TO THE HONORABLE SENATE

The Committee on Health & Welfare to which was referred Senate Bill No. S. 42, entitled "An act relating to the substance abuse system of care"

respectfully reports that it has considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 16 V.S.A. § 909(a) is amended to read:

(a) The Secretary, in conjunction with the ~~Alcohol and Drug~~ Substance Abuse Advisory Council, and where appropriate, with the Division of ~~Health Promotion~~ Alcohol and Drug Abuse Programs, shall develop a sequential alcohol and drug abuse prevention education curriculum for elementary and secondary schools. The curriculum shall include teaching about the effects and legal consequences of the possession and use of tobacco products.

Sec. 2. 18 V.S.A. chapter 94 is redesignated to read:

CHAPTER 94. ~~DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS~~ SUBSTANCE ABUSE PREVENTION AND CARE

Sec. 3. 18 V.S.A. chapter 94, subchapters 1, 2, 3, and 4 are added to read:

Subchapter 1. System of Care

§ 4811. PRINCIPLES

The General Assembly adopts the following principles pertaining to substance abuse prevention, intervention, treatment, and recovery services:

(1) Substance abuse and substance use disorders are health problems, and shall therefore be addressed using a public health approach. A public health approach emphasizes prevention and wellness for the entire population, not only those individuals with an illness or disease.

(2) The State of Vermont's substance abuse system of care shall be patient-centered and trauma-informed. It shall reflect effectiveness, ease of access, evidence-based practices, cultural competency, and the highest standards of care.

(3) A coordinated continuum of substance abuse prevention, intervention, treatment, and recovery services shall be provided throughout the State, including by the Agency of Human Services, hospitals, approved providers, preferred providers, alcohol and drug abuse counselors, regardless of whether or not the counselor is affiliated with an approved provider or preferred provider, and community and peer partners to ensure that services are available to individuals at all stages of substance misuse and substance use disorders. All providers within the continuum shall move towards the goal of

providing services based on current research on addiction, medicine, clinical treatment, and evidence-based best practices.

(4) Programs addressing substance abuse prevention, intervention, treatment, or recovery shall be data driven and responsive to changes in demonstrated need, service delivery practices, and funding resources.

(5) Determinations as to the appropriate level of care shall be made in accordance with evidence-based guidelines. Consideration shall also be given to the age appropriateness of services.

(6) To the extent possible, the delivery of substance abuse services shall be integrated into Vermont's health care system and across the Agency of Human Services.

(7) Patients and providers shall share responsibility for treatment outcomes.

(8) The delivery of substance abuse services shall be consistent throughout the State in terms of both access to care and the type of services offered.

(9) Recognizing the ongoing challenges and potential for relapse among individuals with a substance use disorder, services addressing both episodic and chronic substance use disorders shall be accessible throughout the State.

(10) The Commissioners of Health and of Vermont Health Access shall ensure that oversight and accountability are built into all aspects of the system of care for substance abuse services, including for alcohol and drug abuse counselors, regardless of whether or not the counselor is affiliated with an approved provider or preferred provider.

§ 4812. DEFINITIONS

As used in this chapter:

(1) "Alcohol and drug abuse counselor" means the same as in 26 V.S.A. chapter 62.

(2) "Approved provider" means a substance abuse organization that has attained a certificate of operation from the Department of Health's Division of Alcohol and Drug Abuse Programs, but does not currently have an existing contract or grant from the Division to provide substance abuse treatment.

(3) "Client" means a person who receives treatment services from an approved provider, preferred provider, or alcohol and drug abuse counselor.

(4) "Continuum of care" means an optimal mix of interventions to address substance abuse and substance use disorders.

(5) "Cultural competence" means a set of behaviors, attitudes, and policies that are culturally and linguistically appropriate to the needs of the population served.

(6) "Designated agency" means the same as in section 7252 of this title.

(7) "Incapacitated" means that a person, as a result of his or her use of alcohol or other drugs, is in a state of intoxication or of mental confusion resulting from withdrawal such that the person:

(A) appears to need medical care or supervision by an approved provider to ensure his or her safety; or

(B) appears to present a direct active or passive threat to the safety of others.

(8) "Intervention" means processes and programs used to identify and act on early signs of substance abuse before it becomes a lifelong problem, including prevention screenings and brief, early interventions and referrals.

(9) "Intoxicated" means a condition in which the mental or physical functioning of an individual is substantially impaired as a result of the presence of alcohol or other drugs in his or her system.

