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H.611

Introduced by Representatives Wood of Waterbury and Noyes of Wolcott

Referred to Committee on

Date:

Subject: Human services; Department of Disabilities, Aging, and Independent
Living; area agencies on aging; older Vermonters

Statement of purpose of bill as introduced: This bill proposes to establish an
Older Vermonters Act that describes a system of services, supports, and
protections for Vermont residents 60 years of age or older. The bill would also
establish annual inflationary increases to Medicaid reimbursement rates for
home- and community-based service providers.

An act relating to the Older Vermonters Act

It is hereby enacted by the General Assembly of the State of Vermont:

~~*** Older Vermonters Act ***~~

Sec. 1. 33 V.S.A. chapter 62 is added to read:

CHAPTER 62. OLDER VERMONTERS ACT

§ 6201. SHORT TITLE

This chapter may be cited as the "Older Vermonters Act."

~~§ 6202. PRINCIPLES OF SYSTEM OF SERVICES, SUPPORTS, AND~~

PROTECTIONS FOR OLDER VERMONTERS

The State of Vermont adopts the following principles for a comprehensive and coordinated system of services and supports for older Vermonters:

(1) Self-determination. Older Vermonters should be able to direct their own lives as they age so that aging is not something that merely happens to them but a process in which they actively participate. Whatever services, supports, and protections are offered, older Vermonters deserve dignity and respect and must be at the core of all decisions affecting their lives, with the opportunity to accept or refuse any offering.

(2) Safety and protection. Older Vermonters should be able to live in communities, whether urban or rural, that are safe and secure. Older Vermonters have the right to be free from abuse, neglect, and exploitation, including financial exploitation. As older Vermonters age, their civil and legal rights should be protected, even if their capacity is diminished. Safety and stability should be sought, balanced with their right to self-determination.

(3) Coordinated and efficient system of services. Older Vermonters should be able to benefit from a system of services, supports, and protections, including protective services, that is coordinated, equitable, and efficient; includes public and private cross-sector collaboration at the State, regional, and local levels; and avoids duplication while promoting choice, flexibility, and creativity. The system should be easy for individuals and families to

1 ~~access and navigate, including as it relates to major transitions in care.~~

2 (4) Financial security. Older Vermonters should be able to receive an
3 adequate income and have the opportunity to maintain assets for a reasonable
4 quality of life as they age. If older Vermonters want to work, they should be
5 able to seek and maintain employment without fear of discrimination and with
6 any needed accommodations. Older Vermonters should also be able to retire
7 after a lifetime of work, if they so choose, without fear of poverty and
8 isolation.

9 (5) Optimal health and wellness. Older Vermonters should have the
10 opportunity to receive, without discrimination, optimal physical, dental,
11 mental, emotional, and spiritual health through the end of their lives. Holistic
12 options for health, exercise, counseling, and good nutrition should be both
13 affordable and accessible. Access to coordinated, competent, and high-quality
14 care should be provided at all levels and in all settings.

15 (6) Social connection and engagement. Older Vermonters should be
16 free from isolation and loneliness, with affordable and accessible opportunities
17 in their communities for social connectedness, including work, volunteering,
18 lifelong learning, civic engagement, arts, culture, and broadband access and
19 other technologies. Older Vermonters are critical to our local economies and
20 their contributions should be valued by all.

21 ~~(7) Housing, transportation, and community design. Vermont~~

1 communities should be designed, zoned, and built to support the health, safety,
2 and independence of older Vermonters, with affordable, accessible,
3 appropriate, safe, and service-enriched housing, transportation, and community
4 support options that allow them to age in a variety of settings along the
5 continuum of care and that foster engagement in community life.

6 (8) Family caregiver support. Family caregivers are fundamental to
7 supporting the health and well-being of older Vermonters, and their hard work
8 and contributions should be respected, valued, and supported. Family
9 caregivers of all ages should have affordable access to education, training,
10 counseling, respite, and support that is both coordinated and efficient.

11 § 6203. DEFINITIONS

12 As used in this chapter:

13 (1) “Area agency on aging” means an organization designated by the
14 State to develop and implement a comprehensive and coordinated system of
15 services, supports, and protections for older Vermonters, family caregivers, and
16 kinship caregivers within a defined planning and service area of the State.

17 (2) “Choices for Care program” means the Choices for Care program
18 contained within Vermont’s Global Commitment to Health Section 1115
19 demonstration or a successor program.

20 (3) “Department” means the Department of Disabilities, Aging, and
21 Independent Living.

1 (4) “Family caregiver” means an adult family member or other
2 individual who is an informal provider of in-home and community care to an
3 older Vermonter or to an individual with Alzheimer’s disease or a related
4 disorder.

5 (5) “Greatest economic need” means the need resulting from an income
6 level that is too low to meet basic needs for housing, food, transportation, and
7 health care.

8 (6) “Greatest social need” means the need caused by noneconomic
9 factors, including:

10 (A) physical and mental disabilities;

11 (B) language barriers; and

12 (C) cultural, social, or geographic isolation, including isolation
13 caused by racial or ethnic status, that:

14 (i) restricts an individual’s ability to perform normal daily
15 tasks; or

16 (ii) threatens the capacity of the individual to live
17 independently.

18 (7) “Home- and community-based services” means long-term services
19 and supports received in a home or community setting other than a nursing
20 home pursuant to the Choices for Care component of Vermont’s Global
21 Commitment to Health Section 1115 Medicaid demonstration or a successor

1 ~~program and includes enhanced residential care.~~

2 (8) “Kinship caregiver” means an adult individual who has significant
3 ties to a child or family, or both, and takes permanent or temporary care of a
4 child because the current parent is unwilling or unable to do so.

5 (9) “Older Americans Act” means the federal law originally enacted in
6 1965 to facilitate a comprehensive and coordinated system of supports and
7 services for older Americans and their caregivers.

8 (10) “Older Vermonter” means an individual residing in this State who
9 is 60 years of age or older.

10 (11)(A) “Self-neglect” means an adult’s inability, due to physical or
11 mental impairment or diminished capacity, to perform essential self-care tasks,
12 including:

13 (i) obtaining essential food, clothing, shelter, and medical care;

14 (ii) obtaining goods and services necessary to maintain physical
15 health, mental health, or general safety; or

16 (iii) managing one’s own financial affairs.

17 (B) The term “self-neglect” excludes individuals who make a
18 conscious and voluntary choice not to provide for certain basic needs as a
19 matter of lifestyle, personal preference, or religious belief and who understand
20 the consequences of their decision.

21 ~~(12) “State Plan on Aging” means the plan required by the Older~~

1 icans Act that outlines the roles and responsibilities of the State and the area
2 agencies on aging in administering and carrying out the Older Americans Act.

3 (3) “State Unit on Aging” means an agency within a state’s
4 government that is directed to administer the Older Americans Act programs
5 and to develop the State Plan on Aging in that state.

6 § 6204. DEPARTMENT OF DISABILITIES, AGING, AND

7 INDEPENDENT LIVING; DUTIES

8 (a) The Department of Disabilities, Aging, and Independent Living is
9 Vermont’s designated State Unit on Aging.

10 (1) The Department shall administer all Older Americans Act programs
11 in this State and shall develop and maintain the State Plan on Aging.

12 (2) The Department shall be the subject matter expert to guide decision
13 making in State government for all programs, services, funding, initiatives,
14 and other activities relating to or affecting older Vermonters, including:

15 (A) State-funded and federally funded long-term care services and
16 supports;

17 (B) housing and transportation; and

18 (C) health care reform activities.

19 (3) The Department shall administer the Choices for Care program,
20 which the Department shall do in coordination with efforts it undertakes in its
21 role as the State Unit on Aging.

1 ~~(b)(1) The Department shall coordinate strategies to incorporate the~~
2 principles established in section 6202 of this chapter into all programs serving
3 older Vermonters.

4 (2) The Department shall use both qualitative and quantitative data to
5 monitor and evaluate the system's success in targeting services to individuals
6 with the greatest economic and social need.

7 (c) The Department's Advisory Board established pursuant to section 505
8 of this title shall monitor the implementation and administration of the Older
9 Vermonters Act established by this chapter.

10 § 6205. AREA AGENCIES ON AGING; DUTIES

11 (a) Consistent with the Older Americans Act, each area agency on aging
12 shall:

13 (1) develop and implement a comprehensive and coordinated system of
14 services, supports, and protections for older Vermonters, family caregivers, and
15 kinship caregivers within the agency's designated service area;

16 (2) target services and supports to older Vermonters with the greatest
17 economic and social need;

18 (3) perform regional needs assessments to identify existing resources
19 and gaps;

20 (4) develop an area plan with goals, objectives, and performance
21 measures, and a corresponding budget, and submit them to the State Unit on

1 Aging for approval:

2 (5) concentrate resources, build community partnerships, and enter into
3 cooperate agreements with agencies and organizations for delivery of services;

4 (6) designate community focal points for colocation of supports and
5 services for older Vermonters; and

6 (7) conduct outreach activities to identify individuals eligible for
7 assistance.

