

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Human Services to which was referred House Bill
3 No. 611 entitled “An act relating to the Older Vermonters Act” respectfully
4 reports that it has considered the same and recommends that the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

7 * * * Older Vermonters Act * * *

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

9 CHAPTER 62. OLDER VERMONTERS ACT

10 § 6201. SHORT TITLE

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

12 § 6202. PRINCIPLES OF SYSTEM OF SERVICES, SUPPORTS, AND
13 PROTECTIONS FOR OLDER VERMONTERS

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

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

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

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

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

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

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

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

19 (8) Family caregiver support. Family caregivers are fundamental to
20 supporting the health and well-being of older Vermonters, and their hard work
21 and contributions should be respected, valued, and supported. Family

1 caregivers of all ages should have affordable access to education, training,
2 counseling, respite, and support that is both coordinated and efficient.

3 § 6203. DEFINITIONS

4 As used in this chapter:

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

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

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

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

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

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

3 (A) physical and mental disabilities;

4 (B) language barriers; and

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

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

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

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

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

1 (9) “Older Americans Act” means the federal law originally enacted in
2 1965 to facilitate a comprehensive and coordinated system of supports and
3 services for older Americans and their caregivers.

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

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

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

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

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

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

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

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

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

8 § 6204. DEPARTMENT OF DISABILITIES, AGING, AND
9 INDEPENDENT LIVING; DUTIES

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

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

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

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

19 (B) housing and transportation; and

20 (C) health care reform activities.

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

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

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

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

13 § 6205. AREA AGENCIES ON AGING; DUTIES

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

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

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

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

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

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

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

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

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

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

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

19 (3) use their existing area plans to facilitate awareness of aging issues,
20 needs, and services and to promote the system principles expressed in section
21 6202 of this chapter.

1 § 6206. PLAN FOR COMPREHENSIVE AND COORDINATED SYSTEM
2 OF SERVICES, SUPPORTS, AND PROTECTIONS

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

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

13 (2) criteria for receiving services or funding;

14 (3) types of services provided; and

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

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

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

20 (B) a comprehensive needs assessment that includes:

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

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

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

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

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

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

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

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

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

9 (1) implementation of the plan;

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

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

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

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

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

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

3 § 6916. ANNUAL REPORT

4 On or before January 15 of each year, and notwithstanding the provisions of
5 2 V.S.A. § 20(d), the Department shall report to the House Committee on
6 Human Services and the Senate Committee on Health and Welfare regarding
7 the Department’s adult protective services activities during the previous fiscal
8 year, including:

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

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

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

20 (4) the number of reports of abuse, neglect, or exploitation of a
21 vulnerable adult that were received from a facility licensed by the

1 Department’s Division of Licensing and Protection during the previous fiscal
2 year:

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

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

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

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

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

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

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

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

- 1 (10) data on Adult Protective Services program investigator caseloads,
2 including:
- 3 (A) average daily caseloads during the previous fiscal year and
4 comparisons with the two prior fiscal years;
- 5 (B) average daily open investigations statewide during the previous
6 fiscal year and comparisons with the two prior fiscal years;
- 7 (C) average numbers of completed investigations per investigator
8 during the previous fiscal year; and
- 9 (D) average numbers of completed investigations per week during the
10 previous fiscal year;
- 11 (11) the number of reviews of screening decisions not to investigate,
12 including the number and percentage of these decisions that were upheld
13 during the previous fiscal year and comparisons with the two prior fiscal years;
- 14 (12) the number of reviews of investigations that resulted in an
15 unsubstantiation, including the number and percentage of these
16 unsubstantiations that were upheld during the previous fiscal year and
17 comparisons with the two prior fiscal years;
- 18 (13) the number of appeals of recommendations of substantiation that
19 concluded with the Commissioner, including the number and percentage of
20 these recommendations that the Commissioner upheld during the previous
21 fiscal year and comparisons with the two prior fiscal years;

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

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

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

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

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

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

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

20 The Secretary of Administration, in collaboration with the Commissioners
21 of Disabilities, Aging, and Independent Living and of Health, shall propose a

1 process for developing the Vermont Action Plan for Aging Well to be
2 implemented across State government, local government, the private sector,
3 and philanthropies. The Vermont Action Plan for Aging Well shall provide
4 strategies and cultivate partnerships for implementation across sectors to
5 promote aging with health, choice, and dignity in order to establish and
6 maintain an age-friendly State for all Vermonters. In crafting the proposed
7 process, the Secretary shall engage a broad array of Vermonters with an
8 interest in creating an age-friendly Vermont, including older Vermonters and
9 their families, adults with disabilities and their families, local government
10 officials, health care and other service providers, employers, community-based
11 organizations, foundations, academic researchers, and other interested
12 stakeholders. On or before January 15, 2021, the Secretary shall submit to the
13 House Committee on Human Services and the Senate Committee on Health
14 and Welfare the proposed process for developing the Vermont Action Plan for
15 Aging Well, including action steps and an achievable timeline, as well as
16 potential performance measures for use in evaluating the results of
17 implementing the Action Plan and the relevant outcomes set forth in 3 V.S.A.
18 § 2311 and related indicators, to which the Action Plan should relate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (1) the Commissioner of Disabilities, Aging, and Independent Living or
- 2 designee;
- 3 (2) the Director of the Adult Services Division in the Department of
- 4 Disabilities, Aging, and Independent Living or designee;
- 5 (3) the Vermont Attorney General or designee;
- 6 (4) the State Long-Term Care Ombudsman or designee;
- 7 (5) the Executive Director of the Vermont Association of Area Agencies
- 8 on Aging or designee;
- 9 (6) the Executive Director of the Community of Vermont Elders or
- 10 designee;
- 11 (7) the Executive Director of the VNAs of Vermont or designee;
- 12 (8) the Executive Director of Disability Rights Vermont or designee;
- 13 (9) an elder care clinician selected by Vermont Care Partners; and
- 14 (10) the Director of the Center on Aging at the University of Vermont
- 15 College of Medicine or designee.
- 16 (c) Powers and duties. The Working Group shall consider issues and
- 17 develop recommendations relating to self-neglect, including determining the
- 18 following:
- 19 (1) how to identify adults residing in Vermont who, because of physical
- 20 or mental impairment or diminished capacity, are unable to perform essential
- 21 self-care tasks and are self-neglecting;

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

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

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

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

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

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

18 (f) Meetings.

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

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

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

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

6 * * * Effective Dates * * *

7 Sec. 8. EFFECTIVE DATES

8 (a) Secs. 1 (Older Vermonters Act), 2 (Adult Protective Services
9 reporting), 3 (Strategic Action Plan on Aging; development process; report),
10 6 (home- and community-based service provider rate study; report), and
11 7 (Self-Neglect Working Group; report) and this section shall take effect on
12 passage, except that in Sec. 1, 33 V.S.A. § 6206 (plan for comprehensive and
13 coordinated system of services, supports, and protections) shall apply to the
14 State Plan on Aging taking effect on October 1, 2022.

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

18 (Committee vote: _____)

19 _____
20 Representative _____
21 FOR THE COMMITTEE