(10) "Law enforcement officer" means a law enforcement officer certified by the Vermont Criminal Justice Training Council as provided in 20 V.S.A. §§ 2355–2358 or appointed by the Commissioner of Public Safety as provided in 20 V.S.A. § 1911.

(11) "Licensed hospital" means a hospital licensed under chapter 43 of this title.

(12) "Person-centered care" means a service delivery mode that gives an individual a primary decision making role in directing his or her care, including having control over his or her own plan and service delivery decisions.

(13) "Preferred provider" means any substance abuse organization that has attained a certificate of operation from the Department of Health's Division of Alcohol and Drug Abuse Programs and has an existing contract or grant from the Division to provide substance abuse treatment.

(14) "Prevention" means the promotion of healthy lifestyles that reduce substance abuse and substance use disorder prior to the onset of a disorder.

(15) "Protective custody" means a civil status in which an incapacitated person is detained by a law enforcement officer for the purposes of:

(A) ensuring the safety of the individual or the public, or both; and

(B) assisting the individual to return to a functional condition.

(16) "Recovery" means a process of change in which an individual with a substance use disorder improves his or her health and wellness, lives in a self-directed manner, and strives to reach his or her full potential.

(17) "Secretary" means the Secretary of Human Services or the Secretary's designee.

(18) "Substance abuse" means a range of harmful or hazardous behaviors such as underage use of alcohol, excessive drinking, use of alcohol during pregnancy, prescription drug misuse, and use of illicit drugs.

(19) "Substance use disorder" means the recurrent use of alcohol, drugs, or both that causes a clinically and functionally significant impairment consistent with the definition in the Diagnostic and Statistical Manual (DSM-5) or its successor.

(20) "System of care" means the continuum of substance abuse prevention, intervention, treatment, and recovery services offered consistently throughout geographically diverse regions of the State.

(21) "Trauma-informed care" means the provision of services that identify the impact of trauma and pathways for recovery; recognize the signs and symptoms of trauma; respond by fully-integrating knowledge about trauma into policies, procedures, and practices; and seek to actively avoid retraumatization.

(22) "Treatment" means the broad range of services including withdrawal management, outpatient, intensive outpatient, residential, and recovery services that are needed by persons with a substance use disorder and may include a variety of other medical, social, vocational, and educational supports and services, including care management, aftercare, and follow-up services relevant to the recovery of these persons.

(23) "Withdrawal management" means the planned withdrawal of an individual from a state of acute or chronic intoxication consistent with the definition in the Diagnostic and Statistical Manual (DSM-5) or its successor.

§ 4813. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS

(a) The Division of Alcohol and Drug Abuse Programs shall plan, operate, and evaluate a consistent, effective, and comprehensive continuum of substance abuse programs. These programs shall coordinate care with Vermont's health, mental health, and human services systems. All duties, responsibilities, and authority of the Division shall be carried out and exercised by and within the Department of Health.

(b) Under the direction of the Commissioner of Health, the Deputy Commissioner of Alcohol and Drug Abuse Programs shall review, approve, and coordinate all alcohol and drug programs developed or administered by any State agency or department, except for alcohol and drug education

programs developed by the Agency of Education in conjunction with the Substance Abuse Advisory Council pursuant to 16 V.S.A. § 909.

(c)(1) Any federal or private funds received by the State for purposes of alcohol and drug programs shall be in the budget of and administered by the Agency of Human Services. This subdivision shall not apply to the programs of the Department of Corrections.

(2) To the extent possible, funds shall be used in a manner that creates a comprehensive and coordinated network of services throughout the State.

(d) The Division of Alcohol and Drug Abuse Programs shall be responsible for the direct oversight and delivery of the programs administered by the Secretary pursuant to subdivision (c)(1) of this section. It shall also be authorized to inspect and monitor these programs and services to ensure quality of care and compliance with State and national standards.

(e) With regard to alcohol and drug treatment, the Commissioner of Health may contract with the Secretary of State for the provision of adjudicative services of one or more administrative law officers and other investigative, legal, and administrative services related to licensure and discipline of alcohol and drug abuse counselors.

§ 4814. AUTHORITY AND ACCOUNTABILITY FOR SUBSTANCE ABUSE SERVICES; RULES FOR ACCEPTANCE INTO TREATMENT

(a) The Secretary shall have the authority and accountability for providing or arranging for the provision of a comprehensive system of substance abuse prevention, intervention, treatment, and recovery services.

