the order of a court of competent jurisdiction. No patient may be transferred to a designated hospital outside the no refusal system unless the head of the hospital or his or her designee first accepts the patient.

* * * Support and Expense * * *

Sec. 27. 18 V.S.A. § 8101(b) is amended to read:

(b) The commissioner shall promulgate, pursuant to 3 V.S.A. chapter 25 ~~of Title 3~~, regulations which set forth in detail the levels of income, resources, expenses, and family size at which persons are deemed able to pay given amounts for the care and treatment of a patient, and the circumstances, if any, under which the rates of payment so established may be waived or modified. A copy of the payment schedule so promulgated shall be made available in the admissions office ~~and in the office of each supervisor~~ at the ~~state hospital~~ Vermont State Hospital, or its successor in interest.

Sec. 28. 18 V.S.A. § 8105 is amended to read:

§ 8105. COMPUTATION OF CHARGE FOR CARE AND TREATMENT

The charge for the care and treatment of a patient at the Vermont ~~state hospital~~ State Hospital, or its successor in interest, shall be established at least annually by the commissioner. The charge shall reflect the current cost of the care and treatment, including depreciation and overhead, for the Vermont ~~state hospital~~ State Hospital, or its successor in interest. Depreciation shall include but not be limited to costs for the use of the plant and permanent improvements, and overhead shall include but not be limited to costs incurred by other departments and agencies for the operation of the hospital. Accounting principles and practices generally accepted for hospitals shall be followed by the commissioner in establishing the charges.

Sec. 29. 18 V.S.A. § 8010 is amended to read:

§ 8010. VOLUNTARY PATIENTS; DISCHARGE; DETENTION

~~(a) If a voluntary patient gives notice in writing to the head of the hospital of a desire to leave the hospital, he or she shall promptly be released unless he or she agreed in writing at the time of his admission that his or her release could be delayed.~~

~~(b) In that event and if the head of the hospital determines that the patient is a patient in need of further treatment, the head of the hospital may detain the patient for a period not to exceed four days from receipt of the notice to leave.~~

~~Before expiration of the four-day period the head of the hospital shall either release the patient or apply to the family division of the superior court in the unit in which the hospital is located for the involuntary admission of the patient. The patient shall remain in the hospital pending the court's determination of the case.~~

~~(c) If the patient is under 18 years of age, the notice to leave may be given by the patient or his r her attorney or the person who applied for admission, provided the minor consents thereto.~~ [Repealed.]

* * * Municipal and County Government * * *

Sec. 29a. 24 V.S.A. § 296 is amended to read:

§ 296. TRANSPORTATION OF PRISONERS ~~AND MENTAL PATIENTS~~

All commitments to a state correctional facility ~~or state mental institution~~ or to any other place named by the commissioner of corrections~~, commissioner of mental health~~ or committing court~~,~~ shall be made by any sheriff, deputy sheriff, state police officer, police officer, or constable in the state, or the commissioner of corrections or his or her authorized agent.

* * * Professions and Occupations: Nursing * * *

Sec. 30. 26 V.S.A. § 1583 is amended to read:

§ 1583. EXCEPTIONS

This chapter does not prohibit:

* * *

(6) ~~The work and duties of psychiatric technicians and other care attendants employed in the Vermont state hospital at Waterbury. The agency of human services shall consult with the board regarding standards for the education of the technicians and care attendants.~~

~~(7)~~ The work and duties of attendants in attendant care services programs.

~~(8)~~(7) The practice of any other occupation or profession licensed under the laws of this state.

~~(9)~~(8) The providing of care for the sick in accordance with the tenets of any church or religious denomination by its adherents if the individual does not hold himself or herself out to be a registered nurse, licensed practical nurse, or licensed nursing assistant and does not engage in the practice of nursing as defined in this chapter.

* * * Public Institutions and Corrections: Juveniles * * *

Sec. 31. 28 V.S.A. § 1105 is amended to read:

§ 1105. TRANSFER OF JUVENILES TO STATE HOSPITAL

~~The transfer of any child committed to the custody of the commissioner from a facility of or supported by the department to the state hospital shall be conducted pursuant to the same procedures established for the transfer of adult inmates by sections 703-706 of this title.~~ [Repealed.]

