

House Calendar

Monday, May 18, 2020

133rd DAY OF THE ADJOURNED SESSION

House Convenes at 9:00 A.M.

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ACTION CALENDAR

Unfinished Business of Tuesday, March 24 2020

Third Reading

H. 833

An act relating to the interbasin transfer of surface waters

Favorable with Amendment

H. 99

An act relating to trade in covered animal parts or products

Rep. McCullough of Williston, for the Committee on Natural Resources, Fish, and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. part 4, chapter 124 is added to read:

CHAPTER 124. TRADE IN COVERED ANIMAL PARTS OR PRODUCTS

§ 5501. DEFINITIONS

As used in this chapter:

(1) “Bona fide educational or scientific institution” means an institution that establishes through documentation that it is a tax-exempt institution under the Internal Revenue Service’s educational or scientific tax exemption.

(2) “Covered animal” means any species of:

- (A) Cheetah (Acinonyx jubatus);
- (B) Elephant (family Elephantidae);
- (C) Giraffe (Giraffa camelopardalis) ;
- (D) Hippopotamus (family Hippopotamidae);
- (E) Jaguar (Panthera onca);
- (F) Leopard (Panthera pardus);
- (G) Lion (Panthera leo);
- (H) Mammoth (genus Mammuthus);
- (I) Mastodon (genus Mammut);
- (J) Pangolin (family Manidae);

(K) Endangered ray, as listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(L) Rhinoceros (family Rhinocerotidae);

(M) Sea turtle (family Chelonioidea);

(N) Endangered shark, as listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(O) Tiger (Panthera tigris);

(P) Whale (families Balaenidae, Balaenopteridae, Cetotheriidae, Eschrichtiidae, Monodontidae, Physeteridae, Kogiidae, and Ziphiidae); or

(Q) The following primates: gorillas, bonobos, orangutans, gibbons, or chimpanzees.

(3) “Commissioner” means the Commissioner of Fish and Wildlife.

(4) “Covered animal part or product” means any item that contains, or is wholly or partially made from, a covered animal, including the meat or flesh of a covered animal sold as food.

(5) “Firearm” has the same meaning as in 13 V.S.A. § 4016(a)(3).

(6) “Sale” or “sell” means any act of selling, trading, or bartering for monetary or nonmonetary consideration, and includes any transfer of ownership that occurs in the course of a commercial transaction. “Sale” or “sell” shall not include a nonmonetary transfer of ownership by way of gift, donation, or bequest.

(7) “Secretary” means the Secretary of Natural Resources.

(8) “Total value” means either the fair market value or the actual price paid for a covered animal part or product, whichever is greater.

§ 5502. PROHIBITION

Except as provided in this chapter, notwithstanding any other provision of law to the contrary, a person shall not purchase, sell, offer for sale, or possess with intent to sell any item that the person knows or should know is a covered animal part or product.

§ 5503. EXCEPTIONS

(a) The prohibition on the purchase, sale, offer for sale, or possession with intent to sell set forth in section 5502 of this title shall not apply:

(1) to employees or agents of the federal or State government undertaking any law enforcement activities pursuant to federal or State law or

any mandatory duties required by federal or State law;

(2) when the activity is expressly authorized by federal law;

(3) when the covered animal part or product is a fixed component of an antique that is not made wholly or partially from the covered animal part or product, provided that:

(A) the antique status is established by the owner or seller of the covered animal part or product with documentation providing evidence of the provenance of the covered animal part or product and showing the covered animal part or product to be not less than 100 years old; and

(B) the total weight of the covered animal part or product is less than 200 grams;

(4) when the covered animal part or product is a fixed component of a firearm; knife; or musical instrument, including string instruments and bows, wind and percussion instruments, and pianos, provided that the covered animal part or product was legally acquired and provided that the total weight of the covered animal part or product is less than 200 grams; or

(5) the activity is authorized under section 5504 of this title.

(b) Documentation evidencing reasonable provenance or the age of a covered animal part or product that may be purchased, sold, offered for sale, or possessed under subsection (a) of this section may include receipts of purchase, invoices, bills of sale, prior appraisals, auction catalogues, museum or art gallery exhibit catalogues, and the signed certification of an antique appraiser to the age of the covered animal part. The issuance of a false or fraudulent certification of the age of a covered animal part or product shall be subject to penalty under section 5506 of this title.