8 (b) In addition to the duties described in subsection (a) of this section, the
9 area agencies on aging shall:

10 (1) promote the principles established in section 6202 of this chapter
11 across the agencies' programs and shall collaborate with stakeholders to
12 educate the public about the importance of each principle;

13 (2) promote collaboration with a network of providers to provide a
14 holistic approach to improving health outcomes for older Vermonters; and

15 (3) use their existing area plans to facilitate awareness of aging issues,
16 needs, and services and to promote the system principles expressed in section
17 6202 of this chapter.

18 § 6206. PLAN FOR COMPREHENSIVE AND COORDINATED SYSTEM
19 OF SERVICES, SUPPORTS, AND PROTECTIONS

20 (a) At least once every four years, the Department of Disabilities, Aging,
21 and Independent Living shall adopt a State Plan on Aging, as required by the

1 Older Americans Act. The State Plan on Aging shall describe a
2 comprehensive and coordinated system of services, supports, and protections
3 for older Vermonters that is consistent with the principles set forth in section
4 6202 of this chapter and sets forth the nature, extent, allocation, anticipated
5 funding, and timing of services for older Vermonters. The State Plan on Aging
6 shall also include the following categories:

7 (1) priorities for continuation of existing programs and development of
8 new programs;

9 (2) criteria for receiving services or funding;

10 (3) types of services provided; and

11 (4) a process for evaluating and assessing each program's success.

12 (b)(1) The Commissioner shall determine priorities for the State Plan on
13 Aging based on:

14 (A) information obtained from older Vermonters, their families, and
15 their guardians, if applicable, and from providers of care and services to older
16 Vermonters;

17 (B) a comprehensive needs assessment that includes:

18 (i) demographic information about Vermont residents, including
19 older Vermonters, family caregivers, and kinship caregivers;

20 (ii) information about existing services used by older Vermonters,
21 family caregivers, and kinship caregivers,

1 (iii) characteristics of unserved and underserved individuals and
2 populations; and

3 (iv) the reasons for any gaps in service, including identifying
4 variations in community needs and resources; and

5 (C) a comprehensive evaluation of the services available to older
6 Vermonters across the State at all levels and in all settings, including home-
7 and community-based services, residential care homes, assisted living
8 residences, nursing facilities, hospitals and health clinics, adult day facilities,
9 senior centers, private medical offices, and other settings in which care is or
10 may later be provided.

11 (2) Following the determination of State Plan on Aging priorities, the
12 Commissioner shall consider funds available to the Department in allocating
13 resources.

14 (c)(1) At least 60 days prior to adopting the proposed plan, the
15 Commissioner shall submit a draft to the Department's Advisory Board
16 established pursuant to section 505 of this title for advice and
17 recommendations. The Advisory Board shall provide the Commissioner with
18 written comments on the proposed plan.

19 (2) At least 30 days prior to filing a proposed rule with the Secretary of
20 State pursuant to 3 V.S.A. chapter 25 that contains the categories required
21 pursuant to subsection (a) of this section, the Commissioner shall provide the

1 ~~proposed categories to the Advisory Board for its review. The Advisory Board~~
2 ~~may submit public comments on the proposed rule in accordance with 3 V.S.A.~~
3 ~~chapter 25.~~

4 ~~(d) The Commissioner may make annual revisions to the plan as needed in~~
5 ~~accordance with the process set forth in this section. The Commissioner shall~~
6 ~~submit any proposed revisions to the Department's Advisory Board for~~
7 ~~comment within the time frames established in subdivision (c)(1) of this~~
8 ~~section.~~

9 ~~(e) On or before January 15 of each year, and notwithstanding the~~
10 ~~provisions of 2 V.S.A. § 20(d), the Department shall report to the House~~
11 ~~Committee on Human Services, the Senate Committee on Health and Welfare,~~
12 ~~and the Governor regarding:~~

13 ~~(1) implementation of the plan;~~

14 ~~(2) the extent to which the system principles set forth in section 6202 of~~
15 ~~this chapter are being achieved;~~

16 ~~(3) based on both qualitative and quantitative data, the extent to which~~
17 ~~the system has been successful in targeting services to individuals with the~~
18 ~~greatest economic and social need;~~

19 ~~(4) the sufficiency of the provider network and any workforce~~
20 ~~challenges affecting providers of care or services for older Vermonters;~~

21 ~~(5) the availability of affordable and accessible opportunities for older~~

1 Vermonters to engage with their communities, such as social events,

2 educational classes, civic meetings, health and exercise programs, and

3 volunteer opportunities;

4 (6) with respect to the Department's adult protective services activities
5 during the previous fiscal year:

6 (A) the number of unduplicated reports of abuse, neglect, or
7 exploitation of a vulnerable adult received by the Department's Adult
8 Protective Services program, and the number of these reports assigned for
9 investigation;

10 (B) the total number of cases currently open and under investigation;

11 (C) the number of reports assigned for investigation that were not
12 substantiated;

13 (D) the number of cases that were not investigated pursuant to
14 section 6906 of this title because:

15 (i) the report was based on self-neglect;

16 (ii) the alleged victim did not meet the statutory definition of a
17 vulnerable adult;

18 (iii) the allegation did not meet the statutory definition of abuse,
19 neglect, or exploitation;

20 (iv) the report was based on "resident on resident" abuse;

21 (v) the alleged victim died, or

- 1 (vi) for any other reason;
- 2 (E) for reports not investigated because the alleged victim did not
3 meet the definition of a vulnerable adult, the relationship of the reporter to the
4 alleged victim;
- 5 (F) regardless of whether a report was investigated, substantiated, or
6 unsubstantiated, the number of reports referred to other agencies for
7 investigation by the Adult Protective Services program, including
8 identification of each agency and the number of referrals it received;
- 9 (G) the number of reports that the Adult Protective Services program
10 referred for protective services, including a summary of the services provided;
- 11 (H) the number of reports resulting in a written coordinated
12 treatment plan pursuant to subsection 6907(a) of this title or a plan of care as
13 defined in subdivision 6902(8) of this title;
- 14 (I) the number of reports for which an individual was placed on the
15 abuse and neglect registry as the result of a substantiation;
- 16 (J) the number of reports referred to law enforcement agencies;
- 17 (K) the number of reports for which a penalty was imposed pursuant
18 to section 6913 of this title and the number of reports for which actions for
19 intermediate sanctions were brought pursuant to section 7111 of this title;
- 20 (L) for reports not investigated pursuant to section 6906 of this title,
21 the services of agencies to which the reporter, alleged victim, or both were

1 ~~read: and~~

2 (M) for each of the items reported pursuant to subdivisions (A)–(L)
3 of this subdivision (6), a statistical breakdown of the number of reports
4 according to the type of abuse and to the victim's:

5 (i) relationship to the reporter;

6 (ii) relationship to the alleged perpetrator;

7 (iii) age;

8 (iv) disability or impairment; and

9 (v) place of residence.

10 § 6207. SERVICE PROVIDERS; REGISTRATION

11 The Department of Disabilities, Aging, and Independent Living shall
12 establish a process for registering all business organizations providing in-home
13 services to older Vermonters that are not Vermont Medicaid-participating
14 providers or family caregivers. The registration process shall include
15 collecting contact information and a general description of the services each
16 provider offers and making the information publicly available on the
17 Department's website.

18 * * * Increasing Medicaid Rates for Home- and Community-Based

19 Service Providers * * *

20 Sec. 2. 33 V.S.A. § 900 is amended to read:

21 § 900. DEFINITIONS

1 ~~Unless otherwise required by the context, the words and phrases in this~~
2 ~~chapter shall be defined as follows~~ As used in this chapter:

3 * * *

4 (7) “Home- and community-based services” means long-term services
5 and supports received in a home or community setting other than a nursing
6 home pursuant to the Choices for Care component of Vermont’s Global
7 Commitment to Health Section 1115 Medicaid demonstration or a successor
8 program and includes home health and hospice services, assistive community
9 care services, and enhanced residential care services.

10 Sec. 3. 33 V.S.A. § 904 is amended to read:

11 § 904. RATE SETTING

12 (a)(1) The Director shall establish by rule procedures for determining
13 payment rates for:

14 (A) care of State-assisted persons to nursing homes;

15 (B) inflationary rate increases to providers of home- and community-
16 based services; and to

17 (C) such other providers as the Secretary shall direct.