* * * Regulation of Long-Term Care Facilities * * *

Sec. 32. 33 V.S.A. § 7102 is amended to read:

§ 7102. DEFINITIONS

For the purposes of this chapter:

* * *

(11) "Therapeutic community residence" means a place, however named, excluding ~~a hospital~~ hospitals as defined by statute ~~or the Vermont state hospital~~ which provides, for profit or otherwise, short-term individualized treatment to three or more residents with major life adjustment problems, such as alcoholism, drug abuse, mental illness, or delinquency.

* * *

Sec. 33. REPORTS

(a) On or before January 15, 2013, the department of mental health shall report to the senate committee on health and welfare and the house committees on human services and on judiciary on issues and protections relating to decentralizing high intensity inpatient mental health care. The commissioner of mental health shall:

(1) Recommend whether any statutory changes are needed to preserve the rights afforded to patients in the Vermont State Hospital. In so doing, the commissioner shall consider 18 V.S.A. §§ 7705 and 7707, the Vermont Hospital Patient Bill of Rights as provided in 18 V.S.A. § 1852, the settlement order in Doe, et al. v. Miller, et al., docket number S-142-82-Wnc dated May 1984, and other state and federal regulatory and accreditation requirements related to patient rights.

(2) Work with designated hospitals and stakeholders to develop a process to ensure public involvement with policy development relevant to individuals in the care and custody of the commissioner.

(3) Develop consistent definitions and measurement specifications for measures relating to seclusion and restraint and other key indicators, in

collaboration with the designated hospitals. The commissioner shall prioritize the use of measures developed by national organizations such as the Joint Commission and the Centers for Medicare and Medicaid Services.

(4) Report on the efficacy of the department of mental health's housing subsidies program on the status of stable housing.

(b) On or before January 15, 2013, the department of mental health shall report to the senate committee on health and welfare and the house committee on human services regarding the department's efforts to date to plan for implementation, quality improvement, and innovation of Vermont's mental health system and how the department recommends that it proceed in its efforts to improve the system. The recommendation shall be based on:

(1) the department's use of current financial data to conduct a fiscal analysis of the capital and annual operating costs associated with the plan as enacted; and

(2) the department's ongoing collection of data on the state's mental health system, including:

(A) the average monthly bed census and average length of stay at inpatient psychiatric hospitals, intensive residential recovery facilities, and crisis beds;

(B) the number of declined referrals to inpatient psychiatric hospitals due to lack of capacity;

(C) the average wait time for admission to an intensive residential recovery facility;

(D) the number of individuals with mental health conditions utilizing noncategorical case management services, mobile support services, peer services, and housing subsidies, and if applicable, the average wait for each service;

(E) the number of emergency room screenings for psychiatric care, disposition of the screenings, and duration of emergency room visits;

(F) the number and disposition of court-ordered inpatient evaluations; and

(G) individuals' satisfaction with provided services.

(c) Prior to submitting the reports required by subsections (a) and (b) of this section, the department of mental health shall solicit comments from the department's patient representative described in 18 V.S.A. § 7253, Vermont Legal Aid, and Disability Rights Vermont, and shall append any comments received to the respective report.

Sec. 34. TRANSFER OF APPROPRIATIONS

To continue the training program established in Sec. 13 of No. 80 of the Acts of the 2003 Adj. Sess. (2004) (amending Sec. 57 of No. 66 of the Acts of 2003), for assisting selected law enforcement officers during the performance of their duties in their interactions with persons exhibiting mental health conditions, $20,000.00 of the general funds appropriated to the department of mental health shall be transferred to the office of the attorney general.

(1) The office of the attorney general, in consultation with the Vermont coalition for disability rights and other organizations, shall implement this training program.

(2) By January 15 of each year and until funds are fully expended, the attorney general shall submit to the secretary of administration and the house and senate committees on appropriations a report summarizing how the funds have been used and how the trainings have progressed.

(3) Unexpended funds shall be carried forward and used for the purpose of this section in future years.

Sec. 34a. Sec. 33 of No. 43 of the Acts of 2009 (amending Sec. 124d(e) of No. 65 of the Acts of 2007) is amended to read:

(e) For purposes of this section, the council shall cease to exist when the development of the alternatives to the Vermont state hospital is completed, but no later than July 1, ~~2012~~ 2014.

