

Suggested revisions to current *Title 18: Health Chapter 94: Substance Use Disorders*

Vermont Statute:

Two additions and seven revisions to the current statute are being requested. **Bolded and underlined** portions in the statute below are the requested additions and revisions:

§ 4801. Declaration of policy

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

(b) The General Assembly therefore declares that:

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

(2) alcoholics and alcohol abusers shall be treated as persons with the condition of alcoholism and shall be provided adequate and appropriate medical and other humane rehabilitative services congruent with their needs. (Added 2013, No. 131 (Adj. Sess.), § 118, eff. May 20, 2014; amended 2017, No. 113 (Adj. Sess.), § 89.)

§ 4802. Definitions

As used in this chapter:

(1) "Alcoholic" means a person with the condition of alcoholism.

(2) "Alcoholism" means addiction to the drug alcohol. It is characterized by:

(A) chronic absence of control by the drug user over the frequency or the volume of his or her alcohol intake; and

(B) inability of the drug user to moderate consistently his or her drinking practices in spite of the onset of a variety of consequences deleterious to his or her health.

(3) "Approved substance abuse treatment program" means a treatment program which is approved by the Secretary as qualified to provide treatment for substance abuse.

(4) "Client" means a person who is provided treatment services by an approved substance abuse treatment program, substance abuse crisis team, or designated substance abuse counselor.

(5) "Designated substance abuse counselor" means a person approved by the Secretary to evaluate and treat substance abusers, pursuant to the provisions of this chapter.

(6) "Detoxification" means the planned withdrawal of an individual from a state of acute or chronic intoxication under qualified supervision and with or without the use of medication. Detoxification is monitoring and management of the physical and psychological effects of withdrawal, for the purpose of assuring safe and rapid return of the individual to normal bodily and mental functioning.

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

(A) appears to need medical care or supervision by approved substance abuse treatment personnel, as defined in this section, to assure his or her safety; or

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

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

(9) "Law enforcement officer", under chapter 19, means a law enforcement officer certified by the Vermont Criminal Justice Training Council as provided in 20 V.S.A. §§ 2355-2358, appointed by the Commissioner of Public Safety as provided in 20 V.S.A. § 1911, **or a United States Probation Officer, or a county Probation, Parole, or FSU Officer.**

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

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

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

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

(12) "Secretary" means the Secretary of Human Services or designee.

(13) "Substance abuse crisis team" means an organization approved by the Secretary to provide emergency treatment and transportation services to substance abusers pursuant to the provisions of this chapter.

(14) "Substance abuser" means anyone who drinks alcohol or consumes other drugs to an extent or with a frequency that impairs or endangers his or her health or the health and welfare of others.

(15) "Treatment" means the broad range of medical, detoxification, residential, outpatient, aftercare, and follow-up services which are needed by substance abusers and may include a variety of other medical, social, vocational, and educational services relevant to the rehabilitation of these persons. (Added 2013, No. 131 (Adj. Sess.), § 118, eff. May 20, 2014; amended 2017, No. 113 (Adj. Sess.), § 90.)

(16) “Person at risk for losing residency due to a relapse” means any person whom has relapsed and/or has tested positive for illicit drugs or alcohol by way of urine analysis or breathalyzer and is at risk for losing his or her residence at a recovery residence, transitional housing program, or other FSU/USPO approved residence.

(17) “Recovery residence representative” means any person whom is a peer and/or paid staff of a recovery residence, acting on behalf of the residence to assure the safety of both the residence and the person at risk for losing residency due to a relapse.

§ 4803. Substance Misuse Prevention Oversight and Advisory Council

(a) Creation. There is created the Substance Misuse Prevention Oversight and Advisory Council within the Department of Health to improve the health outcomes of all Vermonters through a consolidated and holistic approach to substance misuse prevention that addresses all categories of substances. The Council shall provide advice to the Governor and General Assembly for improving prevention policies and programming throughout the State and to ensure that population prevention measures are at the forefront of all policy determinations. The Advisory Council's prevention initiatives shall encompass all substances at risk of misuse, including:

- (1) alcohol;
- (2) cannabis;
- (3) controlled substances, such as opioids, cocaine, and methamphetamines; and
- (4) tobacco products and tobacco substitutes as defined in 7 V.S.A. § 1001 and substances containing nicotine or that are otherwise intended for use with a tobacco substitute.

