

Proposed Changes to H.783 Recovery Residences – January 30, 2020

The changes described below are respectfully proposed by the following stakeholders: Tom Dalton, Vermonters for Criminal Justice Reform; Brenda Siegel; Erhard Mahnke; Jan Tarjan, Dismas of Vermont; Mairead O'Reilly and Wendy Morgan, Vermont Legal Aid.

Sec. 1: We recommend that Sec. 1 remain in Title 18 and that a new separate subchapter in Title 9 be created containing the processes for temporary removal and termination, which are described as policies in Title 18. This would alert recovery residence operators to their responsibilities under Vermont landlord/tenant law, and is analogous to the subchapters on termination of housing for farm employees (subchapter 3) and victims of domestic and sexual violence (subchapter 4).

§ 4812(a)(1)(B): Replace with “has received certification through the Department of Health’s certification process.” We believe there should be state oversight for this program. That is what Maryland provides, allowing certification by any “credentialing entity,” which has been “approved” by the state. MD Code, Health – General §§ 19-2501 – 19-2504.

This will require the reintroduction of § 4812(c) regarding the Department of Health’s “Accreditation.” Upon reflection, we suggest a better term might be “certification.” (This change would also require a modification to the reference to 9 VSA chapter 137.)

In order to facilitate prompt implementation of this bill, the stakeholders have no objection to a transition section including a provision that, for a limited time, the State may merely identify an affiliate of the National Alliance for Recovery Residences whose certification will be accepted by the State as meeting the certification requirement above.

§ 4812(a)(2): Strike as unnecessary; what prescription drugs and other substances which are illegal is known or knowable.

Replace with “is in compliance with 9 VSA § 4503, which prohibits discrimination on the basis of disability, among other protected classifications, including the use of medication in the course of medication-assisted treatment as defined in Section 4750 of this title.”

When the section on unfair housing practices is rewritten, it might fit here or with this requirement as a section on discrimination.

§ 4812(c)(1): Cut “with or without a support person present” in the first sentence and add a new sentence: “The resident shall have the right to a support person present if they so choose.”

§ 4812(c)(1)(B): In last clause, change “shall” to “might” as not all prospective residents have a safe place to go to if they are removed from the recovery residence.

§ 4812(c)(2)(B): We think it might be helpful to include some examples of harm reduction strategies, e.g. requiring a residence to provide naloxone to any resident temporarily removed or terminated from the residence, and, except in the most serious circumstances, not allowing use of law enforcement to remove a resident from the home.

§ 4812(c)(3)(C)(i): Replace a representative of the “National Alliance for Recovery Residences” with “entity that certified the recovery residence” as likely more local and familiar with Vermont law.

§ 4812(d): We support amendment to the unfair housing practices provision as discussed previously in the Committee and suggest it might appropriately be related to a non-discrimination provision as noted above in § 4812(a)(2).

§ 4812(c)(3)(D): Add “or termination” at end so that future services *may* be available even if the resident was terminated for reasons other than a reoccurrence.

§ 4812(c)(3)(E): Add from Bill As Introduced: “Return of the security deposit and pro rata share of the unused rent within seven days, unless the operator documents within that time period that the resident damaged property beyond normal wear and tear, or failed to provide advance notice of the resident’s departure.”

§ 4812(c)(4)(B): Please amend as follows:

(4) Drug Testing

(B) The recovery residence shall not deny entry, temporarily remove, or terminate a resident based on use of medication in conjunction with medication-assisted treatment as defined in section 4750 of this title.

(C) In the event that a resident or prospective resident is or has been using buprenorphine or related compounds without a prescription, or at levels above those prescribed, the recovery residence:

(i) shall provide support for the resident to obtain a prescription for medication-assisted treatment, and

(ii) shall not subject the resident to denial of entry, temporary removal, or termination as long as the resident takes reasonable steps to obtain a prescription.