18 (2) The Secretary shall have the authority to establish rates that the
19 Secretary deems sufficient to ensure that the quality standards prescribed by
20 section 7117 of this title are maintained, subject to the provisions of section
21 906 of this title.

22 ~~(3) Beginning in State fiscal year 2003, the Medicaid budget for care of~~

1 ~~State-assisted persons in nursing homes shall employ an annual inflation factor~~
2 ~~which that is reasonable and which that adequately reflects economic~~
3 ~~conditions, in accordance with the provisions of Section 5.8 of the regulations~~
4 ~~promulgated rules adopted by the Division of Rate Setting (“Methods,~~
5 ~~Standards, and Principles for Establishing Medicaid Payment Rates for Long-~~
6 ~~Term Care Facilities”).~~

7 (b) No payment shall be made to any nursing home, on account of any
8 State-assisted person, unless the nursing home is certified to participate in the
9 State/federal medical assistance program and has in effect a provider
10 agreement.

11 Sec. 4. 33 V.S.A. § 911 is added to read:

12 § 911. INFLATION FACTOR FOR HOME- AND COMMUNITY-BASED
13 SERVICES; PAYMENT RATES

14 (a) The rates for providers of home- and community-based services
15 authorized by the Department of Vermont Health Access or the Department of
16 Disabilities, Aging, and Independent Living, or both, to provide home-based,
17 community-based, or home- and community-based services to individuals
18 receiving services pursuant to the Choices for Care component of Vermont’s
19 Global Commitment to Health Section 1115 Medicaid demonstration shall be
20 increased by an annual inflation factor.

21 ~~(b) The Division shall calculate the inflation factor for home- and~~

1 ~~community-based services annually according to the procedure adopted by rule and~~
2 ~~shall report it to the Departments for application to home- and community-~~
3 ~~based provider Medicaid reimbursement rates beginning on July 1.~~

4 (c) Determination of Medicaid reimbursement rates for each fiscal year
5 shall be based on application of the inflation factor to the sum of:

6 (1) the prior fiscal year's payment rates; plus

7 (2) any additional payment amounts available to providers of home- and
8 community-based services as a result of policies enacted by the General
9 Assembly that apply to the fiscal year for which the rates are being calculated.

10 * * * Self-Neglect Working Group * * *

11 Sec. 5. SELF-NEGLECT WORKING GROUP; REPORT

12 (a) Creation. There is created the Self-Neglect Working Group to provide
13 recommendations regarding adults who, due to physical or mental
14 impairment or diminished capacity, are unable to perform essential self-care
15 tasks.

16 (b) Membership. The Working Group shall be composed of the
17 following members:

18 (1) the Commissioner of Disabilities, Aging, and Independent Living
19 or designee;

20 (2) the Director of the Adult Services Division in the Department of
21 Disabilities, Aging, and Independent Living or designee,

1 (3) the Vermont Attorney General or designee;

2 (4) the State Long-Term Care Ombudsman or designee;

3 (5) the Executive Director of the Vermont Association of Area
4 Agencies on Aging or designee;

5 (6) the Executive Director of the Community of Vermont Elders or
6 designee; and

7 (7) the Executive Director of the VNAs of Vermont or designee.

8 (c) Powers and duties. The Working Group shall consider issues and
9 develop recommendations relating to self-neglect, including determining the
10 following:

11 (1) how to identify adults residing in Vermont who, because of
12 physical or mental impairment or diminished capacity, are unable to perform
13 essential self-care tasks and are self-neglecting;

14 (2) how prevalent self-neglect is among adults in Vermont, and any
15 common characteristics that can be identified about the demographics of self-
16 neglecting Vermonters;

17 (3) what resources and services currently exist to assist Vermonters
18 who are self-neglecting, and where there are opportunities to improve
19 delivery of these services and increase coordination among existing service
20 providers;

21 (4) what additional resources and services are needed to better assist

1 Vermonters who are self-neglecting; and

2 (5) how to prevent self-neglect and identify adults at risk for self-
3 neglect.

4 (d) Assistance. The Working Group shall have the administrative,
5 technical, and legal assistance of the Department of Disabilities, Aging, and
6 Independent Living.

7 (e) Report. On or before December 15, 2020, the Working Group shall
8 report its findings and its recommendations for legislative and nonlegislative
9 action to the House Committee on Human Services and the Senate
10 Committee on Health and Welfare.

11 (f) Meetings.

12 (1) The Commissioner of Disabilities, Aging, and Independent Living
13 or designee shall call the first meeting of the Working Group to occur on or
14 before July 1, 2020.

15 (2) The Working Group shall select a chair from among its members at
16 the first meeting.

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

18 (4) The Working Group shall cease to exist following submission of its
19 report pursuant to subsection (e) of this section.

20 * * * Effective Dates * * *

21 Sec. 6. EFFECTIVE DATES

1 ~~(a) Secs. 1 (Older Vermonters Act) and 5 (Self-Neglect Working Group~~
2 ~~report) and this section shall take effect on passage, except that in Sec. 1,~~
3 ~~33 V.S.A. § 6206 (plan for comprehensive and coordinated system of services,~~
4 ~~supports, and protections) shall apply to the State Plan on Aging taking effect~~
5 ~~on October 1, 2023.~~

6 ~~(b) Secs. 2–4 (Medicaid rates for home- and community-based service~~
7 ~~providers) shall take effect on passage and shall apply to home- and~~
8 ~~community-based service provider rates beginning on July 1, 2021.~~

~~*** Older Vermonters Act ***~~

~~Sec. 1. 33 V.S.A. chapter 62 is added to read:~~

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~~and coordinated system of services and supports for older Vermonters:~~

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~~own lives as they age so that aging is not something that merely happens to~~
~~them but a process in which they actively participate. Whatever services,~~
~~supports, and protections are offered, older Vermonters deserve dignity and~~
~~respect and must be at the core of all decisions affecting their lives, with the~~
~~opportunity to accept or refuse any offering.~~

~~(2) Safety and protection. Older Vermonters should be able to live in~~
~~communities, whether urban or rural, that are safe and secure. Older~~
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~~including financial exploitation. As older Vermonters age, their civil and legal~~
~~rights should be protected, even if their capacity is diminished. Safety and~~
~~stability should be sought, balanced with their right to self-determination.~~

~~(3) Coordinated and efficient system of services. Older Vermonters should be able to benefit from a system of services, supports, and protections, including protective services, that is coordinated, equitable, and efficient; includes public and private cross-sector collaboration at the State, regional, and local levels; and avoids duplication while promoting choice, flexibility, and creativity. The system should be easy for individuals and families to access and navigate, including as it relates to major transitions in care.~~

~~(4) Financial security. Older Vermonters should be able to receive an adequate income and have the opportunity to maintain assets for a reasonable quality of life as they age. If older Vermonters want to work, they should be able to seek and maintain employment without fear of discrimination and with any needed accommodations. Older Vermonters should also be able to retire after a lifetime of work, if they so choose, without fear of poverty and isolation.~~

~~(5) Optimal health and wellness. Older Vermonters should have the opportunity to receive, without discrimination, optimal physical, dental, mental, emotional, and spiritual health through the end of their lives. Holistic options for health, exercise, counseling, and good nutrition should be both affordable and accessible. Access to coordinated, competent, and high-quality care should be provided at all levels and in all settings.~~

~~(6) Social connection and engagement. Older Vermonters should be free from isolation and loneliness, with affordable and accessible opportunities in their communities for social connectedness, including work, volunteering, lifelong learning, civic engagement, arts, culture, and broadband access and other technologies. Older Vermonters are critical to our local economies and their contributions should be valued by all.~~

~~(7) Housing, transportation, and community design. Vermont communities should be designed, zoned, and built to support the health, safety, and independence of older Vermonters, with affordable, accessible, appropriate, safe, and service-enriched housing, transportation, and community support options that allow them to age in a variety of settings along the continuum of care and that foster engagement in community life.~~

~~(8) Family caregiver support. Family caregivers are fundamental to supporting the health and well-being of older Vermonters, and their hard work and contributions should be respected, valued, and supported. Family caregivers of all ages should have affordable access to education, training, counseling, respite, and support that is both coordinated and efficient.~~

§ 6203. DEFINITIONS

As used in this chapter:

(1) “Area agency on aging” means an organization designated by the State to develop and implement a comprehensive and coordinated system of services, supports, and protections for older Vermonters, family caregivers, and kinship caregivers within a defined planning and service area of the State.