(b) The Secretary shall adopt rules and standards pursuant to 3 V.S.A. chapter 25 for the implementation of the provisions of this chapter. In establishing rules regarding the administration and adherence to substance abuse treatment program standards, the Secretary shall adhere to the following guidelines:

(1) A client shall be initially assessed and assigned to the appropriate level of care using evidence-based tools.

(2) A person shall not be denied treatment solely because he or she has withdrawn from treatment against medical advice on a prior occasion or because he or she has relapsed after earlier treatment.

(3) An individualized treatment plan shall be prepared and maintained on a current basis for each client.

(4) Provision shall be made for a continuum of coordinated treatment and recovery services, so that a person who leaves a program or a form of treatment shall have other appropriate services available.

§ 4815. SYSTEM OF CARE

(a) The Commissioner of Health shall coordinate and supervise a continuum of geographically diverse substance abuse services throughout the State that shall include at least the following:

(1) prevention programming and services, including initiatives to deter substance use among youths;

(2) early intervention, including Screening, Brief Intervention, Referral to Treatment (SBIRT) in health care and human services settings;

(3) treatment, including medication-assisted treatment, outpatient services supervised by a licensed alcohol and drug abuse counselor regardless of whether the counselor is affiliated with an approved provider or preferred provider, and inpatient and residential services;

(4) recovery support services;

(5) transitional housing;

(6) coordination of complex care between health, mental health; and

(7) licensure of alcohol and drug abuse counselors pursuant to 26 V.S.A. § 3235.

(b) The Commissioners of Health, of Mental Health, and of Vermont Health Access, in consultation with the Substance Abuse Advisory Council, Green Mountain Care Board, preferred providers, and other community partners, shall develop and implement a plan aimed at creating a cohesive substance abuse system of care in Vermont. The plan shall foster a unified provider network in which providers are reimbursed for comprehensive services that are responsive to patient needs. The plan shall:

(1) balance the delivery of episodic and chronic treatment services;

(2) ensure the coordination of care and payment;

(3) enable treatment based on the American Society of Addiction Medicine's definition of medical necessity and established levels of care;

(4) make case management services available to chronically lapsing patients to ensure consistency in treatment and recovery over time; and

(5) incorporate any payment reform recommendations offered by the Green Mountain Care Board.

§ 4816. REPORTING REQUIREMENTS

The Department of Health, in consultation with the Departments of Mental Health and of Vermont Health Access, shall report annually on or before January 15 to the Senate Committee on Health and Welfare and to the House Committee on Human Services on the following:

(1) adequacy of system capacity, including the utilization and timeliness of services across the continuum of care;

(2) system performance and client outcomes, based on:

(A) national research-based measure sets;

(B) clinical best practices;

(C) measures established by the Department of Health that reflect the priorities in its strategic plan;

(D) program objectives and performance measures consistent with those established pursuant to 2014 Acts and Resolves No. 179, § E.306.2(a)(1); and

(E) any other measures reported on the Department of Health's performance dashboard;

(3) gaps in services or quality of care; and

(4) projection of future needs within the State's substance abuse system of care.

Subchapter 2. Abuse of Alcohol

§ 4821. DECLARATION OF POLICY

(a) It is the policy of the State of Vermont that persons who abuse alcohol are correctly perceived as persons with health and social problems rather than as persons committing criminal transgressions against the welfare and morals of the public.

(b) The General Assembly therefore declares that:

(1) persons who abuse alcohol shall no longer be subjected to criminal prosecution solely because of their consumption of alcoholic beverages or other behavior related to consumption which is not directly injurious to the welfare or property of the public; and

(2) persons who abuse alcohol shall be treated as persons who are sick and shall be provided adequate and appropriate medical and other humane rehabilitative services congruent with their needs.

Subchapter 3. Substance Abuse Advisory Council

§ 4831. SUBSTANCE ABUSE ADVISORY COUNCIL

(a) Creation. There is created a substance abuse advisory council to foster coordination and integration of substance abuse services across the substance abuse system of care.

(b) Membership. The Council shall be composed of the following 19 members:

(1) the Chair of the Senate Committee on Health and Welfare or designee;

(2) the Chair of the House Committee on Human Services or designee;

(3) the Secretary of Human Services or designee;

(4) the Secretary of Education or designee;

(5) the Deputy Commissioner of the Department of Health's Division of Alcohol and Drug Abuse Programs;

(6) the Commissioner of Mental Health or designee;

(7) the Commissioner of Vermont Health Access or designee;

(8) the Director of the Blueprint or designee;

(9) a representative of an approved provider or preferred provider that shall also be a designated agency;

(10) a representative of an approved provider or preferred provider that provides residential treatment services;

(11) two licensed alcohol and drug abuse counselors serving different regions of the State, appointed by the Governor;

(12) a physician in private practice with expertise treating substance use disorders, appointed by the Governor;

(13) a representative of hospitals, appointed by the Vermont Association of Hospitals and Health Systems;

(14) a representative of the criminal justice community, appointed by the Governor;

(15) an educator involved in substance abuse prevention services, appointed by the Governor;

(16) a youth substance abuse prevention specialist, appointed by the Governor;

(17) a community prevention coalition member, appointed by the Governor; and

(18) a member of the peer community involved in recovery services, appointed by the Governor.