* * * Fiscal Year 2012 Appropriations * * *

Sec. 35. Sec. B.301 of No. 63 of the Acts of 2011 (FY12 Big Bill), as amended by Sec. 14 of H.558 of 2012 (FY12 Budget Adjustment) is amended to read:

Sec. B.301 Secretary's office - global commitment

Grants	~~1,080,785,264~~	1,107,604,567
Total	~~1,080,785,264~~	1,107,604,567
Source of funds		
General fund	~~139,267,121~~	135,947,833
Special funds	~~18,630,961~~	19,052,361
Tobacco fund	36,978,473	36,978,473
State health care resources fund	~~221,579,040~~	234,205,524
Catamount fund	~~23,948,700~~	25,226,979
Federal funds	~~639,692,834~~	655,505,262
Interdepartmental transfers	688,135	688,135
Total	~~1,080,785,264~~	1,107,604,567

Sec. 36. Sec. B.314 of No. 63 of the Acts of 2011 (FY12 Big Bill), as amended by Sec.24 of H.558 of 2012 (FY12 Budget Adjustment) is amended to read:

Sec. B.314 Mental health - mental health

Personal services	~~5,486,339~~	5,482,633
Operating expenses	~~1,117,984~~	1,040,984
Grants	~~124,369,250~~	139,483,645
Total	~~130,973,573~~	146,007,262
Source of funds		
General fund	~~811,295~~	961,295
Special funds	6,836	6,836
Federal funds	~~6,555,971~~	6,552,154
Global Commitment fund	~~123,579,471~~	138,466,977
Interdepartmental transfers	20,000	20,000
Total	~~130,973,573~~	146,007,262

Sec. 37. Sec. B.315 of No. 63 of the Acts of 2011 (FY 12 Big Bill), as amended by Sec.25 of H.558 of 2012 (FY12 Budget Adjustment) is amended to read:

Sec. B.315 Mental health – Vermont state hospital

Personal services	~~20,479,188~~	20,228,969
Operating expenses	~~2,056,312~~	1,394,734
Grants	82,335	82,335
Total	~~22,617,835~~	21,706,038
Source of funds		
General fund	~~17,016,067~~	5,963,977
~~Special funds~~	~~835,486~~	0
Federal funds	~~213,564~~	93,117
Global Commitment fund	~~4,252,718~~	15,648,944
~~Interdepartmental transfers~~	~~300,000~~	0
Total	~~22,617,835~~	21,706,038

Sec. 37a. REDUCTION IN FORCE OF VERMONT STATE HOSPITAL EMPLOYEES

(a) Permanent status classified employees who were officially subjected to a reduction in force from their positions with the Vermont State Hospital on or after February 6, 2012, whose reemployment rights have not otherwise terminated and who have not been reemployed with the state during the two-year reduction in force reemployment rights period, shall be granted a continuation of their reduction in force reemployment rights, in accordance with the provisions of the applicable collective bargaining agreement, but solely to vacant classified bargaining unit positions at any new state-owned

and -operated psychiatric hospital which management intends to fill. All other contractual reduction in force reemployment terms and conditions shall apply.

(b) Permanent status classified employees employed by the Vermont State Hospital as of February 6, 2012 who are employed by the state shall, in accordance with the provisions of the applicable collective bargaining agreement, be eligible to receive one mandatory offer of reemployment to any new state-owned and -operated psychiatric hospital, solely to the job classification that they last occupied at the Vermont State Hospital, provided management intends to fill positions within that job classification. An employee who accepts such mandatory offer of reemployment shall be appointed in accordance with the provisions of the applicable collective bargaining agreement. If an employee who accepts a mandatory offer of reemployment fails the associated working test period, he or she shall be separated from employment and granted full reduction in force reemployment rights in accordance with the applicable collective bargaining agreement.

(c) Subsections (a) and (b) of this section are repealed one year after the opening of any new state-owned and -operated psychiatric hospital.

Sec. 37b. LEGISLATIVE INTENT

(a) It is the intent of the general assembly that the department of mental health contract with the Brattleboro Retreat for a 14-bed unit and with Rutland Regional Medical Center for a six-bed facility pursuant to Sec. 9(a) of this act.

(b) It is the understanding of the general assembly that the proposal in Sec. 9(c)(2) of this act, the Brattleboro Retreat, Rutland Regional Medical Center, and an interim secure residential facility are to temporarily meet the immediate needs of the state.

Sec. 38. EFFECTIVE DATES

This act shall take effect on passage, except for Sec. 34 which shall take effect on July 1, 2012.