(2) “Choices for Care program” means the Choices for Care program contained within Vermont’s Global Commitment to Health Section 1115 demonstration or a successor program.

(3) “Department” means the Department of Disabilities, Aging, and Independent Living.

(4) “Family caregiver” means an adult family member or other individual who is an informal provider of in-home and community care to an older Vermonter or to an individual with Alzheimer’s disease or a related disorder.

(5) “Greatest economic need” means the need resulting from an income level that is too low to meet basic needs for housing, food, transportation, and health care.

(6) “Greatest social need” means the need caused by noneconomic factors, including:

(A) physical and mental disabilities;

(B) language barriers; and

(C) cultural, social, or geographic isolation, including isolation caused by racial or ethnic status, sexual orientation, gender identity, or HIV status, that:

(i) restricts an individual’s ability to perform normal daily tasks; or

(ii) threatens the capacity of the individual to live independently.

(7) “Home- and community-based services” means long-term services and supports received in a home or community setting other than a nursing home pursuant to the Choices for Care component of Vermont’s Global Commitment to Health Section 1115 Medicaid demonstration or a successor program and includes home health and hospice services, assistive community care services, and enhanced residential care services.

(8) “Kinship caregiver” means an adult individual who has significant ties to a child or family, or both, and takes permanent or temporary care of a child because the current parent is unwilling or unable to do so

(9) “Older Americans Act” means the federal law originally enacted in 1965 to facilitate a comprehensive and coordinated system of supports and services for older Americans and their caregivers.

(10) “Older Vermonters” means all individuals residing in this State who are 60 years of age or older.

(11)(A) “Self-neglect” means an adult’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks, including:

(i) obtaining essential food, clothing, shelter, and medical care;

(ii) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

(iii) managing one’s own financial affairs.

(B) The term “self-neglect” excludes individuals who make a conscious and voluntary choice not to provide for certain basic needs as a matter of lifestyle, personal preference, or religious belief and who understand the consequences of their decision.

(12) “Senior center” means a community facility that organizes, provides, or arranges for a broad spectrum of services for older Vermonters, including physical and mental health related, social, nutritional, and educational services, and that provides facilities for use by older Vermonters to engage in recreational activities.

(13) “State Plan on Aging” means the plan required by the Older Americans Act that outlines the roles and responsibilities of the State and the area agencies on aging in administering and carrying out the Older Americans Act.

(14) “State Unit on Aging” means an agency within a state’s government that is directed to administer the Older Americans Act programs and to develop the State Plan on Aging in that state.

§ 6204. DEPARTMENT OF DISABILITIES, AGING, AND

INDEPENDENT LIVING; DUTIES

(a) The Department of Disabilities, Aging, and Independent Living is Vermont’s designated State Unit on Aging.

(1) The Department shall administer all Older Americans Act programs in this State and shall develop and maintain the State Plan on Aging.

(2) The Department shall be the subject matter expert to guide decision making in State government for all programs, services, funding, initiatives, and other activities relating to or affecting older Vermonters, including:

(A) State-funded and federally funded long-term care services and supports;

(B) housing and transportation; and

(C) health care reform activities.

(3) The Department shall administer the Choices for Care program, which the Department shall do in coordination with efforts it undertakes in its role as the State Unit on Aging.

(b)(1) The Department shall coordinate strategies to incorporate the principles established in section 6202 of this chapter into all programs serving older Vermonters.

(2) The Department shall use both qualitative and quantitative data to monitor and evaluate the system's success in targeting services to individuals with the greatest economic and social need.

(c) The Department's Advisory Board established pursuant to section 505 of this title shall monitor the implementation and administration of the Older Vermonters Act established by this chapter.

§ 6205. AREA AGENCIES ON AGING; DUTIES

(a) Consistent with the Older Americans Act and in consultation with local home- and community-based service providers, each area agency on aging shall:

(1) develop and implement a comprehensive and coordinated system of services, supports, and protections for older Vermonters, family caregivers, and kinship caregivers within the agency's designated service area;

(2) target services and supports to older Vermonters with the greatest economic and social need;

(3) perform regional needs assessments to identify existing resources and gaps;

(4) develop an area plan with goals, objectives, and performance measures, and a corresponding budget, and submit them to the State Unit on Aging for approval;

(5) concentrate resources, build community partnerships, and enter into cooperative agreements with agencies and organizations for delivery of services;

~~(6) designate community focal points for collocation of supports and services for older Vermonters; and~~

~~(7) conduct outreach activities to identify individuals eligible for assistance.~~

~~(b) In addition to the duties described in subsection (a) of this section, the area agencies on aging shall:~~

~~(1) promote the principles established in section 6202 of this chapter across the agencies' programs and shall collaborate with stakeholders to educate the public about the importance of each principle;~~

~~(2) promote collaboration with a network of service providers to provide a holistic approach to improving health outcomes for older Vermonters; and~~

~~(3) use their existing area plans to facilitate awareness of aging issues, needs, and services and to promote the system principles expressed in section 6202 of this chapter.~~

~~§ 6206. PLAN FOR COMPREHENSIVE AND COORDINATED SYSTEM
OF SERVICES, SUPPORTS, AND PROTECTIONS~~

~~(a) At least once every four years, the Department of Disabilities, Aging, and Independent Living shall adopt a State Plan on Aging, as required by the Older Americans Act. The State Plan on Aging shall describe a comprehensive and coordinated system of services, supports, and protections for older Vermonters that is consistent with the principles set forth in section 6202 of this chapter and sets forth the nature, extent, allocation, anticipated funding, and timing of services for older Vermonters. The State Plan on Aging shall also include the following categories:~~

~~(1) priorities for continuation of existing programs and development of new programs;~~

~~(2) criteria for receiving services or funding;~~

~~(3) types of services provided; and~~

~~(4) a process for evaluating and assessing each program's success.~~

~~(b)(1) The Commissioner shall determine priorities for the State Plan on Aging based on:~~

~~(A) information obtained from older Vermonters, their families, and their guardians, if applicable, and from senior centers and service providers;~~

~~(B) a comprehensive needs assessment that includes:~~

~~(i) demographic information about Vermont residents, including older Vermonters, family caregivers, and kinship caregivers;~~

~~(ii) information about existing services used by older Vermonters, family caregivers, and kinship caregivers;~~

~~(iii) characteristics of unserved and underserved individuals and populations; and~~

~~(iv) the reasons for any gaps in service, including identifying variations in community needs and resources; and~~

~~(C) a comprehensive evaluation of the services available to older Vermonters across the State, including home- and community-based services, residential care homes, assisted living residences, nursing facilities, senior centers, and other settings in which care is or may later be provided.~~

~~(2) Following the determination of State Plan on Aging priorities, the Commissioner shall consider funds available to the Department in allocating resources.~~

~~(c) At least 60 days prior to adopting the proposed plan, the Commissioner shall submit a draft to the Department's Advisory Board established pursuant to section 505 of this title for advice and recommendations. The Advisory Board shall provide the Commissioner with written comments on the proposed plan.~~

~~(d) The Commissioner may make annual revisions to the plan as needed. The Commissioner shall submit any proposed revisions to the Department's Advisory Board for comment within the time frames established in subsection (c) of this section.~~

~~(e) On or before January 15 of each year, and notwithstanding the provisions of 2 V.S.A. § 20(d), the Department shall report to the House Committee on Human Services, the Senate Committee on Health and Welfare, and the Governor regarding:~~

~~(1) implementation of the plan;~~

~~(2) the extent to which the system principles set forth in section 6202 of this chapter are being achieved;~~

~~(3) based on both qualitative and quantitative data, the extent to which the system has been successful in targeting services to individuals with the greatest economic and social need;~~

~~(4) the sufficiency of the provider network and any workforce challenges affecting providers of care or services for older Vermonters; and~~

~~(5) the availability of affordable and accessible opportunities for older Vermonters to engage with their communities, such as social events, educational classes, civic meetings, health and exercise programs, and volunteer opportunities.~~

~~*** Adult Protective Services Program Reporting ***~~

~~Sec. 2. 33 V.S.A. § 6916 is added to read:~~

~~§ 6916. ANNUAL REPORT~~

~~On or before January 15 of each year, and notwithstanding the provisions of 2 V.S.A. § 20(d), the Department shall report to the House Committee on Human Services and the Senate Committee on Health and Welfare regarding the Department's adult protective services activities during the previous fiscal year, including:~~

~~(1) the number of reports of abuse, neglect, or exploitation of a vulnerable adult that the Department's Adult Protective Services program received during the previous fiscal year and comparisons with the two prior fiscal years;~~

