

Section by Section Summary of S.295
as amended by the House Committee on Judiciary
An act relating to pretrial services, risk assessments, and criminal justice programs

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Sec. 1: Legislative Findings

Sec. 2. Pretrial Risk Assessments and Needs Screenings

The objective of:

1. a pretrial risk assessment is to provide information to the Court for the purpose of determining whether a person presents a risk of nonappearance or a threat to public safety, so the Court can make an appropriate order concerning bail and conditions of pretrial release.
2. a pretrial needs screening is to obtain a preliminary indication of whether a person has a substantial substance abuse or mental health issue that would warrant a subsequent court order for a more detailed clinical assessment.

A person whose offense or status falls into any of the following categories shall be offered a risk assessment and, if deemed appropriate by the pretrial monitor, a needs screening prior to arraignment:

1. Misdemeanor drug offenses cited into court;
2. Felony drug offenses cited into court;
3. Felonies that are not listed crimes cited into court;
4. Persons who are arrested and lodged and unable to post bail within 24 hrs of lodging, excluding persons who are charged with an offense for which registration as a sex offender is required or an offense punishable by up to life; and
5. Persons not charged with a listed crime who are identified by law enforcement, the prosecution, the defense, probation and parole personnel, the Court, a treatment provider, or a family member or friend as having a substantial substance abuse or mental health issue.

Assessments and screenings to be rolled out to eligible persons according to a plan developed by Administrative Judge, Court Adm., Sec. of AHS, and Commissioner of Corrections. Starts January 1, 2015 and all groups must be integrated by January 1, 2016.

Participation in an assessment or screening shall be voluntary.

The results of the assessment and screening are provided to the prosecutor who, upon filing a criminal charge against the person, will provide the results to the person and his or her attorney and the Court.

In consideration of the assessment and screening, the Court may order the person to comply with any of the following conditions:

- (A) meet with a pretrial monitor on a schedule set by the Court;
- (B) participate in a clinical assessment by a substance abuse treatment provider;
- (C) comply with any level of treatment or recovery support recommended by the provider;
- (D) provide confirmation to the pretrial monitor of the person's attendance and participation in the clinical assessment and any recommended treatment; and
- (E) provide confirmation to the pretrial monitor of the person's compliance with any other condition of release.

Information obtained from the person during the risk assessment or needs screening is exempt from public inspection and copying under the Public Records Act and only may be used for determining bail, conditions of release, and appropriate programming for the person in the pending case. (Use immunity)

The Vermont Supreme Court and the Department of Corrections will adopt rules related to the custody, control, and preservation of information consistent with the confidentiality requirements.

The Administrative Judge will develop guidelines for the appropriate use of court-ordered pretrial monitoring services based upon the risk and needs of the defendant.

Sec. 3. Risk Assessment and Needs Screening Tools

Requires DOC to select risk and needs assessment and screening tools for use in the various decision points in the criminal justice system.

The Department shall have the tools available for use on or before September 1, 2014. The Department, the Judiciary, the Defender General, and the Executive Director and the Department of State's Attorneys and Sheriffs shall conduct training on the risk assessment tools on or before December 15, 2014. (Sec. 2 takes effect January 1, 2015, after training is completed.)

DOC, in consultation with law enforcement agencies and the courts, shall contract for or otherwise provide pretrial services described in this section, including performance of risk assessments, needs screenings, and pretrial monitoring. The contract must include requirements to comply with data collection and evaluation procedures.

AHS, in consultation with the Judiciary, shall ensure that a study is conducted to include an outcome study, process evaluation and cost benefit analysis.

Pretrial monitoring may include:

- (1) reporting to the Court concerning the person's compliance with conditions of release;
- (2) supporting the person in meeting the conditions imposed by the Court, including the condition to appear in Court as directed;
- (3) identifying community-based treatment, rehabilitative services, recovery supports, and restorative justice programs; and
- (4) supporting a prosecutor's precharge program.

Sec. 4. Prosecutor Precharge Program Guidelines and Reporting

Directs the Department of State's Attorneys and Sheriffs, in consultation with the Judiciary and the Attorney General, to develop broad guidelines for precharge programs to ensure there is probable cause and that there are appropriate opportunities for victim input and restitution.