§ 5504. EDUCATIONAL OR SCIENTIFIC USE

The Secretary may permit, under terms and conditions as the Secretary may require, the purchase, sale, offer for sale, or possession with intent to sell of any covered animal part or product for educational or scientific purposes by a bona fide educational or scientific institution unless the activity is prohibited by federal law, and provided that the covered animal part or product was legally acquired.

§ 5505. PRESUMPTION OF POSSESSION WITH INTENT TO SELL

There shall be a rebuttable presumption that a person possesses a covered animal part or product with intent to sell when the part or product is possessed by a retail or wholesale establishment or other forum engaged in the business of buying or selling similar items. This rebuttable presumption shall not

preclude a court from finding intent to sell a covered animal part or product based on any other evidence that may serve to independently establish intent.

§ 5506. ADMINISTRATIVE PENALTIES; REFERRAL FOR CRIMINAL ENFORCEMENT

(a) The Secretary may assess the following administrative penalties for a violation of a provision of this chapter:

(1) For a first offense, a person shall be assessed an administrative penalty of not more than \$1,000.00 nor less than \$400.00.

(2) For a second offense or subsequent offense, a person shall be assessed an administrative penalty of not more than \$4,000.00 nor less than \$2,000.00.

(b) Instead of bringing an environmental enforcement action for a violation of this chapter or rules adopted under this chapter, the Secretary may refer a violation of this chapter to the Commissioner of Fish and Wildlife for criminal enforcement under section 4518 of this title.

§ 5507. SEIZURE.

A person convicted of violating a provision of this chapter shall forfeit to the Secretary the covered animal part or product that is the subject of the violation. The Secretary may:

(1) authorize that the covered animal part or product be maintained for educational or training purposes;

(2) authorize that the covered animal part or product be donated to a bona fide educational or scientific institution; or

(3) require that the covered animal part or product be destroyed.

§ 5508. RULES

The Secretary may adopt rules necessary to implement the requirements of this chapter.

Sec. 2. 10 V.S.A. § 4518 is amended to read:

§ 4518. BIG GAME VIOLATIONS; THREATENED AND ENDANGERED SPECIES; SUSPENSION; VIOLATIONS

Whoever violates a provision of this part or orders or rules of the Board relating to taking, possessing, transporting, buying, or selling of big game or, relating to threatened or endangered species, or relating to the trade in covered animal parts or products shall be fined not more than \$1,000.00 nor less than

\$400.00 or imprisoned for not more than 60 days, or both. Upon a second and all subsequent convictions or any conviction while under license suspension related to the requirements of part 4 of this title, the violator shall be fined not more than \$4,000.00 nor less than \$2,000.00 or imprisoned for not more than 60 days, or both.

Sec. 3. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(27) 10 V.S.A. chapter 123, relating to threatened and endangered species;

* * *

(29) 10 V.S.A. § 1420, relating to abandoned vessels; and

(30) 3 V.S.A. § 2810, relating to interim environmental media standards; and

(31) 10 V.S.A. chapter 124, relating to the trade in covered animal parts or products.

Sec. 4. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(V) chapter 124 (trade in covered animal parts or products).

* * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on January 1, 2022.

(Committee Vote: 7-4-0)

H. 611

An act relating to the Older Vermonters Act

Rep. Wood of Waterbury, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * 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.

(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 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; 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. 33 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. 5. 33 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. 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 * * *

Sec. 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.

(Committee Vote: 11-0-0)

H. 880

An act relating to Abenaki place names on State park signs

Rep. Howard of Rutland City, for the Committee on General, Housing, and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 2613 is added to read:

§ 2613. ABENAKI PLACE NAMES IN STATE PARKS

(a) The Commissioner, before installing new signs or replacing existing signs in a State park, shall consult with the Vermont Commission on Native American Affairs to determine if there is an Abenaki name for any site within the park. If the Commission on Native American Affairs advises the Commissioner of an Abenaki name, the Abenaki name shall be displayed with the English name.