(b)(1) Membership. The agenda of the Council shall be determined by an executive committee composed of the following members:

- (A) the Commissioner of Health or designee, who shall serve as chair;
- (B) a community leader in the field of substance misuse prevention, appointed by the Governor, who shall serve as vice chair;
- (C) the Secretary of Education or designee;
- (D) the Commissioner of Public Safety or designee; and
- (E) the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321.

(2) The members of the executive committee jointly shall appoint members to the Council with demographic and regional diversity. Members of the Council shall collectively offer expertise and experience in the categories listed below with the understanding that a single member may offer expertise and experience in multiple categories:

- (A) at least two people with lived substance use disorder experience, including a person in recovery and a family member of a person in recovery;

(B) one or more youth less than 18 years of age;

(C) one or more young adults between 18 and 25 years of age;

(D) the Director of Trauma Prevention and Resilience Development established pursuant to 33 V.S.A. § 3403; and

(E) persons with expertise in the following disciplines:

(i) substance misuse prevention in a professional setting;

(ii) pediatric care specific to substance misuse prevention or substance use disorder;

(iii) academic research pertaining to substance misuse prevention or behavioral addiction treatment;

(iv) education in a public school setting specific to substance misuse prevention;

(v) law enforcement with expertise in drug enforcement, addressing impaired driving, and community policing;

(vi) community outreach or collaboration in the field of substance misuse prevention;

(vii) the criminal justice system;

(viii) treatment of substance use disorder;

(ix) recovery from substance use disorder in a community setting;

(x) municipalities;

(xi) community-based, nonprofit youth services;

(xii) substance use disorder or substance misuse prevention within the older Vermonter population; and

(xiii) comprehensive communications and media campaigns.

(c) Powers and duties. The Council shall strengthen the State's response to the substance use disorder crisis by advancing evidence-based and evidence-informed substance misuse prevention initiatives. The Council's duties shall include:

(1) reviewing and making recommendations on best practices to assist communities and schools to significantly reduce the demand for substances through prevention and education;

(2) reviewing substance misuse prevention program evaluations and making specific recommendations for modification based on the results, including recommendations to address gaps in both services and populations served;

(3) reviewing existing State laws, rules, policies, and programs and proposing changes to eliminate redundancy and to eliminate barriers experienced by communities and schools in coordinating preventative action with State government;

(4) reviewing existing community-based youth programming, including recreation, municipal programs, parent-child center programs, and afterschool and year-round programs, to determine a foundation of connection and support for all Vermont children and youth;

(5) reviewing community-based programs for older Vermonters for the purpose of identifying gaps in services, including geographic disparities, eliminating barriers, and coordinating prevention services;

(6) recommending strategies to integrate substance misuse prevention programming across the State, including between State agencies and in public-private partnerships;

(7) development of a statewide media campaign for substance misuse prevention; and

(8) holding a minimum of two public meetings to receive public input and advice for setting program priorities for substances at risk of misuse.

(d) Committees. The Council shall have the ability to create issue-specific committees for the purpose of carrying out its duties, such as a youth committee. Any committees created may draw on the expertise of any individual regardless of whether that individual is a member of the Council.

(e) Assistance. The Council shall have administrative, technical, and communications assistance from the Manager of Substance Misuse Prevention established pursuant to section 4804 of this title.

(f) Report. Annually on or before January 1, the Council shall submit a written report to the Governor, the House Committees on Appropriations and on Human Services, and the Senate Committees on Appropriations and on Health and Welfare with its findings and any recommendations for legislative action. The report shall also include the following:

(1) measurable goals for the effectiveness of prevention programming statewide;

(2) three to five performance measures for all substances at risk of misuse that demonstrate the system's results;

(3) the results of evaluations of State-funded programs; and

(4) an explanation of State-funded program budgets.

(g) Organization.