~~(2) the Adult Protective Services program's timeliness in responding to reports of abuse, neglect, or exploitation of a vulnerable adult during the previous fiscal year, including the median number of days it took the program to make a screening decision;~~

~~(3) the number of reports received during the previous fiscal year that required a field screen to determine vulnerability and the percentage of field screens that were completed within 10 calendar days;~~

~~(4) the number of reports of abuse, neglect, or exploitation of a vulnerable adult that were received from a facility licensed by the Department's Division of Licensing and Protection during the previous fiscal year;~~

~~(5) the numbers and percentages of reports received during the previous fiscal year by each reporting method, including by telephone, e-mail, Internet, facsimile, and other means;~~

~~(6) the number of investigations opened during the previous fiscal year and comparisons with the two prior fiscal years;~~

~~(7) the number and percentage of investigations during the previous fiscal year in which the alleged victim was a resident of a facility licensed by the Department's Division of Licensing and Protection;~~

~~(8) data regarding the types of maltreatment experienced by alleged victims during the previous fiscal year, including:~~

(A) the percentage of investigations that involved multiple types of allegations of abuse, neglect, or exploitation, or a combination;

(B) the numbers and percentages of unsubstantiated investigations by type of maltreatment; and

(C) the numbers and percentages of recommended substantiations by type of maltreatment;

(9) the Department's timeliness in completing investigations during the previous fiscal year, including both unsubstantiated and recommended substantiated investigations;

(10) data on Adult Protective Services program investigator caseloads, including:

(A) average daily caseloads during the previous fiscal year and comparisons with the two prior fiscal years;

(B) average daily open investigations statewide during the previous fiscal year and comparisons with the two prior fiscal years;

(C) average numbers of completed investigations per investigator during the previous fiscal year; and

(D) average numbers of completed investigations per week during the previous fiscal year;

(11) the number of reviews of screening decisions not to investigate, including the number and percentage of these decisions that were upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(12) the number of reviews of investigations that resulted in an unsubstantiation, including the number and percentage of these unsubstantiations that were upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(13) the number of appeals of recommendations of substantiation that concluded with the Commissioner, including the number and percentage of these recommendations that the Commissioner upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(14) the number of appeals of recommendations of substantiation that concluded with the Human Services Board, including the numbers and percentages of these recommendations that the Board upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(15) the number of appeals of recommendations of substantiation that concluded with the Vermont Supreme Court, including the numbers and percentages of these recommendations that the Court upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(16) the number of expungement requests received during the previous fiscal year, including the number of requests that resulted in removal of an individual from the Adult Abuse Registry;

(17) the number of individuals placed on the Adult Abuse Registry during the previous fiscal year and comparisons with the two prior fiscal years; and

(18) the number of individuals removed from the Adult Abuse Registry during the previous fiscal year.

** * * Vermont Action Plan for Aging Well; Development Process * * **

*Sec. 3. VERMONT ACTION PLAN FOR AGING WELL; DEVELOPMENT
PROCESS; REPORT*

The Secretary of Administration, in collaboration with the Commissioners of Disabilities, Aging, and Independent Living and of Health, shall propose a process for developing the Vermont Action Plan for Aging Well to be implemented across State government, local government, the private sector, and philanthropies. The Vermont Action Plan for Aging Well shall provide strategies and cultivate partnerships for implementation across sectors to promote aging with health, choice, and dignity in order to establish and maintain an age-friendly State for all Vermonters. In crafting the proposed process, the Secretary shall engage a broad array of Vermonters with an interest in creating an age-friendly Vermont, including older Vermonters and their families, adults with disabilities and their families, local government officials, health care and other service providers, employers, community-based organizations, foundations, academic researchers, and other interested stakeholders. On or before January 15, 2021, the Secretary shall submit to the House Committee on Human Services and the Senate Committee on Health and Welfare the proposed process for developing the Vermont Action Plan for Aging Well, including action steps and an achievable timeline, as well as potential performance measures for use in evaluating the results of implementing the Action Plan and the relevant outcomes set forth in 3 V.S.A. § 2311 and related indicators, to which the Action Plan should relate.

~~*** Increasing Medicaid Rates for Home- and Community-Based
Service Providers ***~~

~~Sec. 4. 22 V.S.A. § 900 is amended to read:~~

~~§ 900. DEFINITIONS~~

~~Unless otherwise required by the context, the words and phrases in this chapter shall be defined as follows As used in this chapter:~~

~~***~~

~~(7) “Home- and community-based services” means long-term services and supports received in a home or community setting other than a nursing home pursuant to the Choices for Care component of Vermont’s Global Commitment to Health Section 1115 Medicaid demonstration or a successor program and includes home health and hospice services, assistive community care services, and enhanced residential care services.~~

~~Sec. 4. [Deleted.]~~

~~Sec. 5. 22 V.S.A. § 911 is added to read:~~

~~§ 911. INFLATION FACTOR FOR HOME- AND COMMUNITY-BASED SERVICES; PAYMENT RATES~~

~~(a) The Director shall establish by rule procedures for determining an annual inflation factor to be applied to the Medicaid rates for providers of home- and community-based services authorized by the Department of Vermont Health Access or the Department of Disabilities, Aging, and Independent Living, or both.~~

~~(b) The Division, in collaboration with the Department of Disabilities, Aging, and Independent Living, shall calculate the inflation factor for home- and community-based services annually according to the procedure adopted by rule and shall report it to the Departments of Disabilities, Aging, and Independent Living and of Vermont Health Access for application to home- and community-based provider Medicaid reimbursement rates beginning on July 1.~~

~~(c) Determination of Medicaid reimbursement rates for each fiscal year shall be based on application of the inflation factor to the sum of:~~

~~(1) the prior fiscal year’s payment rates; plus~~

~~(2) any additional payment amounts available to providers of home- and community-based services as a result of policies enacted by the General Assembly that apply to the fiscal year for which the rates are being calculated.~~

~~Sec. 5. [Deleted.]~~

~~Sec. 6. HOME- AND COMMUNITY-BASED SERVICE PROVIDER
RATE STUDY; REPORT~~

~~(a) The Departments of Vermont Health Access and of Disabilities, Aging, and Independent Living shall conduct a rate study of the Medicaid reimbursement rates paid to providers of home- and community-based services, their adequacy, and the methodologies underlying those rates. The Departments shall:~~

~~(1) establish a predictable schedule for Medicaid rates and rate updates;~~

~~(2) identify ways to align the Medicaid reimbursement methodologies and rates for providers of home- and community-based services with those of other payers, to the extent such other methodologies and rates exist;~~

~~(3) limit the number of methodological exceptions; and~~

~~(4) communicate the proposed changes to providers of home- and community-based services prior to implementing any proposed changes.~~

~~(b) On or before January 15, 2021, the Departments of Vermont Health Access and of Disabilities, Aging, and Independent Living shall report to the House Committees on Human Services and on Appropriations and the Senate Committees on Health and Welfare and on Appropriations with the results of the rate study conducted pursuant to this section.~~

~~* * * Self-Neglect Working Group * * *~~

~~Sec. 7. SELF-NEGLECT WORKING GROUP; REPORT~~

~~(a) Creation. There is created the Self-Neglect Working Group to provide recommendations regarding adults who, due to physical or mental impairment or diminished capacity, are unable to perform essential self-care tasks. For the purposes of the Working Group, "self-neglect" has the same meaning as in 33 V.S.A. § 6203.~~

~~(b) Membership. The Working Group shall be composed of the following members:~~

~~(1) the Commissioner of Disabilities, Aging, and Independent Living or designee;~~

~~(2) the Director of the Adult Services Division in the Department of Disabilities, Aging, and Independent Living or designee;~~

~~(3) the Vermont Attorney General or designee;~~

~~(4) the State Long-Term Care Ombudsman or designee;~~

~~(5) the Executive Director of the Vermont Association of Area Agencies on Aging or designee;~~

~~(6) the Executive Director of the Community of Vermont Elders or designee;~~

~~(7) the Executive Director of the VNAs of Vermont or designee;~~

~~(8) the Executive Director of Disability Rights Vermont or designee;~~

~~(9) an elder care clinician selected by Vermont Care Partners; and~~

~~(10) the Director of the Center on Aging at the University of Vermont College of Medicine or designee.~~

~~(c) Powers and duties. The Working Group shall consider issues and develop recommendations relating to self-neglect, including determining the following:~~

~~(1) how to identify adults residing in Vermont who, because of physical or mental impairment or diminished capacity, are unable to perform essential self-care tasks and are self-neglecting;~~

~~(2) how prevalent self-neglect is among adults in Vermont, and any common characteristics that can be identified about the demographics of self-neglecting Vermonters;~~