(b) On or before July 1, 2025, all existing signs in State parks with Abenaki names shall be replaced to include the Abenaki name.

(c) The Commissioner shall adopt rules establishing a procedure for selecting spelling of the place name if there are multiple spellings provided by the Commission on Native American Affairs.

Sec. 2. LIST OF PLACES WITH ABENAKI NAMES

On or before January 15, 2021, the Vermont Commission on Native American Affairs shall prepare a list of places and landmarks with Abenaki names. The list shall state if there are multiple names or spelling variations for a place. The Commission shall present the list to the Commissioner of Forests, Parks and Recreation in order to facilitate the construction of signs as required under 10 V.S.A. § 2613. The Commission shall also determine if there are sites outside of State parks with Abenaki names that require new signs.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 10-0-1)

Unfinished Business of Wednesday, March 25 2020

Committee Bill for Second Reading

H. 940

An act relating to animal cruelty investigation response and training.

(Rep. Bartholomew of Hartland will speak for the Committee on Agriculture and Forestry.)

Favorable with Amendment

H. 581

An act relating to the funding of the Department of Fish and Wildlife

Rep. Squirrell of Underhill, for the Committee on Natural Resources, Fish, and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. VERMONT WORKING GROUP ON WILDLIFE FUNDING;

REPORT

(a) Findings. The General Assembly finds that:

(1) It is the policy of the State that the Commissioner of Fish and Wildlife is required to safeguard the fish, wildlife, and fur-bearing animals of the State for all of the people of the State.

(2) The duties and responsibilities of the Department have grown since the days of focusing primarily on deer herd management and now include management of all wildlife species, including game and non-game; law enforcement; monitoring and restoring threatened and endangered species; habitat conservation; technical assistance; regulatory review; educational programs for hunters, youths, and teachers; public license sales; and management of grants issued or received by the Department.

(3) Since 1985, resident hunting license sales have decreased by 56 percent, resident trapping license sales have decreased by 51 percent, and resident fishing license sales have decreased by 25 percent.

(4) As a result of declining license and fee revenue, the General Assembly has increased and may need to further increase the amount of General Fund dollars annually appropriated to the Department of Fish and Wildlife.

(5) The need for increased funding of the Department will be heightened by the increased research, monitoring, and interventions required by new, contemporary, and well-documented challenges to all wildlife in

Vermont, such as climate change, pollution, invasive species, and habitat degradation.

(6) To address declining license and permit fee revenue, the State must find stable, long-term revenue sources to pay for the costs of the Department of Fish and Wildlife conserving and managing fish, wildlife, and fur-bearing animals of the State and the natural systems upon which they depend for all of the people of the State.

(b) Creation of Working Group. Based on the findings set forth in subsection (a) of this section, there is created the Vermont Working Group on Wildlife Funding to identify potential sources of revenue to fund the Department of Fish and Wildlife for the next 20 years.

(c) Membership. The Vermont Working Group on Wildlife Funding shall be composed of the following members:

(1) three current members of the House of Representatives, who shall be appointed by the Speaker of the House and who shall include:

(A) the Chair of the Committee on Natural Resources, Fish, and Wildlife or designee;

(B) the Chair of the Committee on Appropriations or designee; and

(C) the Chair of the Committee on Government Operations or designee; and

(2) three current members of the Senate, who shall be appointed by the Committee on Committees and who shall include:

(A) the Chair of the Committee on Natural Resources and Energy or designee;

(B) the Chair of the Committee on Appropriations or designee; and

(C) a member of the Senate at large.

(d) Powers and duties. The Vermont Working Group on Wildlife Funding shall review and analyze the funding, management, and policies of the Department of Fish and Wildlife (Department) under statute and rule, and shall:

(1) Assess how the principles and priorities for the conservation and management of fish, wildlife, and fur-bearing animals and the natural systems upon which they depend will impact sources and amounts of funding needed by the Department for the next 20 years. The assessment shall:

(A) address the stability of all current Department funding streams

going forward;

(B) estimate revenues and identify new and existing revenue sources and other resources needed for new and additional programs at the Department; and

(C) consider equitability when evaluating potential revenue sources.

