

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred Senate Bill No.
3 42 entitled “An act relating to substance abuse system of care” respectfully
4 reports that it has considered the same and recommends that the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

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

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

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

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

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

18 Subchapter 1. System of Care

19 § 4811. PRINCIPLES

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

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

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

9 (3) A coordinated continuum of substance abuse prevention,
10 intervention, treatment, and recovery services shall be provided throughout the
11 State, including by the Agency of Human Services, hospitals, approved
12 providers, preferred providers, alcohol and drug abuse counselors, regardless
13 of whether or not the counselor is affiliated with an approved provider or
14 preferred provider, and community and peer partners to ensure that services are
15 available to individuals at all stages of substance misuse and substance use
16 disorders. All providers within the continuum shall move towards the goal of
17 providing services based on current research on addiction, medicine, clinical
18 treatment, and evidence-based best practices.

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

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

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

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

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

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

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

20 § 4812. DEFINITIONS

21 As used in this chapter:

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

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

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

9 (4) “Continuum of care” means an optimal mix of interventions to
10 address substance abuse and substance use disorders.

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

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

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

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

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

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

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

7 (10) “Law enforcement officer” means a law enforcement officer
8 certified by the Vermont Criminal Justice Training Council as provided in
9 20 V.S.A. §§ 2355–2358 or appointed by the Commissioner of Public Safety
10 as provided in 20 V.S.A. § 1911.

11 (11) “Licensed hospital” means a hospital licensed under chapter 43 of
12 this title.

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

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

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

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

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

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

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

10 (17) “Secretary” means the Secretary of Human Services or the
11 Secretary’s designee.

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

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

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

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

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

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

15 § 4813. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS

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

1 (b) Under the direction of the Commissioner of Health, the Deputy
2 Commissioner of Alcohol and Drug Abuse Programs shall review, approve,
3 and coordinate all alcohol and drug programs developed or administered by
4 any State agency or department, except for alcohol and drug education
5 programs developed by the Agency of Education in conjunction with the
6 Substance Abuse Advisory Council pursuant to 16 V.S.A. § 909.

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

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

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

18 (e) With regard to alcohol and drug treatment, the Commissioner of Health
19 may contract with the Secretary of State for the provision of adjudicative
20 services of one or more administrative law officers and other investigative,

1 legal, and administrative services related to licensure and discipline of alcohol
2 and drug abuse counselors.

3 § 4814. AUTHORITY AND ACCOUNTABILITY FOR SUBSTANCE
4 ABUSE SERVICES; RULES FOR ACCEPTANCE INTO
5 TREATMENT

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

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

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

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

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

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

4 § 4815. SYSTEM OF CARE

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

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

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

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

16 (4) recovery support services;

17 (5) transitional housing;

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

19 (7) licensure of alcohol and drug abuse counselors pursuant to

20 26 V.S.A. § 3235.

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

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

9 (2) ensure the coordination of care and payment;

10 (3) enable treatment based on **the American Society of Addiction**

11 **Medicine's definition of medical necessity and established levels of care;**

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

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

16 § 4816. REPORTING REQUIREMENTS

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

1 **(b) The General Assembly therefore declares that:**

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

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

9 **Subchapter 3. Substance Abuse Advisory Council**

10 **§ 4831. SUBSTANCE ABUSE ADVISORY COUNCIL**

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

14 **(b) Membership. The Council shall be composed of the following**
15 **19 members:**

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

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

19 **(3) the Secretary of Human Services or designee;**

20 **(4) the Secretary of Education or designee;**

- 1 (5) the Deputy Commissioner of the Department of Health’s Division of
- 2 Alcohol and Drug Abuse Programs;
- 3 (6) the Commissioner of Mental Health or designee;
- 4 (7) the Commissioner of Vermont Health Access or designee;
- 5 (8) the Director of the Blueprint or designee;
- 6 (9) a representative of an approved provider or preferred provider that
- 7 shall also be a designated agency;
- 8 (10) a representative of an approved provider or preferred provider that
- 9 provides residential treatment services;
- 10 (11) two licensed alcohol and drug abuse counselors serving different
- 11 regions of the State, appointed by the Governor;
- 12 (12) a physician in private practice with expertise treating substance use
- 13 disorders, appointed by the Governor;
- 14 (13) a representative of hospitals, appointed by the Vermont Association
- 15 of Hospitals and Health Systems;
- 16 (14) a representative of the criminal justice community, appointed by the
- 17 Governor;
- 18 (15) an educator involved in substance abuse prevention services,
- 19 appointed by the Governor;
- 20 (16) a youth substance abuse prevention specialist, appointed by the
- 21 Governor;

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

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

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

9 (d) Meetings.