~~(3) what resources and services currently exist to assist Vermonters who are self-neglecting, and where there are opportunities to improve delivery of these services and increase coordination among existing service providers;~~

~~(4) what additional resources and services are needed to better assist Vermonters who are self-neglecting; and~~

~~(5) how to prevent self-neglect and identify adults at risk for self-neglect.~~

~~(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Department of Disabilities, Aging, and Independent Living.~~

~~(e) Report. On or before December 15, 2020, the Working Group shall report its findings and its recommendations for legislative and nonlegislative action to the House Committee on Human Services and the Senate Committee on Health and Welfare.~~

~~(f) Meetings.~~

~~(1) The Commissioner of Disabilities, Aging, and Independent Living, or designee shall call the first meeting of the Working Group to occur on or before July 1, 2020.~~

~~(2) The Working Group shall select a chair from among its members at the first meeting.~~

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

~~(4) The Working Group shall cease to exist following submission of its report pursuant to subsection (e) of this section.~~

~~*** Effective Dates ***~~

~~§ 8. EFFECTIVE DATES~~

~~(a) Secs. 1 (Older Vermonters Act), 2 (Adult Protective Services reporting), 3 (Strategic Action Plan on Aging; development process; report), 6 (home- and community-based service provider rate study; report), and 7 (Self-Neglect Working Group; report) and this section shall take effect on passage, except that in Sec. 1, 33 V.S.A. § 6206 (plan for comprehensive and coordinated system of services, supports, and protections) shall apply to the State Plan on Aging taking effect on October 1, 2022.~~

~~(b) Secs. 4 and 5 (Medicaid rates for home- and community-based service providers) shall take effect on passage and shall apply to home- and community-based service provider rates beginning on July 1, 2021.~~

~~§ 8. EFFECTIVE DATE~~

~~This act shall take effect on passage, except that in Sec. 1, 33 V.S.A. § 6206 (plan for comprehensive and coordinated system of services, supports, and protections) shall apply to the State Plan on Aging taking effect on October 1, 2022.~~

~~*** Older Vermonters Act ***~~

~~Sec. 1. 33 V.S.A. chapter 62 is added to read:~~

~~CHAPTER 62. OLDER VERMONTERS ACT~~

~~§ 6201. SHORT TITLE~~

~~This chapter may be cited as the “Older Vermonters Act.”~~

~~§ 6202. PRINCIPLES OF SYSTEM OF SERVICES, SUPPORTS, AND PROTECTIONS FOR OLDER VERMONTERS~~

~~The State of Vermont adopts the following principles for a comprehensive and coordinated system of services and supports for older Vermonters:~~

(1) Self-determination. Older Vermonters should be able to direct their own lives as they age so that aging is not something that merely happens to them but a process in which they actively participate. Whatever services, supports, and protections are offered, older Vermonters deserve dignity and respect and must be at the core of all decisions affecting their lives, with the opportunity to accept or refuse any offering.

(2) Safety and protection. Older Vermonters should be able to live in communities, whether urban or rural, that are safe and secure. Older Vermonters have the right to be free from abuse, neglect, and exploitation, including financial exploitation. As older Vermonters age, their civil and legal rights should be protected, even if their capacity is diminished. Safety and stability should be sought, balanced with their right to self-determination.

(3) Coordinated and efficient system of services. Older Vermonters should be able to benefit from a system of services, supports, and protections, including protective services, that is coordinated, equitable, and efficient; includes public and private cross-sector collaboration at the State, regional, and local levels; and avoids duplication while promoting choice, flexibility, and creativity. The system should be easy for individuals and families to access and navigate, including as it relates to major transitions in care. The system should be designed to address the needs and concerns of Older Vermonters and their families during normal times and in the event of a public health crisis, natural disaster, or other widespread emergency situation in this State.

(4) Financial security. Older Vermonters should be able to receive an adequate income and have the opportunity to maintain assets for a reasonable quality of life as they age. If older Vermonters want to work, they should be able to seek and maintain employment without fear of discrimination and with any needed accommodations. Older Vermonters should also be able to retire after a lifetime of work, if they so choose, without fear of poverty and isolation.

(5) Optimal health and wellness. Older Vermonters should have the opportunity to receive, without discrimination, optimal physical, dental, mental, emotional, and spiritual health through the end of their lives. Holistic options for health, exercise, counseling, and good nutrition should be both affordable and accessible. Access to coordinated, competent, and high-quality care should be provided at all levels and in all settings.

(6) Social connection and engagement. Older Vermonters should be free from isolation and loneliness, with affordable and accessible opportunities in their communities for social connectedness, including work, volunteering, lifelong learning, civic engagement, arts, culture, and broadband access and

other technologies. Older Vermonters are critical to our local economies and their contributions should be valued by all.

(7) Housing, transportation, and community design. Vermont communities should be designed, zoned, and built to support the health, safety, and independence of older Vermonters, with affordable, accessible, appropriate, safe, and service-enriched housing, transportation, and community support options that allow them to age in a variety of settings along the continuum of care and that foster engagement in community life.

(8) Family caregiver support. Family caregivers are fundamental to supporting the health and well-being of older Vermonters, and their hard work and contributions should be respected, valued, and supported. Family caregivers of all ages should have affordable access to education, training, counseling, respite, and support that is both coordinated and efficient.

§ 6203. DEFINITIONS

As used in this chapter:

(1) “Area agency on aging” means an organization designated by the State to develop and implement a comprehensive and coordinated system of services, supports, and protections for older Vermonters, family caregivers, and kinship caregivers within a defined planning and service area of the State.

(2) “Choices for Care program” means the Choices for Care program contained within Vermont’s Global Commitment to Health Section 1115 demonstration or a successor program.

(3) “Department” means the Department of Disabilities, Aging, and Independent Living.

(4) “Family caregiver” means an adult family member or other individual who is an informal provider of in-home and community care to an older Vermonter or to an individual with Alzheimer’s disease or a related disorder.

(5) “Greatest economic need” means the need resulting from an income level that is too low to meet basic needs for housing, food, transportation, and health care.

(6) “Greatest social need” means the need caused by noneconomic factors, including:

(A) physical and mental disabilities;

(B) language barriers; and

(C) cultural, social, or geographic isolation, including isolation caused by racial or ethnic status, sexual orientation, gender identity, or HIV status, that:

(i) restricts an individual's ability to perform normal daily tasks; or

(ii) threatens the capacity of the individual to live independently.

(7) "Home- and community-based services" means long-term services and supports received in a home or community setting other than a nursing home pursuant to the Choices for Care component of Vermont's Global Commitment to Health Section 1115 Medicaid demonstration or a successor program and includes home health and hospice services, assistive community care services, and enhanced residential care services.

(8) "Kinship caregiver" means an adult individual who has significant ties to a child or family, or both, and takes permanent or temporary care of a child because the current parent is unwilling or unable to do so.

(9) "Older Americans Act" means the federal law originally enacted in 1965 to facilitate a comprehensive and coordinated system of supports and services for older Americans and their caregivers.

(10) "Older Vermonters" means all individuals residing in this State who are 60 years of age or older.

(11)(A) "Self-neglect" means an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks, including:

(i) obtaining essential food, clothing, shelter, and medical care;

(ii) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

(iii) managing one's own financial affairs.

(B) The term "self-neglect" excludes individuals who make a conscious and voluntary choice not to provide for certain basic needs as a matter of lifestyle, personal preference, or religious belief and who understand the consequences of their decision.

(12) "Senior center" means a community facility that organizes, provides, or arranges for a broad spectrum of services for older Vermonters, including physical and mental health-related, social, nutritional, and educational services, and that provides facilities for use by older Vermonters to engage in recreational activities.

(13) “State Plan on Aging” means the plan required by the Older Americans Act that outlines the roles and responsibilities of the State and the area agencies on aging in administering and carrying out the Older Americans Act.

(14) “State Unit on Aging” means an agency within a state’s government that is directed to administer the Older Americans Act programs and to develop the State Plan on Aging in that state.

§ 6204. DEPARTMENT OF DISABILITIES, AGING, AND
INDEPENDENT LIVING; DUTIES

(a) The Department of Disabilities, Aging, and Independent Living is Vermont’s designated State Unit on Aging.

(1) The Department shall administer all Older Americans Act programs in this State and shall develop and maintain the State Plan on Aging.

(2) The Department shall be the subject matter expert to guide decision making in State government for all programs, services, funding, initiatives, and other activities relating to or affecting older Vermonters, including:

(A) State-funded and federally funded long-term care services and supports;

(B) housing and transportation;

(C) health care reform activities; and

(D) public health crisis and emergency preparedness planning.