(2) Recommend how the Department can create and maintain stable and adequate funding for the next 20 years.

(e) Assistance. The Vermont Working Group on Wildlife Funding shall have the administrative, technical, and legal assistance of the Office of Legislative Council. The Working Group shall have the assistance of the Joint Fiscal Office on fiscal issues and the assistance of the Department of Fish and Wildlife on issues related to the jurisdiction of the Department.

(f) Report. On or before January 1, 2021, the Vermont Working Group on Wildlife Funding shall report to the House Committees on Natural Resources, Fish, and Wildlife, on Appropriations, and on Government Operations and the Senate Committees on Natural Resources and Energy, on Appropriations, and on Government Operations with its findings and any recommendations for legislative action.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Vermont Working Group on Wildlife Funding to occur on or before July 1, 2020.

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

(3) A majority of the membership of the Vermont Working Group on Wildlife Funding shall constitute a quorum.

(4) The Vermont Working Group on Wildlife Funding shall cease to exist on February 1, 2021.

(h) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Vermont Working Group on Wildlife Funding serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 8-0-2)

Favorable

H. 942

An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

(Rep. McCormack of Burlington will speak for the Committee on Transportation.)

Rep. Helm of Fair Haven, for the Committee on Appropriations, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Action Postponed Until June 3, 2020

Favorable with Amendment

H. 162

An act relating to removal of buprenorphine from the misdemeanor crime of possession of a narcotic

H. 492

An act relating to establishing a homeless bill of rights and prohibiting discrimination against people without homes

H. 535

An act relating to approval of amendments to the charter of the Town of Brattleboro

H. 923

An act relating to entering a vehicle without legal authority or consent

NEW BUSINESS

ACTION CALENDAR

Third Reading

H. 673

An act relating to tree wardens

H. 953

An act relating to fiscal year 2020 supplemental budget adjustments

Committee Bill for Second Reading

H. 954

An act relating to miscellaneous tax provisions.

(Rep. Young of Greensboro will speak for the Committee on Ways and Means.)

Favorable with Amendment

S. 255

An act relating to captive insurance

Rep. Ralph of Hartland, for the Committee on Commerce and Economic Development, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Agency Captives * * *

Sec. 1. 8 V.S.A. § 6002 is amended to read:

§ 6002. LICENSING; AUTHORITY

(a) Any captive insurance company, when permitted by its articles of association, charter, or other organizational document, may apply to the Commissioner for a license to do any and all insurance comprised in subdivisions 3301(a)(1), (2), (3)(A)–(C), (E)–(Q), and (4)–(9) of this title and may grant annuity contracts as defined in section 3717 of this title; provided, however, that:

(1) No pure captive insurance company may insure any risks other than those of its parent and affiliated companies or controlled unaffiliated business.

(2) No agency captive insurance company may do any insurance business in this State unless:

(A) an insurance agency or brokerage that owns or controls the agency captive insurance company remains in regulatory good standing in all states in which it is licensed;

(B) it insures only the risks of the commercial policies that are placed by or through an insurance agency or brokerage that owns or directly or indirectly controls the agency captive insurance company and, if required by the Commissioner in his or her discretion, it provides the Commissioner the form of such commercial policies;

(C) it discloses to the original policyholder or policyholders, in a form or manner approved by the Commissioner, ~~any limitations, rights, and~~

~~obligations held by~~ that the agency captive insurance company as a result of its affiliation with an insurance agency or brokerage may enter into a reinsurance or other risk-sharing agreement with the agency or brokerage; and

* * *

* * * Dormant Captives * * *

Sec. 2. 8 V.S.A. § 6024 is amended to read:

§ 6024. DORMANT CAPTIVE INSURANCE COMPANIES

(a) As used in this section, unless the context requires otherwise, “dormant captive insurance company” means a captive insurance company that has:

(1) ceased transacting the business of insurance, including the issuance of insurance policies; and

(2) no remaining liabilities associated with insurance business transactions or insurance policies issued prior to the filing of its application for a certificate of dormancy under this section.