(Committee vote: 5-0-0)

Reported favorably with recommendation of proposal of amendment by Senator Hartwell for the Committee on Institutions.

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Health and Welfare, with the following amendments thereto:

First: In Sec. 9, subdivision (b)(1), by striking out the second sentence in its entirety and inserting in lieu thereof: "Using flexible and expedient methods, the department of buildings and general services shall be responsible for the construction processes related to the hospital."

Second: In Sec. 9, subdivision (b)(3), by inserting the word "of" after the word period and by inserting the phrase "plus any contracted for renewal options" after the word years

(Committee vote: 4-1-0)

(For House amendments, see House Journal for February 2, 2012, page 89.)

Reported favorably with recommendation of proposal of amendment by Senator Kitchel for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare and the Committee on Institutions, with the following amendments thereto:

First: In Sec. 1a, 18 V.S.A. § 7255(3), after the word allow by adding the word "for"

Second: In Sec. 1a, 18 V.S.A. § 7256, by striking out the word and at the end of subdivision (3), and by striking out subdivision (4) in its entirety and inserting in lieu thereof the following: "(4) Patient recovery in terms of clinical, social, and legal outcomes; and", and by inserting a new subdivision (5) to read as follows:

"(5) Performance of the state's mental health system of care as compared to nationally recognized standards of excellence."

Third: In Sec. 7, subdivision (1)(B), by adding the word "corrections," after the word officials,

Fourth: In Sec. 9, subdivision (a)(2), in the first sentence, by striking out the word four and inserting in lieu thereof the number "10"

Fifth: In Sec. 9, by striking out subdivision (c)(2) in its entirety and inserting in lieu thereof the following:

(c)(2) If a viable setting is identified by the commissioner and licensed by the department of health, the commissioner is authorized to provide acute inpatient services at a temporary location, which shall cease to operate on the first date that the hospital owned and operated by the state described in subsection (b) of this section is operational. The department shall pursue Medicare and Medicaid certification for any such hospital or facility.

Sixth: In Sec. 10, subsection (a), by striking out the words five-bed and inserting in lieu thereof the following: "five- to 10-bed"

Seventh: By striking out Sec. 24 in its entirety and inserting in lieu thereof the following:

Sec. 24. 18 V.S.A. § 7511 is amended to read:

§ 7511. TRANSPORTATION

(a) The commissioner shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a person subject to this chapter to and from any inpatient setting, including escorts within a designated hospital or the Vermont ~~state hospital~~ State Hospital, or its successor in interest, or otherwise being transported under the jurisdiction of the commissioner in any manner which:

(1) prevents physical and psychological trauma;

(2) respects the privacy of the individual; and

(3) represents the least restrictive means necessary for the safety of the patient.

(b) The commissioner shall have the authority to designate the professionals or law enforcement officers who may authorize the method of transport of patients under the commissioner's care and custody.

(c) When a professional or law enforcement officer designated pursuant to subsection (b) of this section decides an individual is in need of secure transport with mechanical restraints, the reasons for such determination shall be documented in writing.

* * *

Eighth: By adding a Sec. 33a, after Sec. 33, to read as follows:

Sec. 33a. COST-BASED REIMBURSEMENT FOR ACUTE HOSPITAL SERVICES

(a) Prior to providing cost-based reimbursement above established rates, the department of mental health shall ensure that a rigorous fiscal review has been conducted by qualified professionals verifying any submitted claim includes only valid and allowable costs. The department may contract with the division of rate setting or a third party to conduct this review.

(b) The department of mental health shall report to the joint fiscal committee regarding the fiscal review described in subsection (a) of this section on or before September 1, 2012.

Ninth: In Sec. 34, in the introductory paragraph, in the first sentence, after the words department of mental health by adding the words "for fiscal year 2012"

(Committee vote: 7-0-0)

(For House amendments, see House Journal for February 2, 2012, page 89.)

