

1 H.611

2 Representatives Wood of Waterbury and Noyes of Wolcott move that the
3 bill be amended by striking out all after the enacting clause and inserting in
4 lieu thereof the following:

5 * * * Older Vermonters Act * * *

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

7 CHAPTER 62. OLDER VERMONTERS ACT

8 § 6201. SHORT TITLE

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

10 § 6202. PRINCIPLES OF SYSTEM OF SERVICES, SUPPORTS, AND

11 PROTECTIONS FOR OLDER VERMONTERS

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

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

20 (2) Safety and protection. Older Vermonters should be able to live in
21 communities, whether urban or rural, that are safe and secure. Older

1 Vermonters have the right to be free from abuse, neglect, and exploitation,
2 including financial exploitation. As older Vermonters age, their civil and legal
3 rights should be protected, even if their capacity is diminished. Safety and
4 stability should be sought, balanced with their right to self-determination.

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

16 (4) Financial security. Older Vermonters should be able to receive an
17 adequate income and have the opportunity to maintain assets for a reasonable
18 quality of life as they age. If older Vermonters want to work, they should be
19 able to seek and maintain employment without fear of discrimination and with
20 any needed accommodations. Older Vermonters should also be able to retire

1 after a lifetime of work, if they so choose, without fear of poverty and
2 isolation.

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

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

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

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

6 § 6203. DEFINITIONS

7 As used in this chapter:

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

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

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

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

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

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

6 (A) physical and mental disabilities;

7 (B) language barriers; and

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

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

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

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

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

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

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

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

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

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

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

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

20 (12) “Senior center” means a community facility that organizes,
21 provides, or arranges for a broad spectrum of services for older Vermonters,

1 including physical and mental health-related, social, nutritional, and
2 educational services, and that provides facilities for use by older Vermonters to
3 engage in recreational activities.

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

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

11 § 6204. DEPARTMENT OF DISABILITIES, AGING, AND

12 INDEPENDENT LIVING; DUTIES

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

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

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

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

1 (B) housing and transportation; and

2 (C) health care reform activities and;

3 **(D) public health crisis and emergency preparedness planning.**

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

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

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

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

16 § 6205. AREA AGENCIES ON AGING; DUTIES

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

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

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

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

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

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

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

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

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

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

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

3 (3) use their existing area plans to facilitate awareness of aging issues,
4 needs, and services and to promote the system principles expressed in section
5 6202 of this chapter.

6 § 6206. PLAN FOR COMPREHENSIVE AND COORDINATED SYSTEM
7 OF SERVICES, SUPPORTS, AND PROTECTIONS

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

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

18 (2) criteria for receiving services or funding;

19 (3) types of services provided; and

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

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

2 Aging based on:

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

5 (B) a comprehensive needs assessment that includes:

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

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

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

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

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

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

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

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

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

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

17 (1) implementation of the plan;

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

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

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

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

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

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

12 § 6916. ANNUAL REPORT

13 On or before January 15 of each year, and notwithstanding the provisions of
14 2 V.S.A. § 20(d), the Department shall report to the House Committee on
15 Human Services and the Senate Committee on Health and Welfare regarding
16 the Department’s adult protective services activities during the previous fiscal
17 year, including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (b) The Vermont Action Plan for Aging Well shall provide strategies and
18 cultivate partnerships for implementation across sectors to promote aging with
19 health, choice, and dignity in order to establish and maintain an age-friendly
20 State for all Vermonters. **The Action Plan shall also address the additional**
21 **needs and concerns of older Vermonters and their families in the event of**

1 **a public health crisis, natural disaster, or other widespread emergency**
2 **situation in this State.**

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

9 **(d)** On or before **January April 15 May 1,** 2021, the Secretary shall
10 submit to the House Committee on Human Services and the Senate Committee
11 on Health and Welfare the proposed process for developing the Vermont
12 Action Plan for Aging Well, including action steps and an achievable timeline,
13 as well as potential performance measures for use in evaluating the results of
14 implementing the Action Plan and the relevant outcomes set forth in 3 V.S.A.
15 § 2311 and related indicators, to which the Action Plan should relate.

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

18 Sec. 4. 33 V.S.A. § 900 is amended to read:

19 § 900. DEFINITIONS

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

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(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-

1 and community-based provider Medicaid reimbursement rates beginning on
2 July 1.

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

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

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

9 Sec. 6. HOME- AND COMMUNITY-BASED SERVICE PROVIDER

10 RATE STUDY; REPORT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (e) Report. On or before ~~December 15, 2020~~ ~~2021~~ **July 1, 2022**, the
12 Working Group shall report its findings and its recommendations for
13 legislative and nonlegislative action to the House Committee on Human
14 Services and the Senate Committee on Health and Welfare.

15 (f) Meetings.

16 (1) The Commissioner of Disabilities, Aging, and Independent Living or
17 designee shall call the first meeting of the Working Group to occur on or
18 before July 1, ~~2020~~ ~~2021~~.

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

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