(b) A captive insurance company domiciled in Vermont that meets the criteria of subsection (a) of this section may apply to the Commissioner for a certificate of dormancy. The certificate of dormancy shall be subject to renewal every five years and shall be forfeited if not renewed within such time.

(c) A dormant captive insurance company that has been issued a certificate of dormancy shall:

(1) possess and thereafter maintain unimpaired, paid-in capital and surplus of not less than \$25,000.00; provided, however, that if the dormant captive insurance company had never capitalized, it shall not be required to add capital upon entering dormancy;

* * *

* * * Capital and Surplus Requirements; Mergers * * *

Sec. 3. 8 V.S.A. § 6004 is amended to read:

§ 6004. MINIMUM CAPITAL AND SURPLUS; LETTER OF CREDIT

(a) No captive insurance company shall be issued a license unless it shall possess and thereafter maintain unimpaired paid-in capital and surplus of:

* * *

(6) in the case of a sponsored captive insurance company, not less than ~~\$250,000.00~~ \$100,000.00.

* * *

(c) Capital and surplus may be in the form of cash, marketable securities, a trust approved by the Commissioner and of which the Commissioner is the sole beneficiary, or an irrevocable letter of credit issued by a bank approved by the Commissioner. The Commissioner may reduce or waive the capital and surplus amounts required by this section pursuant to a plan of dissolution for the company approved by the Commissioner.

* * *

Sec. 3A. 8 V.S.A. § 6006(j) is amended to read:

(j) The provisions of chapter 101, subchapters 3 and 3A of this title, pertaining to mergers, consolidations, conversions, mutualizations, redomestications, and mutual holding companies, shall apply in determining the procedures to be followed by captive insurance companies in carrying out any of the transactions described therein, except that:

* * *

(6) The Commissioner may waive or modify application of the provisions of chapter 132 and chapter 101, subchapters 3 and 3A of this title and the provisions of Titles 11, 11A, and 11B in order to permit mergers of a non-insurer subsidiary of a captive insurance company with and into the captive insurance company or another of its subsidiaries without approval of the shareholders, members, or subscribers of such captive insurance company and without making available to the shareholders, members, or subscribers dissenters' rights otherwise made available in such a merger; provided, however, that the board of directors, managers, or subscribers' advisory committee of each of the merging entities shall approve such merger. The Commissioner may condition any such waiver or modification upon a good faith effort by the captive insurance company to provide notice of the merger to its shareholders, members, or subscribers.

* * * Protected Cells; Unaffiliated Businesses * * *

Sec. 4. 8 V.S.A. § 6034 is amended to read:

§ 6034. PROTECTED CELLS

A sponsored captive insurance company formed or licensed under the provisions of this chapter may establish and maintain one or more protected cells to insure risks of one or more participants or, subject to Commissioner approval, other parties unaffiliated with a participant, subject to the following conditions:

* * *

* * * Protected Cells; Separate Accounts * * *

Sec. 5. REDESIGNATIONS

8 V.S.A. §§ 6034b, 6034c, and 6034d are redesignated as §§ 6034c, 6034d, and 6034e.

Sec. 6. 8 V.S.A. § 6034b is added to read:

§ 6034b. SEPARATE ACCOUNTS OF PROTECTED CELLS

With the Commissioner's prior written approval, a protected cell of a sponsored captive insurance company may establish one or more separate accounts and may allocate to them amounts to provide for the insurance of risks of one or more participants, or controlled unaffiliated business of such participant or participants, subject to the following:

(1) The income, gains, and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account, without regard to other income, gains, or losses of the protected cell.

(2) Amounts allocated to a separate account in the exercise of the power granted by this subsection are owned by the protected cell, and the protected cell may not be nor hold itself out to be a trustee with respect to such amounts.

(3) Unless otherwise approved by the Commissioner, assets allocated to a protected cell shall be valued in accordance with the rules otherwise applicable to the protected cell's assets.

(4) If and to the extent so provided under the applicable contracts, that portion of the assets of any such protected cell equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the protected cell may conduct.