CONCURRENT RESOLUTIONS FOR NOTICE

S.C.R. 38 (For text of Resolution, see Page 232 of today's Senate calendar)

H.C.R. 272-277 (For text of Resolutions, see Addendum to House Calendar for February 23, 2012)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

David Luce of Waterbury Center – Member of the Community High School of Vermont Board- By Sen. Kittell for the Committee on Education. (1/13/12)

Patrick Flood of East Calais – Commissioner of the Department of Mental Health – By Sen. Mullin for the Committee on Health and Welfare. (2/8/12)

John Snow of Charlotte – Member of the Vermont Economic Development Authority – By Sen. Fox for the Committee on Finance. (2/8/12)

Martin Maley of Colchester – Superior Court Judge – By Sen. Sears for the Committee on Judiciary. (2/9/12)

Alison Arms of South Burlington – Superior Court Judge – By Sen. Snelli8lng for the Committee on Judiciary. (2/16/12)

Thomas Walsh of Charlotte – Environmental Judge – By Sen. Nitka for the Committee on Judiciary. (2/16/12)

Robert Bishop of St. Johnsbury – Member of the State Infrastructure Bank Board – By Sen. MacDonald for the Committee on Finance. (2/21/12)

John Valente of Rutland – Member of the Vermont Municipal Bond Bank – By Sen. McCormack for the Committee on Finance. (2/21/12)

James Volz of Plainfield – Chair of the Public Service Board – By Sen. Cummings for the Committee on Finance. (2/21/12)

Ed Amidon of Charlotte – Member of the Valuation Appeals Board – By Sen. Ashe for the Committee on Finance. (2/21/12)

PUBLIC HEARINGS

Tuesday, February 28, 2012 – Room 11 – 7:00 P.M. – Re Judicial

Retention of Superior Court Judge Karen Carroll, Superior Court Judge Dennis Pearson, and Superior Court Judge Barry Peterson – By the Joint Committee on Judicial Retention.

REPORTS ON FILE

Reports 2012

Pursuant to the provisions of 2 V.S.A. §20(c), one (1) hard copy of the following reports is on file in the office of the Secretary of the Senate. Effective January 2010, pursuant to Act No. 192, Adj. Sess. (2008) §5.005(g) some reports will automatically be sent by electronic copy only and can be found on the State of Vermont webpage.

6. Vermont State Housing Authority 2011 Annual Report. (February 2012)

7. Agency of Natural Resources – 2012 E-Cycles Report to the Legislature – Vermont Department of Environmental Conservation. (February 2012)

Senate Concurrent Resolution for Notice

S.C.R. 38

By Senators Doyle, Cummings and Pollina,

By Representative Ancel,

S.C.R. 38. Senate concurrent resolution honoring the six fire chiefs past and present who have given over 280 years of combined service to the Marshfield Volunteer Fire Department.

Whereas, for over a century the Marshfield Volunteer Fire Department has doused the flames and ended the fires in the town of Marshfield, and

Whereas, the members of this honorable fire-fighting brigade perform their duties as a community service and may be called at any hour of the day or night regardless of the weather, and

Whereas, any successful fire-fighting team is dependent on the quality of its leadership, and with respect to the Marshfield Volunteer Fire Department, the team leaders are the fire chiefs who have epitomized excellence in the line of duty, and

Whereas, Harold "Hap" Hayward ably led this special organization from 1969 to 1973 as part of his outstanding half century of fire-fighting service in Marshfield from 1947 to 1997, and

Whereas, from 1974 to 1983, Ronald Pitkin proudly wore the chief's helmet, his career having started as a high school student assistant at the fire house; he later became a fire instructor in Vermont and Central America, held

many local offices including selectboard member, and has proudly tallied over 60 years of service in the department, and

Whereas, in 1984, John "Johnny" Schmitt took command, serving ably in this capacity until 1988, and he has been on the force for over 40 years, and

Whereas, starting in 1989 and continuing through 1996, the Marshfield Volunteer Fire Department was under the careful leadership of Dwight Baker, who has now been a skilled firefighter for 40 years, and

Whereas, when 1997 dawned, the Marshfield Volunteer Fire Department chief's job was assumed by Tom Maclay, who comes from a multigenerational family of firefighters; he remained in command until 2005, has now served on the force for 50 years; and for many years was Marshfield's effective town moderator, and

Whereas, in 2006, the family tradition continued when Thomas "Tim" I. Maclay II became the new fire chief, and he has remained in this post into 2012, having served in the department for 40 years, and

Whereas, each of these exemplary fire chiefs will be rightfully honored at the 2012 Marshfield town meeting, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly honors the six fire chiefs past and present who have given over 280 years of combined service to the Marshfield Volunteer Fire Department, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Marshfield Volunteer Fire Department.