(1) Members of the Council shall serve two-year terms and may be reappointed. Any vacancy on the Council shall be filled in the same manner as the original appointment. The replacement member shall serve for the remainder of the unexpired term. Any individual interested in serving on the Council may submit a letter of interest or resume to the Manager of Substance Misuse Prevention.

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

(h) Compensation and reimbursement. Members of the Council who are not employed by the State or whose participation is not supported through their employment or association shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings per year, unless further authorized by the Commissioner of Health. Payments to members of the Council authorized under this subsection shall be made from monies appropriated to the Department of Health. (Added 2013, No. 131 (Adj. Sess.), § 118, eff. May 20, 2014; amended 2015, No. 58, § E.313.1; 2017, No. 154 (Adj. Sess.), § 4a, eff. May 21, 2018; 2019, No. 82, § 3.)

§ 4804. Manager of Substance Misuse Prevention

There is created the permanent position of the Manager of Substance Misuse Prevention within the Department of Health for the purpose of:

(1) coordinating the work of the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title; and

(2) coordinating regional planning. (Added 2013, No. 131 (Adj. Sess.), § 118, eff. May 20, 2014; amended 2019, No. 82, § 3.)

§ 4805. Repealed. 2019, No. 82, § 3.

§ 4806. Division of Alcohol and Drug Abuse Programs

(a) The Division of Alcohol and Drug Abuse Programs shall plan, operate, and evaluate a consistent, effective program of substance abuse programs. All duties, responsibilities, and authority of the Division shall be carried out and exercised by and within the Department of Health.

(b) The Division shall be responsible for the following services:

- (1) prevention and intervention;
- (2) [Repealed.]
- (3) project CRASH schools; and
- (4) alcohol and drug treatment.

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

(d) Any federal or private funds received by the State for purposes of subdivision (b)(4) of this section shall be in the budget of and administered by the Department of Health.

(e) [Repealed.] (Added 2013, No. 131 (Adj. Sess.), § 118, eff. May 20, 2014; amended 2015, No. 156 (Adj. Sess.), § 3, eff. Sept. 1, 2016.)

§ 4807. Authority and accountability for alcoholism services; rules for acceptance into treatment

(a) The Secretary shall have the authority and accountability for providing or arranging for the provision of a comprehensive system of alcoholism prevention and treatment services.

(b) All State funds appropriated specifically for the prevention and treatment of alcoholism and any federal or private funds which are received by the State for these purposes shall be in the budget of and be administered by a single governmental unit designated by the Secretary. This provision does not apply to the programs of the Department of Corrections.

(c) The Secretary shall adopt rules and standards under 3 V.S.A. chapter 25 for the implementation of the provisions of this chapter. In establishing rules regarding admissions to alcohol treatment programs, the Secretary shall adhere to the following guidelines:

(1) A client shall be initially assigned or transferred to outpatient treatment, unless he or she is found to require medical treatment, detoxification, residential treatment, **or is at risk for losing residency due to a relapse.**

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

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

(4) Provision shall be made for a continuum of coordinated treatment services so that a person who leaves a program or a form of treatment shall have available and use other appropriate treatment. (Added 2013, No. 131 (Adj. Sess.), § 118, eff. May 20, 2014.)

§ 4808. Repealed. 2019, No. 6, § 96 eff. April 22, 2019.

§ 4809. Repealed. 2019, No. 6, § 97 eff. April 22, 2019.

[Section 4810 effective until July 1, 2025; see also section 4810 effective July 1, 2025 .]

§ 4810. Treatment and services

(a) When a law enforcement officer encounters a person who, in the judgment of the officer, is intoxicated as defined in section 4802 of this title, the officer may assist the person, if he or she consents, to his or her home, to an approved substance abuse treatment program, or to some other mutually agreeable location.

(b) When a law enforcement officer encounters a person who, in the judgment of the officer, is incapacitated as defined in section 4802 of this title, the person shall be taken into protective custody by the officer. The officer shall transport the incapacitated person directly to an approved substance abuse treatment program with detoxification capabilities or to the emergency room of a licensed general hospital for treatment, except that if a substance abuse crisis team or a designated substance abuse counselor exists in the vicinity and is available, the person may be released to the team or counselor at any location mutually agreeable between the officer and the team or counselor. The

period of protective custody shall end when the person is released to a substance abuse crisis team, a designated substance abuse counselor, a clinical staff person of an approved substance abuse treatment program with detoxification capabilities, or a professional medical staff person at a licensed general hospital emergency room. The person may be released to his or her own devices if, at any time, the officer judges him or her to be no longer incapacitated. Protective custody shall in no event exceed 24 hours.