(5) No sale, exchange, or other transfer of assets may be made by such protected cell between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in the case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made and unless such transfer, whether into or from a separate account, is made by a transfer of cash or by a transfer of securities having a readily determinable market value, provided that such transfer of securities is approved by the Commissioner. The Commissioner may approve other transfers among such accounts if, in his or her opinion, such transfers would be equitable.

(6) To the extent such protected cell deems it necessary to comply with any applicable federal or State laws, such protected cell, with respect to any

separate account, including any separate account that is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and other rights and special procedures for the conduct of the business of such account, including special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants, and the selection of a committee, the members of which need not be otherwise affiliated with such protected cell, to manage the business of such account.

Sec. 7. 8 V.S.A. § 6010 is amended to read:

§ 6010. LEGAL INVESTMENTS

(a)(1) Except as may be otherwise authorized by the Commissioner, agency captive insurance companies, association captive insurance companies, sponsored captive insurance companies, protected cells in sponsored captive insurance companies, and risk retention groups shall:

(A) comply with the investment requirements contained in sections 3461 through 3472 of this title, as applicable; or

(B) submit for approval by the Commissioner the investment policy of the company. In reviewing the investment policy, the Commissioner shall consider diversification as to both type and issue; limits on the aggregate investment that may be made in any category of investment; limits on the aggregate investment in any one business, issuer, or risk; liquidity; and matching of assets and liabilities. The Commissioner shall determine whether the investment policy provides for the reasonable preservation, administration, and management of assets with respect to the risks associated with the company's transactions and whether the investment policy supports the approved business plan. Subdivision 6002(c)(3) of this title shall apply to all information submitted pursuant to this subsection.

(2) The Commissioner may require any company subject to this subsection to limit or withdraw from certain investments or discontinue certain investment practices if the Commissioner determines that such investments or practices of the company might be hazardous to the policyholders or the general public.

Sec. 8. 8 V.S.A. § 6037 is amended to read:

§ 6037. INVESTMENTS BY SPONSORED CAPTIVE INSURANCE

COMPANIES AND PROTECTED CELLS

Notwithstanding the provisions of section 6034 of this title, the assets of two or more protected cells may be combined for purposes of investment, and

such combination shall not be construed as defeating the segregation of such assets for accounting or other purposes. Sponsored captive insurance companies and protected cells shall comply with the investment requirements contained in ~~sections 3461 through 3472~~ section 6010 of this title, as applicable; provided, however, that compliance with such investment requirements shall be waived for sponsored captive insurance companies to the extent that credit for reinsurance ceded to reinsurers is allowed pursuant to section 6011 of this title or to the extent otherwise deemed reasonable and appropriate by the Commissioner. ~~Section 3463a of this title shall apply to sponsored captive insurance companies except to the extent it is inconsistent with approved accounting standards in use by the company. Notwithstanding any other provision of this title, the Commissioner may approve the use of alternative reliable methods of valuation and rating.~~

* * * Conforming Cross-references * * *

Sec. 9. 8 V.S.A. § 6018 is amended to read:

§ 6018. DELINQUENCY

Except as otherwise provided in this chapter, the terms and conditions set forth in chapter 145 of this title shall apply in full to captive insurance companies formed or licensed under this chapter; however, the assets of a separate account established under subsection 6006~~(p)~~(q) of this chapter shall not be used to pay any expenses or claims other than those attributable to such separate account.

Sec. 10. 8 V.S.A. § 6034a is amended to read:

§ 6034a. INCORPORATED PROTECTED CELLS

(a) A protected cell of a sponsored captive insurance company may be formed as an incorporated protected cell, as defined in subdivision 6032~~(1)~~(2) of this title.

* * *

* * * Risk Retention Groups; Examinations; Conduct; Reports; NAIC
Accreditation Standards * * *

Sec. 11. 8 V.S.A. § 6052(d) is amended to read:

(d) The provisions of subsection 6008(c) and sections 3573 and 3574 of this title shall apply to risk retention groups chartered in this State, except that such provisions shall not apply to final examination reports relating to risk retention groups and except that the Commissioner may, in the Commissioner's discretion, grant access to any other examination information covered by subsection 6008(c) of this title to representatives of the National

Association of Insurance Commissioners to inspect (but not copy) such information in connection with accreditation examinations, so long as the National Association of Insurance Commissioners agrees in writing to maintain the confidentiality of such information.