Additionally, on or before October 1, 2014, and annually thereafter, the Executive Director of the Department of State's Attorneys and Sheriffs must report to the General Assembly detailing the alternative justice programs that exist in each county together with the protocols for each program, the annual number of persons served by the program, and a plan for how a sequential intercept model can be employed in the county.

Secs. 5, 6, 7. Deleted (Precharge programs and restitution)

Sec. 8. Transportation of Illegal Drugs into the State

Identifies transportation of a drug into Vermont as an aggravating factor in the sentencing for any felony drug dispense or sale conviction.

Sec. 9. Burglary

Defines "occupied dwelling" as a building used as a residence, either full-time or part-time, regardless of whether someone is actually present in the building at the time of entry.

Keeps sentences for burglary and burglary into an occupied dwelling the same as current law, and adds carrying a weapon, using threats, or actual presence of occupant as aggravating factors for purposes of sentencing.

Sec. 10. Department of Public Safety Report; Depressant, Stimulant, Narcotic

Requires DPS, in consultation with the Department of Health, to examine 18 V.S.A. § 4234 (depressant, stimulant, narcotic drug) for the purpose of establishing clear dosage amounts for narcotics as they relate to unlawful possession, dispensing, and sale. The Department shall consider section 4234 in relation to 18 V.S.A. § 4233 (heroin). The Department shall report its recommendations to the Senate and House Committees on Judiciary on or before December 15, 2014.

Sec. 11: DVHA Authority; Use of Available Sanctions

- Directs the Department of Vermont Health Access (DVHA) to use its authority to sanction Medicaid-participating prescribers operating in bad faith or not in compliance with State or federal requirements.

Sec. 12: Continued Medication-Assisted Treatment for Incarcerated Persons

- Creates a one-year demonstration program to pilot the continued use of medication-assisted treatment within correctional facilities. The Department of Corrections (DOC), in consultation with the Medication-Assisted Treatment for Inmates Work Group, will develop and implement the demonstration project.
- This section also requires the Departments of Corrections and Health to collaborate to provide opioid overdose prevention training and distribution of overdose rescue kits with naloxone to pilot project participants who are transitioning from incarceration back into the community.
- DOC will report their findings and a proposed schedule of expansion to the following committees: HCI, HHS, HJ, SHW, SJ, and Corrections Oversight.

Sec. 13: VPMS Query; Rulemaking

- Requires the Secretary of Human Services to adopt rules for Medicaid participating providers and all providers licensed in Vermont who prescribe buprenorphine or a drug containing buprenorphine to query the Vermont Prescription Monitoring System the first time they prescribe the drug, at regular intervals thereafter, and prior to prescribing a replacement prescription.

Sec. 14: Medicated-assisted Therapy; Rulemaking

- Directs the Commissioner of Health to adopt rules relating to MAT for opioid dependence for physicians treating fewer than 30 patients and requires that the physician ensure that patients are screened or assessed, and that those who are determined to need counseling or other services are referred as appropriate.

Sec. 15: Naloxone Hydrochloride; Dispensing or Furnishing

- Directs the Board of Pharmacy to adopt protocols for licensed pharmacists to dispense naloxone hydrochloride without an individual prescription (i.e. make it available over-the-counter).

Sec. 16. Deleted. (Medicaid providers)

Sec. 16a: Department of Corrections and Health Care Reform

- Requires the Agency of Human Services and its departments to assist DOC in accessing health care options for persons transitioning in or out of a correctional facility.
- Requires DOC to include substance abuse and mental health services in its RFP process for inmate health services and requires that those services be provided to persons while incarcerated.

Sec. 17. Immunity from Liability; Reporting an Overdose

Clarifies that immunity applies to the person who experiencing the overdose if a good faith call for emergency medical assistance is made, and makes a technical change in (g) as a cross reference to other section regarding being at the scene or in close proximity to person at the scene.

Sec. 18. Effective Dates

Sec. 2 (pretrial risk assessments and needs screenings) takes effect on January 1, 2015.

Secs. 1 (legislative intent), 3 (risk assessment and needs screening tools), 4 (prosecutor precharge programs and reporting), 10 (Department of Public Safety report), 13 (VPMS query; rulemaking), 14 (medication assisted therapy, rulemaking), and 17 (immunity from liability) take effect on passage.

The rest on July 1, 2014.