(c) Report. Annually on or before November 15, the Council shall submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(d) Meetings.

(1) The Secretary of Human Services shall call the first meeting of the Council to occur on or before August 1, 2015.

(2) The Council shall select a chair and vice chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(e) Reimbursement.

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

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

§ 4832. ADMINISTRATIVE SUPPORT

The Agency of Human Services shall provide the Council with such administrative support as is necessary for it to accomplish the purposes of this chapter.

§ 4833. POWERS AND DUTIES

The Council shall:

(1) assess substance abuse services and service delivery in the State, including the following:

(A) the effectiveness of existing substance abuse services in Vermont and opportunities for improved treatment; and

(B) strategies for enhancing the coordination and integration of substance abuse services across the system of care;

(2) provide recommendations to the Department of Health as it develops a plan for the substance abuse system of care pursuant to subsection 4815(b) of this title, including regarding the integration of substance abuse services with health care reform initiatives, such as value-based payment methodologies;

(3) provide recommendations to the General Assembly and Agency of Human Services regarding the improvement of statutes and rules governing the substance abuse system of care; and

(4) provide recommendations to the General Assembly regarding State policy and programs for individuals experiencing public inebriation.

Subchapter 4. Law Enforcement and Incarceration

§ 4841. TREATMENT AND SERVICES

(a) When a law enforcement officer encounters a person who, in the judgment of the officer, is intoxicated as defined in section 4812 of this title, the officer may assist the person, if he or she consents, to his or her home, to an approved provider, a preferred provider, or to some other mutually agreeable location.

(b) When a law enforcement officer encounters a person who, in the judgment of the officer, is incapacitated as defined in section 4812 of this title, the person shall be taken into protective custody by the officer. The officer shall transport the incapacitated person directly to an approved provider or preferred provider with withdrawal management capabilities, or to the emergency room of a licensed general hospital for treatment, except that if an alcohol and drug abuse counselor exists in the vicinity and is available, the person may be released to the counselor at any location mutually agreeable between the officer and the counselor. The period of protective custody shall end when the person is released to an alcohol and drug abuse counselor, a clinical staff person of an approved provider or preferred provider with withdrawal management capabilities, or a professional medical staff person at a licensed general hospital emergency room. The person may be released to his or her own devices if, at any time, the officer judges him or her to be no longer incapacitated. Protective custody shall in no event exceed 24 hours.

(c) If an incapacitated person is taken to an approved provider or preferred provider with withdrawal management capabilities and the program is at capacity, the person shall be taken to the nearest licensed general hospital emergency room for treatment.

(d) A person judged by a law enforcement officer to be incapacitated, and who has not been charged with a crime, may be lodged in protective custody in a secure facility not operated by the Department of Corrections for up to 24 hours or until judged by the person in charge of the facility to be no longer incapacitated, if and only if:

(1) the person refuses to be transported to an appropriate facility for treatment or, if once there, refuses treatment or leaves the facility before he or she is considered by the responsible staff of that facility to be no longer incapacitated; or

(2) no approved provider or preferred provider with withdrawal management capabilities and no staff physician or other medical professional at the nearest licensed general hospital can be found who will accept the person for treatment.

(e) A person shall not be lodged in a secure facility under subsection (d) of this section without first being evaluated and found to be indeed incapacitated by an alcohol and drug abuse counselor, a clinical staff person of an approved

provider or preferred provider with withdrawal management capabilities, or a professional medical staff person at a licensed general hospital emergency room.

(f) Except for a facility operated by the Department of Corrections, a lockup facility shall not refuse to admit an incapacitated person in protective custody whose admission is requested by a law enforcement officer, in compliance with the conditions of this section.