* * * Affiliated Reinsurance Companies * * *

Sec. 11A. 8 V.S.A. § 6049b(1) is amended to read:

(1) “Affiliated reinsurance company” means a company licensed by the Commissioner pursuant to this subchapter to reinsure risks ceded by ~~a ceding insurer~~ one or more ceding insurers that is its parent or affiliate are affiliated companies. Subject to the prior approval of the Commissioner, not more than 10 percent of the risks reinsured may be ceded by ceding insurers that are not affiliated companies.

* * * Effective Date * * *

Sec. 12. EFFECTIVE DATE

This act shall take effect on passage

(Committee vote: 10-0-0)

(For text see Senate Journal January 29, 2020, page 98)

NOTICE CALENDAR

Favorable with Amendment

H. 783

An act relating to recovery residences

Rep. Killacky of South Burlington, for the Committee on General, Housing, and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that any exceptions made to existing landlord and tenant relationships in this act are limited solely to recovery residences operating pursuant to this act. These exceptions are intended to enable the expansion of recovery residences throughout the State and ensure their accessibility to individuals recovering from a substance use disorder.

Sec. 2. 18 V.S.A. § 4812 is added to read:

§ 4812. RECOVERY RESIDENCES

(a) Definition.

(1) As used in this section, “recovery residence” means a shared living residence supporting persons recovering from a substance use disorder that:

(A) Provides residents with peer support, an environment that prohibits the use of alcohol and the illegal use of prescription drugs or other illegal substances, and provides assistance accessing support services and community resources available to persons recovering from substance use disorder; and

(B) Is certified by an organization that is a Vermont affiliate of the National Alliance for Recovery Residences and adheres to the national standards established by the Alliance or its successor in interest. If there is no successor in interest, the Department of Health shall designate a certifying organization to uphold appropriate standards for recovery housing.

(2) As used in this section, “the illegal use of prescription drugs” refers to the use of prescription drugs by a person who does not hold a valid prescription for that drug or in an amount that exceeds the dosing instructions.

(b) Voluntary arrangement. The decision to live in a recovery residence shall be voluntary and shall not be required or mandated by any private or public entity or individual.

(c) Terms of residency; compliance.

(1) Landlord and tenant relationship. A recovery residence and a resident have a landlord and tenant relationship that is subject to 9 V.S.A. chapter 137, except as otherwise provided in subdivisions (3)–(4) of this subsection.

(2) Residential rental agreement.

(A) A recovery residence and a resident shall execute a written rental agreement that includes:

(i) the policies and procedures governing the tenancy;

(ii) a statement that the recovery residence and the resident will comply with the policies and procedures;

(iii) the consequences of noncompliance;

(iv) the identification of a verified location where the resident may be housed in the event of temporary removal;

(v) payment requirements;

(vi) notice requirements and procedure for terminating the tenancy;

(vii) the contact information for a resident's probation or parole officer, if the resident is on furlough or parole from the Department of Corrections; and

(viii) any other provisions to which the parties agree.

(B) The parties may amend a rental agreement in a written record signed by the parties.

(C) A resident may have a support person present when negotiating and executing a rental agreement or amendment.

(3) Temporary removal.

(A) A recovery residence shall adopt policies and procedures that govern the temporary removal of a resident who uses alcohol or illegal substances, engages in the illegal use of prescription drugs, or engages in violent, sexually harassing, or threatening behavior, consistent with the following:

(i) A recovery residence shall:

(I) provide written notice of the reason for temporary removal and of the actions the resident must take to avoid temporary removal or to be readmitted after temporary removal;

(II) design and implement harm reduction strategies for a resident who is temporarily removed, which may include providing naloxone to the resident upon temporary removal or other strategies more appropriate to the resident's recovery needs; and

(III) take action that is consistent with the resident's most recent reoccurrence agreement to the extent possible.

(ii) A recovery residence shall not temporarily remove a resident based solely on the resident's use of medication in conjunction with medication-assisted treatment, as defined in section 4750 of this title.