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

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

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

15 (e) Reimbursement.

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

20 (2) Members of the Council who are not employees of the State of
21 Vermont and who are not otherwise compensated or reimbursed for their

1 attendance shall be entitled to per diem compensation and reimbursement of
2 expenses pursuant to 32 V.S.A. § 1010 for no more than four meetings
3 annually.

4 § 4832. ADMINISTRATIVE SUPPORT

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

8 § 4833. POWERS AND DUTIES

9 The Council shall:

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

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

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

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

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

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

6 Subchapter 4. Law Enforcement and Incarceration

7 § 4841. TREATMENT AND SERVICES

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

13 (b) When a law enforcement officer encounters a person who, in the
14 judgment of the officer, is incapacitated as defined in section 4812 of this title,
15 the person shall be taken into protective custody by the officer. The officer
16 shall transport the incapacitated person directly to an approved provider or
17 preferred provider with withdrawal management capabilities, or to the
18 emergency room of a licensed general hospital for treatment, except that if an
19 alcohol and drug abuse counselor exists in the vicinity and is available, the
20 person may be released to the counselor at any location mutually agreeable
21 between the officer and the counselor. The period of protective custody shall

1 end when the person is released to an alcohol and drug abuse counselor, a
2 clinical staff person of an approved provider or preferred provider with
3 withdrawal management capabilities, or a professional medical staff person at
4 a licensed general hospital emergency room. The person may be released to
5 his or her own devices if, at any time, the officer judges him or her to be no
6 longer incapacitated. Protective custody shall in no event exceed 24 hours.

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

11 (d) A person judged by a law enforcement officer to be incapacitated, and
12 who has not been charged with a crime, may be lodged in protective custody in
13 a secure facility not operated by the Department of Corrections for up to
14 24 hours or until judged by the person in charge of the facility to be no longer
15 incapacitated, if and only if:

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

20 (2) no approved provider or preferred provider with withdrawal
21 management capabilities and no staff physician or other medical professional

1 at the nearest licensed general hospital can be found who will accept the person
2 for treatment.

3 (e) A person shall not be lodged in a secure facility under subsection (d) of
4 this section without first being evaluated and found to be indeed incapacitated
5 by an alcohol and drug abuse counselor, a clinical staff person of an approved
6 provider or preferred provider with withdrawal management capabilities, or a
7 professional medical staff person at a licensed general hospital emergency
8 room.

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

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

1 Alcohol and Drug Abuse Programs of any person under 18 years of age
2 brought to an adult jail or lockup facility pursuant to this chapter.

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

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

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

13 § 4842. INCARCERATION FOR INEBRIATION PROHIBITED

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

17 Sec. 4. RULEMAKING; SYSTEM OF CARE PLAN

18 (a) On or before January 15, 2016, the Commissioners of Health, of Mental
19 Health, and of Vermont Health Access shall present the plan developed
20 pursuant to 18 V.S.A. § 4816(b) to the Senate Committee on Health and
21 Welfare and to the House Committee on Human Services. The Commissioners

1 shall update the Committees on their respective Departments' strategies for
2 implementing the plan.

3 (b) No sooner than July 1, 2016, the Commissioner of Health shall adopt
4 into rule the plan developed pursuant to 18 V.S.A. § 4816(b). The rule shall
5 address the movement of people throughout the substance abuse system of care
6 based on medical necessity. The rule shall also develop a list of outcome
7 measures that must be present in contracts between the Departments of Health,
8 Mental Health, or Vermont Health Access and preferred providers for all
9 substance abuse related services.

10 Sec. 5. REPORT; SUBSTANCE ABUSE PREVENTION IN SCHOOLS

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

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

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

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

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

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

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

10 (2) propose any structural changes necessary to foster a collaborative
11 relationship between the designated agencies, approved providers, preferred
12 providers, and community health teams; and

13 (3) survey the relative pay scales of providers employed by the
14 designated agencies, approved providers, preferred providers, and community
15 health teams by provider type and county.

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

1 Sec. 7. REPEAL

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

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

6 (c) The annual reporting requirement on program objectives and
7 performance measures established pursuant to 2014 Acts and Resolves No.
8 179, Sec. E.306.2(a)(2) is repealed on passage of this act.

9 Sec. 8. EFFECTIVE DATES

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

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16 (Committee vote: _____)

17

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Senator _____

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FOR THE COMMITTEE