(3) The Department shall administer the Choices for Care program, which the Department shall do in coordination with efforts it undertakes in its role as the State Unit on Aging.

(b)(1) The Department shall coordinate strategies to incorporate the principles established in section 6202 of this chapter into all programs serving older Vermonters.

(2) The Department shall use both qualitative and quantitative data to monitor and evaluate the system’s success in targeting services to individuals with the greatest economic and social need.

(c) The Department’s Advisory Board established pursuant to section 505 of this title shall monitor the implementation and administration of the Older Vermonters Act established by this chapter.

§ 6205. AREA AGENCIES ON AGING; DUTIES

(a) Consistent with the Older Americans Act and in consultation with local home- and community-based service providers, each area agency on aging shall:

(1) develop and implement a comprehensive and coordinated system of services, supports, and protections for older Vermonters, family caregivers, and kinship caregivers within the agency's designated service area;

(2) target services and supports to older Vermonters with the greatest economic and social need;

(3) perform regional needs assessments to identify existing resources and gaps;

(4) develop an area plan with goals, objectives, and performance measures, and a corresponding budget, and submit them to the State Unit on Aging for approval;

(5) concentrate resources, build community partnerships, and enter into cooperate agreements with agencies and organizations for delivery of services;

(6) designate community focal points for colocation of supports and services for older Vermonters; and

(7) conduct outreach activities to identify individuals eligible for assistance.

(b) In addition to the duties described in subsection (a) of this section, the area agencies on aging shall:

(1) promote the principles established in section 6202 of this chapter across the agencies' programs and shall collaborate with stakeholders to educate the public about the importance of each principle;

(2) promote collaboration with a network of service providers to provide a holistic approach to improving health outcomes for older Vermonters; and

(3) use their existing area plans to facilitate awareness of aging issues, needs, and services and to promote the system principles expressed in section 6202 of this chapter.

§ 6206. PLAN FOR COMPREHENSIVE AND COORDINATED SYSTEM
OF SERVICES, SUPPORTS, AND PROTECTIONS

(a) At least once every four years, the Department of Disabilities, Aging, and Independent Living shall adopt a State Plan on Aging, as required by the Older Americans Act. The State Plan on Aging shall describe a comprehensive and coordinated system of services, supports, and protections for older Vermonters that is consistent with the principles set forth in section 6202 of

this chapter and sets forth the nature, extent, allocation, anticipated funding, and timing of services for older Vermonters. The State Plan on Aging shall also include the following categories:

(1) priorities for continuation of existing programs and development of new programs;

(2) criteria for receiving services or funding;

(3) types of services provided; and

(4) a process for evaluating and assessing each program's success.

(b)(1) The Commissioner shall determine priorities for the State Plan on Aging based on:

(A) information obtained from older Vermonters, their families, and their guardians, if applicable, and from senior centers and service providers;

(B) a comprehensive needs assessment that includes:

(i) demographic information about Vermont residents, including older Vermonters, family caregivers, and kinship caregivers;

(ii) information about existing services used by older Vermonters, family caregivers, and kinship caregivers;

(iii) characteristics of unserved and underserved individuals and populations; and

(iv) the reasons for any gaps in service, including identifying variations in community needs and resources;

(C) a comprehensive evaluation of the services available to older Vermonters across the State, including home- and community-based services, residential care homes, assisted living residences, nursing facilities, senior centers, and other settings in which care is or may later be provided; and

(D) identification of the additional needs and concerns of older Vermonters, their families, and their caregivers in the event of a public health crisis, natural disaster, or other emergency situation.

(2) Following the determination of State Plan on Aging priorities, the Commissioner shall consider funds available to the Department in allocating resources.

(c) At least 60 days prior to adopting the proposed plan, the Commissioner shall submit a draft to the Department's Advisory Board established pursuant to section 505 of this title for advice and recommendations. The Advisory Board shall provide the Commissioner with written comments on the proposed plan.

(d) The Commissioner may make annual revisions to the plan as needed. The Commissioner shall submit any proposed revisions to the Department's Advisory Board for comment within the time frames established in subsection (c) of this section.

(e) On or before January 15 of each year, and notwithstanding the provisions of 2 V.S.A. § 20(d), the Department shall report to the House Committee on Human Services, the Senate Committee on Health and Welfare, and the Governor regarding:

(1) implementation of the plan;

(2) the extent to which the system principles set forth in section 6202 of this chapter are being achieved;

(3) based on both qualitative and quantitative data, the extent to which the system has been successful in targeting services to individuals with the greatest economic and social need;

(4) the sufficiency of the provider network and any workforce challenges affecting providers of care or services for older Vermonters; and

(5) the availability of affordable and accessible opportunities for older Vermonters to engage with their communities, such as social events, educational classes, civic meetings, health and exercise programs, and volunteer opportunities.

** * * Adult Protective Services Program Reporting * * **

Sec. 2. 33 V.S.A. § 6916 is added to read:

§ 6916. ANNUAL REPORT

On or before January 15 of each year, and notwithstanding the provisions of 2 V.S.A. § 20(d), the Department shall report to the House Committee on Human Services and the Senate Committee on Health and Welfare regarding the Department's adult protective services activities during the previous fiscal year, including:

(1) the number of reports of abuse, neglect, or exploitation of a vulnerable adult that the Department's Adult Protective Services program received during the previous fiscal year and comparisons with the two prior fiscal years;

(2) the Adult Protective Services program's timeliness in responding to reports of abuse, neglect, or exploitation of a vulnerable adult during the previous fiscal year, including the median number of days it took the program to make a screening decision:

(3) the number of reports received during the previous fiscal year that required a field screen to determine vulnerability and the percentage of field screens that were completed within 10 calendar days;

(4) the number of reports of abuse, neglect, or exploitation of a vulnerable adult that were received from a facility licensed by the Department's Division of Licensing and Protection during the previous fiscal year;

(5) the numbers and percentages of reports received during the previous fiscal year by each reporting method, including by telephone, e-mail, Internet, facsimile, and other means;

(6) the number of investigations opened during the previous fiscal year and comparisons with the two prior fiscal years;

(7) the number and percentage of investigations during the previous fiscal year in which the alleged victim was a resident of a facility licensed by the Department's Division of Licensing and Protection;

(8) data regarding the types of maltreatment experienced by alleged victims during the previous fiscal year, including:

(A) the percentage of investigations that involved multiple types of allegations of abuse, neglect, or exploitation, or a combination;

(B) the numbers and percentages of unsubstantiated investigations by type of maltreatment; and

(C) the numbers and percentages of recommended substantiations by type of maltreatment;

(9) the Department's timeliness in completing investigations during the previous fiscal year, including both unsubstantiated and recommended substantiated investigations;

(10) data on Adult Protective Services program investigator caseloads, including:

(A) average daily caseloads during the previous fiscal year and comparisons with the two prior fiscal years;

(B) average daily open investigations statewide during the previous fiscal year and comparisons with the two prior fiscal years;

(C) average numbers of completed investigations per investigator during the previous fiscal year; and

(D) average numbers of completed investigations per week during the previous fiscal year;

(11) the number of reviews of screening decisions not to investigate, including the number and percentage of these decisions that were upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(12) the number of reviews of investigations that resulted in an unsubstantiation, including the number and percentage of these unsubstantiations that were upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(13) the number of appeals of recommendations of substantiation that concluded with the Commissioner, including the number and percentage of these recommendations that the Commissioner upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(14) the number of appeals of recommendations of substantiation that concluded with the Human Services Board, including the numbers and percentages of these recommendations that the Board upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(15) the number of appeals of recommendations of substantiation that concluded with the Vermont Supreme Court, including the numbers and percentages of these recommendations that the Court upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(16) the number of expungement requests received during the previous fiscal year, including the number of requests that resulted in removal of an individual from the Adult Abuse Registry;

(17) the number of individuals placed on the Adult Abuse Registry during the previous fiscal year and comparisons with the two prior fiscal years; and

(18) the number of individuals removed from the Adult Abuse Registry during the previous fiscal year.

** * * Vermont Action Plan for Aging Well; Development Process * * **

*Sec. 3. VERMONT ACTION PLAN FOR AGING WELL; DEVELOPMENT
PROCESS; REPORT*

(a) The Secretary of Administration, in collaboration with the Commissioners of Disabilities, Aging, and Independent Living and of Health, shall propose a process for developing the Vermont Action Plan for Aging Well to be implemented across State government, local government, the private sector, and philanthropies.