(B) Notwithstanding 9 V.S.A. §§ 4463 and 4464, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(3) may temporarily deny a resident access to the recovery residence and to his or her property within the residence.

(4) Termination of tenancy.

(A) A recovery residence shall adopt policies and procedures that govern the termination of tenancy of a resident who violates one or more provisions of the rental agreement, consistent with the following:

(i) A recovery residence shall:

(I) provide written notice of its intent to terminate the tenancy that includes the reason for termination and the actions the resident must take to avoid removal;

(II) design and implement harm reduction strategies for a resident whose tenancy is terminated, which may include providing naloxone to the resident upon removal or other strategies more appropriate to the resident's recovery needs; and

(III) adopt a review process under which:

(aa) a person other than the original decision maker or a subordinate of the original decision maker, which may include a Vermont affiliate of the National Alliance for Recovery Residences, reviews the decision to terminate the tenancy;

(bb) the resident has a meaningful opportunity to present evidence why the resident should not be removed; and

(cc) the resident receives prompt written notice of a final decision.

(ii) A recovery residence shall not:

(I) terminate a tenancy because a resident uses alcohol or illegal substances, or engages in the illegal use of prescription drugs, unless:

(aa) the resident fails to take the actions required to avoid temporary removal or to be readmitted after temporary removal; and

(bb) the recovery residence has contemporary drug test results verified by a laboratory approved by the State; or

(II) terminate a tenancy based solely on the resident's use of medication in conjunction with medication-assisted treatment, as defined in section 4750 of this title.

(B) Notwithstanding 9 V.S.A. §§ 4467 and 4468, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(5) may terminate the tenancy of a resident pursuant to the notice requirements and procedure for terminating the tenancy provided in the rental agreement.

(d) Drug testing. A recovery residence shall adopt policies and procedures that govern drug testing of residents and shall apply the policies and testing procedures fairly among residents.

(e) Future services. A recovery residence shall not deny future services to a resident who has been either temporarily removed from a recovery residence or whose tenancy has been terminated, based solely on the resident’s use of alcohol or illegal substances or the illegal use of prescription drugs.

Sec. 3. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

* * *

(G) A residential care home or group home to be operated under State licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, and a recovery residence as defined in 18 V.S.A. § 4812, serving not more than eight persons, shall be considered by right to constitute a permitted single-family residential use of property. This subdivision (G) does not require a municipality to allow a greater number of residential care homes or group homes on a lot than the number of single-family dwellings allowed on the lot.

* * *

Sec. 4. REPORT; RECOVERY RESIDENCE; FURLOUGH

On or before January 1, 2021 and annually thereafter through January 1, 2024, the Department of Corrections shall submit a report to the House Committees on General, Housing, and Military Affairs, on Corrections and Institutions, and on Human Services and to the Senate Committees on Economic Development, on Health and Welfare, and on Judiciary containing the number of individuals on furlough who reside in recovery residences as defined in 18 V.S.A. § 4812 and the number of individuals who have violated the conditions of their furlough and were removed from their recovery residence and returned to prison.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote:8-1-2)

Rep. Redmond of Essex, for the Committee on Human Services, recommends that the report of the House Committee on General, Housing, and Military Affairs be amended as follows:

First: In Sec. 2, 18 V.S.A. § 4812, in subdivision (a)(1)(A), by striking out “available to persons recovering from substance use disorder;” and inserting in lieu thereof “.”

Second: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (3)(A)(ii) in its entirety and inserting a new subdivision (3)(A)(ii) to read as follows:

(ii) A recovery residence shall not temporarily remove a resident based on the resident receiving medication-assisted treatment, as defined in section 4750 of this title.

Third: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (4)(A)(ii)(II) in its entirety and inserting a new subdivision (4)(A)(ii)(II) to read as follows:

(II) terminate a tenancy based on the resident receiving medication-assisted treatment, as defined in section 4750 of this title.

Fourth: In Sec. 4, report; recovery residence; furlough, after “Senate Committees on Economic Development” by inserting “, Housing and General Affairs”

(Committee Vote: 11-0-0)