



## Vermont Developmental Disabilities Council

---

TO: Senate Health and Welfare Committee

FROM: Kirsten Murphy, Policy Analyst

RE: H. 728, relating to oversight of developmental services

DATE: April 9, 2014

Thank you for the opportunity to speak in support of H. 728, which would make the first significant changes to Vermont's Developmental Services Act since it was adopted in 1996. I have been working closely with the coalition of disability-related groups that brought their concerns to our co-sponsors.

To review, H. 728 makes use of three strategies to bring greater accountability to the Developmental Services System, a department that spends close to \$180 million annually. Specifically, these strategies are:

- Strengthening the language regarding the Department's obligation to insure the quality of the community-based services delivered to Vermonters with developmental disabilities.
- Introducing legislative oversight as a critical check and balance when significant changes are made to the System of Care Plan.
- Clarifying reporting requirements in a manner that will hold the Department accountable for linking its annual review to an assessment of need that is produced every three years. This would include the expectation that the Department consider the unmet needs of the 70% of individuals who qualify for community-based supports but do not receive them because they do not fall into a category that has been deemed a "funding priority."

I want to emphasize that these three strategies are sensible, especially in light of the vulnerabilities of this population; consistent with how other programs within the Agency of Human Services are managed; and focus entirely on improving the decision-making process, not on creating a new service or expense.

You have heard from Department representatives that higher expectations in the area of quality assurance will cost a significant amount of money. I think this assertion is premature and a distraction. While it is true that quality assurance and monitoring does cost money, there is nothing in the language that H. 728 adds to the DD Act that requires the Department to hire more personnel. One could argue, that consistent with Vermont's adoption of Results Based Accountability, H. 728 simply encourages a new approach to quality assurance. The same could be said of the reporting requirements added by H. 728, which do not ask for a new report, but rather for a different sort of report.

This brings us to the question of legislative oversight. Why is it desirable? In earlier testimony, you and your colleagues on the House Human Services Committee heard from parents, providers, and self-advocates about

the decade-long erosion of services. Commissioner Whery correctly points to the anxiety that individuals and families feel about the future of the services on which they depend. Administrative rules bring stability to government systems. Relatively few elements in Vermont's Developmental Services System are subject to rule making. This makes the system easier to change and therefore less stable. When community-based supports were an experiment in the late 1990's, this flexibility made sense, but it no longer does.

In Medicaid-funded services, there are only three variables that can be manipulated to balance need and resources: Who gets served (eligibility), What services are funded, and rates. There are reasonable checks and balances regarding rates. But the other two elements are still managed in a way that is entirely exempt from Vermont's Administrative Procedures Act. Whether through a study or by amending H. 728, it is time for the legislature to take up the task of overseeing how this equation is balanced.