~~(a) The Vermont Action Plan for Aging Well shall provide strategies and cultivate partnerships for implementation across sectors to promote aging with health, choice, and dignity in order to establish and maintain an age-friendly State for all Vermonters. The Action Plan shall also address the additional needs and concerns of older Vermonters and their families in the event of a public health crisis, natural disaster, or other widespread emergency situation in this State.~~

(b) The Vermont Action Plan for Aging Well shall provide strategies and cultivate partnerships for implementation across sectors to promote aging with health, choice, and dignity in order to establish and maintain an age-friendly State for all Vermonters and shall include a review of the Medicaid reimbursement rates paid to home- and community-based service providers. The Action Plan shall also address the additional needs and concerns of older Vermonters and their families in the event of a public health crisis, natural disaster, or other widespread emergency situation in this State.

(c) In crafting the proposed process for developing the Action Plan, the Secretary shall engage a broad array of Vermonters with an interest in creating an age-friendly Vermont, including older Vermonters and their families, adults with disabilities and their families, local government officials, health care and other service providers, employers, community-based organizations, foundations, academic researchers, and other interested stakeholders.

(d) On or before May 1, 2021, the Secretary shall submit to the House Committee on Human Services and the Senate Committee on Health and Welfare the proposed process for developing the Vermont Action Plan for Aging Well, including action steps and an achievable timeline, as well as potential performance measures for use in evaluating the results of implementing the Action Plan and the relevant outcomes set forth in 3 V.S.A. § 2311 and related indicators, to which the Action Plan should relate.

** * * Evaluating Medicaid Rates for Home- and Community-Based
Service Providers * * **

Sec. 4. [Deleted.]

Sec. 5. [Deleted.]

~~Sec. 6. HOME AND COMMUNITY-BASED SERVICE PROVIDER
RATE STUDY; INFLATION FACTOR; REPORT~~

~~(a) As used in this section, “home- and community-based services” means long-term services and supports received in a home or community setting other than a nursing home pursuant to the Choices for Care component of Vermont’s Global Commitment to Health Section 1115 Medicaid demonstration or a~~

~~essor program and includes home health and hospice services, assistive
community care services, and enhanced residential care services.~~

~~(b) The Departments of Vermont Health Access and of Disabilities, Aging,
and Independent Living shall conduct a rate study of the Medicaid
reimbursement rates paid to providers of home- and community-based
services, their adequacy, and the methodologies underlying those rates. The
Departments shall:~~

~~(1) determine Medicaid reimbursement rates for providers of home- and
community-based services that are sufficient to recruit and retain individual
service providers and allow consumers to attain and maintain their highest
level of functioning in accordance with a care plan, while also creating a fair
and equitable balance between cost containment and high-quality care;~~

~~(2) establish a predictable schedule for Medicaid rates and rate
updates;~~

~~(3) identify ways to align the Medicaid reimbursement methodologies
and rates for providers of home- and community-based services with those of
other payers, to the extent such other methodologies and rates exist;~~

~~(4) limit the number of methodological exceptions; and~~

~~(5) communicate the proposed changes to providers of home- and
community-based services prior to implementing any proposed changes.~~

~~(c) The Departments of Vermont Health Access and of Disabilities, Aging,
and Independent Living shall develop criteria and a process for calculating an
annual inflation factor for potential application to the Medicaid rates for
providers of home- and community-based services in future fiscal years. In
developing the criteria and process, the Departments shall consider inflation
factors applicable to payment rates for providers of home- and community-
based services in other Agency of Human Services programs and may include
elements of the inflation factors in Agency of Human Services, Methods,
Standards and Principles for Establishing Medicaid Payment Rates for Long-
Term Care Facilities (CVR 13-010-001).~~

~~(d) On or before April 15, 2021, the Departments of Vermont Health
Access and of Disabilities, Aging, and Independent Living shall report to the
House Committees on Human Services and on Appropriations and the Senate
Committees on Health and Welfare and on Appropriations with the results of
the rate study conducted pursuant to subsection (b) of this section and the
criteria and process for calculating the inflation factor as set forth in
subsection (c) of this section.~~

Sec. 6. [Deleted.]

** * * Self-Neglect Working Group * * **

Sec. 7. SELF-NEGLECT WORKING GROUP; REPORT

(a) Creation. There is created the Self-Neglect Working Group to provide recommendations regarding adults who, due to physical or mental impairment or diminished capacity, are unable to perform essential self-care tasks. For the purposes of the Working Group, "self-neglect" has the same meaning as in 33 V.S.A. § 6203.

(b) Membership. The Working Group shall be composed of the following members:

(1) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(2) the Director of the Adult Services Division in the Department of Disabilities, Aging, and Independent Living or designee;

(3) the Director of the Developmental Disabilities Services Division in the Department of Disabilities, Aging, and Independent Living or designee;

(4) the Director of the Adult Services Division in the Department of Mental Health or designee;

(5) the Vermont Attorney General or designee;

(6) the State Long-Term Care Ombudsman or designee;

(7) the Executive Director of the Vermont Association of Area Agencies on Aging or designee;

(8) the Executive Director of the Community of Vermont Elders or designee;

(9) the Executive Director of the VNAs of Vermont or designee;

(10) the Executive Director of Disability Rights Vermont or designee;

(11) the Executive Director of the Vermont Center for Independent Living or designee;

(12) an older Vermonter or individual with a disability, selected by the Advisory Board to the Department of Disabilities, Aging, and Independent Living, who may be a member of that Board;

(13) a disclosed consumer, appointed by the Adult Program Standing Committee for the Department of Mental Health, who may be a member of that Committee;

(14) a disclosed consumer, appointed by the State Program Standing Committee for the Developmental Disabilities Services Division in the

Department of Disabilities, Aging, and Independent Living, who may be a member of that Committee;

(15) an elder care clinician, selected by Vermont Care Partners; and

(16) the Director of the Center on Aging at the University of Vermont College of Medicine or designee.

(c) Powers and duties. The Working Group shall consider issues and develop recommendations relating to self-neglect, including determining the following:

(1) how to identify adults residing in Vermont who, because of physical or mental impairment or diminished capacity, are unable to perform essential self-care tasks and are self-neglecting;

(2) how prevalent self-neglect is among adults in Vermont, and any common characteristics that can be identified about the demographics of self-neglecting Vermonters;

(3) what resources and services currently exist to assist Vermonters who are self-neglecting, and where there are opportunities to improve delivery of these services and increase coordination among existing service providers;

(4) what additional resources and services are needed to better assist Vermonters who are self-neglecting;

(5) how to prevent self-neglect and identify adults at risk for self-neglect; and

(6) whether the definition of “self-neglect” in 33 V.S.A. § 6203 is consistent with the principles of self-determination in 33 V.S.A. § 6202 and with other principles of self-determination set forth in Vermont’s statutes and rules.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Department of Disabilities, Aging, and Independent Living.

(e) Report. On or before July 1, 2022, the Working Group shall report its findings and its recommendations for legislative and nonlegislative action to the House Committee on Human Services and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Commissioner of Disabilities, Aging, and Independent Living or designee shall call the first meeting of the Working Group to occur on or before July 1, 2021.

(2) The Working Group shall select a chair from among its members at the first meeting.

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

(4) The Working Group shall cease to exist following submission of its report pursuant to subsection (e) of this section.

(g) Compensation and reimbursement.

(1) The consumer members of the Working Group appointed pursuant to subdivisions (b)(12)–(14) of this section shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010. Other members of the Working Group shall not be entitled to per diem compensation or reimbursement of expenses.

(2) The payments to the consumer members appointed pursuant to subdivisions (b)(12) and (14) of this section shall be made from monies appropriated to the Department of Disabilities, Aging, and Independent Living. The payments to the consumer member appointed pursuant to subdivision (b)(13) of this section shall be made from monies appropriated to the Department of Mental Health.

* * * Home Health Agency Service Planning * * *

Sec. 7a. 33 V.S.A. § 6303(b) is amended to read:

(b) Upon initial designation or redesignation under this subchapter, each designated home health agency shall prepare for the Commissioner's approval a local community services plan, describing the need for home health services within the agency's geographic service area and the methods by which the agency will provide those services. The plan shall include a schedule for the anticipated provision of new or additional services for the next four years and shall specify the resources which are needed by and available to the agency to implement the plan. The plan shall reflect public input from the residents of the agency's geographic service area. Designated home health agencies shall engage in planning and needs assessment processes as directed by State and federal law, which may include participating in the development of the Health Resource Allocation Plan published pursuant to 18 V.S.A. § 9405 and the community health needs assessment conducted in accordance with 26 U.S.C. § 501(r)(3).

* * * Effective Date * * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage, except that in Sec. 1, 33 V.S.A. § 6206 (plan for comprehensive and coordinated system of services, supports, and

protections) shall apply to the State Plan on Aging taking effect on October 1, 2022.