(c) If an incapacitated person, is taken to an approved substance abuse treatment program with detoxification capabilities and the program is at capacity, the person shall be taken to the nearest licensed general hospital emergency room for treatment.

(d) A person judged by a law enforcement officer to be incapacitated, **or a person at risk for losing residency due to relapse transported by a recovery residence representative or a law enforcement officer**, and who has not been charged with a crime, may be lodged in protective custody in a lockup or community correctional center for up to 24 hours or until judged by the person in charge of the facility to be no longer incapacitated, if and only if:

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

(2) no approved substance abuse treatment program with detoxification capabilities and no staff physician or other medical professional at the nearest licensed general hospital can be found who will accept the person for treatment.

(3) the person at risk for losing residency due to a relapse is judged by a law enforcement officer, or the approved substance abuse treatment program or community correctional center staff person, not to be intoxicated as defined in section 4802 of this title and the approved substance abuse treatment program with detoxification capabilities is at capacity.

(e) No person shall be lodged in a lockup or community correctional center under subsection (d) of this section without first being evaluated and found to be indeed incapacitated by a substance abuse crisis team, a designated substance abuse counselor, a clinical staff person of an approved substance abuse treatment program with detoxification capabilities, or a professional medical staff person at a licensed general hospital emergency room **unless:**

(1) the person is at risk for losing residency due to a relapse and judged by a law enforcement officer, approved substance use program, lock up, or community correctional facility staff as not intoxicated.

(f) No lockup or community correctional center shall refuse to admit an incapacitated person, **or person at risk for losing residency due to a relapse**, in protective custody whose admission is requested by a law enforcement officer, **or transported by a recovery residence representative**, in compliance with the conditions of this section

(g) Notwithstanding subsection (d) of this section, a person under 18 years of age who is judged by a law enforcement officer to be incapacitated and who has not been charged with a crime shall not be

held at a lockup or community correctional center. If needed treatment is not readily available, the person shall be released to his or her parent or guardian. If the person has no parent or guardian in the area, arrangements shall be made to house him or her according to the provisions of 33 V.S.A. chapter 53. The official in charge of an adult jail or lockup shall notify the Director of the Office of Drug and Alcohol Abuse Programs of any person under 18 years of age brought to an adult jail or lockup pursuant to this chapter.

(h) If an incapacitated person, **or person at risk for losing residency due to a relapse**, in protective custody is lodged in a lockup or community correctional center, his or her family or next of kin shall be notified as promptly as possible. If the person is an adult and requests that there be no notification, his or her request shall be respected.

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

(j) Law enforcement officers or persons responsible for supervision in a lockup or community correctional center or members of a substance abuse crisis team or designated substance abuse counselors who act under the authority of this section are acting in the course of their official duty and are not criminally or civilly liable therefor, unless for gross negligence or willful or wanton injury. (Added 2019, No. 6, § 98, eff. April 22, 2019.)

[Section 4810 effective July 1, 2025; see also section 4810 effective until July 1, 2025 .]

§ 4811. Incarceration for intoxication prohibited

A person who has not been charged with a crime shall not be incarcerated in a secure facility operated by the Department of Corrections on account of the person's intoxication, **or potential for losing residency due to a relapse**. (Added 2019, No. 6, § 100, eff. July 1, 2025.)

In summary, adding definitions of “Person at risk for losing residency due to a relapse” and “Recovery residence representative” to § 4802. Definitions as well as revising what defines a “Law enforcement officer”, will change who can be accepted into the Public Inebriate Program (PIP). Revising § 4810. Treatment and services accordingly will allow people in recovery residences whom have experienced a relapse a bed for up to 24-hours while illicit drugs or alcohol leave their system and ensure their rights while there.