(g) Notwithstanding subsection (d) of this section, a person under 18 years of age who is judged by a law enforcement officer to be incapacitated and who has not been charged with a crime shall not be held at a lockup facility or community correctional center. If needed treatment is not readily available, the person shall be released to his or her parent or guardian. If the person has no parent or guardian in the area, arrangements shall be made to house him or her according to the provisions of 33 V.S.A. chapter 53. The official in charge of an adult jail or lockup facility shall notify the Deputy Commissioner of Alcohol and Drug Abuse Programs of any person under 18 years of age brought to an adult jail or lockup facility pursuant to this chapter.

(h) If an incapacitated person in protective custody is lodged in a secure facility, his or her family or next of kin shall be notified as promptly as possible. If the person is an adult and requests that there be no notification, his or her request shall be respected.

(i) A taking into protective custody under this section is not an arrest.

(j) Law enforcement officers, persons responsible for supervision in a secure facility, and alcohol and drug abuse counselors who act under the authority of this section are acting in the course of their official duty and are not criminally or civilly liable therefor, unless for gross negligence or willful or wanton injury.

§ 4842. INCARCERATION FOR INEBRIATION PROHIBITED

A person who has not been charged with a crime shall not be incarcerated in a facility operated by the Department of Corrections on account of the person's inebriation.

Sec. 4. RULEMAKING; SYSTEM OF CARE PLAN

(a) On or before January 15, 2016, the Commissioners of Health, of Mental Health, and of Vermont Health Access shall present the plan developed pursuant to 18 V.S.A. § 4816(b) to the Senate Committee on Health and Welfare and to the House Committee on Human Services. The Commissioners shall update the Committees on their respective Departments' strategies for implementing the plan.

(b) No sooner than July 1, 2016, the Commissioner of Health shall adopt into rule the plan developed pursuant to 18 V.S.A. § 4816(b). The rule shall

address the movement of people throughout the substance abuse system of care based on medical necessity. The rule shall also develop a list of outcome measures that must be present in contracts between the Departments of Health, Mental Health, or Vermont Health Access and preferred providers for all substance abuse related services.

Sec. 5. REPORT; SUBSTANCE ABUSE PREVENTION IN SCHOOLS

On or before January 15, 2016, the Secretary of Education shall report to the Senate Committee on Health and Welfare and to the House Committee on Human Services regarding:

(1) the status of the comprehensive health education program as it pertains to substance abuse;

(2) all other Agency initiatives aimed at preventing or treating substance abuse among students; and

(3) the most effective evidence-based practices pertaining to substance abuse in schools.

Sec. 6. REPORT; SERVICES FOR MENTAL HEALTH, SUBSTANCE ABUSE, AND CO-OCCURRING DISORDERS

(a) On or before January 15, 2016, the Blueprint for Health, in consultation with the Department of Mental Health, the Department of Health's Division of Alcohol and Drug Abuse Programs, and stakeholders, shall survey and report on those services provided to individuals with a mental health, substance abuse, or co-occurring disorder by designated agencies, approved providers, preferred providers, federally qualified health centers, and the Blueprint for Health's community health teams. The report shall:

(1) catalogue services for individuals with mental health, substance abuse, and co-occurring disorders to identify where, if any, gaps in services or overlapping services exist;

(2) identify collaboration models, including the benefits and challenges of each, and any recommendations for the development of a related framework or training program;

(3) propose any structural changes necessary to foster a collaborative relationship between the designated agencies, approved providers, preferred providers, federally qualified health centers, and community health teams;

(4) survey and consolidate information on which federally qualified health centers and designated agencies are using behavior change models, and which model is used by each; and

(5) survey the relative pay scales of providers employed by the designated agencies, approved providers, preferred providers, federally

qualified health centers, and community health teams by provider type and county.

(b) The Blueprint for Health may consolidate the filing of this report with any other similar report requested by the General Assembly. Where the filing dates of the consolidated reports are inconsistent, they shall be filed in accordance with the earliest filing date.

Sec. 7. REPEAL

(a) 18 V.S.A. §§ 4801–4807 (Division of Alcohol and Drug Abuse Programs) are repealed on July 1, 2015.

(b) 18 V.S.A. § 4808 (treatment and services) and 18 V.S.A. § 4809 (incarceration for inebriation prohibited) are repealed on July 1, 2017.

(c) The annual reporting requirement on program objectives and performance measures established pursuant to 2014 Acts and Resolves No. 179, Sec. E.306.2(a)(2) is repealed on passage of this act.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2015, except 18 V.S.A. §§ 4841 (treatment and services) and 4842 (incarceration for inebriation prohibited) shall take effect on July 1, 2017.

(Committee vote: 5-0-0)

V. Lyons

Senator Lyons
FOR THE COMMITTEE