



State of Vermont  
Agency of Administration  
Department of Finance & Management  
Pavilion Office Building  
109 State Street  
Montpelier, VT 05609-0201  
[www.finance.vermont.gov](http://www.finance.vermont.gov)

[phone] 802-828-2376  
[fax] 802-828-2428

Adam Greshin, Commissioner

February 15, 2019

Honorable Kitty Toll, Chair  
House Committee on Appropriations  
Vermont State House  
Montpelier, VT 05609

Dear Representative Toll:

I write with respect to H.97, *An Act Relating to Fiscal Year 2019 Budget Adjustments*, (BAA), as passed by the Senate on February 13, 2019. Several necessary technical changes have come to my attention. Please consider the following suggestions:

- **Sec. 58 Substance Use Disorder and Mental Health Workforce Plan Approval:** The Administration is unclear as to what constitutes “plan review and approval” relative to the fiscal year 2020 budget bill. Therefore, including clarifying language in either the fiscal year 2019 BAA or in a Letter of Legislative Intent is recommended.
- **Sec. 60 IMD GC Waiver:** The following language should be amended to reflect the need to receive federal funding for the associated services:
  - (a) It is the public policy of the State of Vermont to develop a fully integrated continuum of mental health services. In recognition that Institutions for Mental Disease (IMDs) are an essential part of the current continuum of care, the Secretary of Human Services may seek approval from the Centers for Medicare and Medicaid Services to amend Vermont’s Global Commitment to Health Section 1115 waiver as it relates to receiving expenditure authority for the treatment of serious mental illness provided to Medicaid beneficiaries ~~the phase out of coverage of treatment for serious mental illness provided in IMDs.~~
- **Sec. 93 Video Records Retention:** The Department of Public Safety’s previous findings determined that data storage costs would be prohibitive. However, in light of the Legislature’s intentions, the Administration recommends the following changes that address SAC’s concerns while comporting with current statutory requirements, providing adequate time to meet the requirements as amended below, and limiting associated policies to the Vermont State Police:
  - (a) On or before March 15, 2019, the Commissioner of Public Safety shall report to the House and Senate Committees on Judiciary and on Appropriations on the status of record schedules, as defined in 3 V.S.A. Sec. 117(a)(6), that have been approved by the State Archivist, and on the status of internal proposed video records management policies retention policies for the Vermont State Police (or Vermont law enforcement agencies) that apply to dash-mounted or body-mounted camera video, specifically: .-The proposed policies shall address:

~~(1) the retention period for and storage of such video; length of time to maintain standard video records that are unrelated to a particular case or incident and were recorded by a dash mounted or body mounted camera;~~

~~(2) the process for members of the public to request that records be retained for longer than the standard retention period, and a recommended duration for extensions of the standard period;~~

~~(3) (2) the manner in which the public shall be notified and kept informed about record schedules the retention policy; and~~

~~(4) (3) the estimated costs for the storage of video records the budget for storage of records with a cloud-based service, and the amount that would be saved by using a cloud-based service, and a comparison of the costs of cloud based storage and the instead of the existing on-site physical storage, and whether cloud based storage creates greater efficiencies in the overall management of video records. facility.~~

(b) The Commissioner shall consult with the Vermont State Archives and Records Administration (VSARA) and the Agency of Digital Services for purposes of making the proposals required by subsection (a) of this section.

(c) By April 15, 2019, the Commissioner of Public Safety shall report to the House and Senate Committees on Judiciary and on Appropriations the final record schedules and management policies.

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- **Sec. 103 Supervision in Emergency Departments:** As explained in testimony to both the House and Senate Committees on Appropriations, the Center for Medicare and Medicaid Services (CMS) is very clear that hospital patients are the sole responsibility of the hospital. Should a sheriff intervene, Licensing and Protection (L&P) can and does investigate. For these reasons, the Administration reiterates that ending this service is the appropriate path forward. Nonetheless, in order to include Licensing and Protection Services with the Department of Disabilities, Aging and Independent Living as part of the process, and to assess security protocols while not losing sight of patient care, the Administration suggests the following changes:
  - (a) The Department of Mental Health shall explore solutions to improve therapeutic care and supports for patients in emergency departments that includes the study of security protocols in emergency departments to ensure the safety of patients and hospital staff and compliance with federal regulations in consultation with:
    - (1) the Vermont Association of Hospitals and Health Systems;
    - (2) DAIL – Licensing and Protection;
    - ~~(2)~~ (3) Vermont Care Partners;
    - ~~(3)~~ (4) the Department of State’s Attorneys and Sheriffs; and
    - ~~(4)~~ (5) an individual who provides peer support services in an emergency department, appointed by Vermont Psychiatric Survivors.

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Sincerely,



Adam Greshin

cc: Senator Jane Kitchel, Chair, Senate Committee on Appropriations  
Stephen Klein, Chief Fiscal Officer, Joint Fiscal Office  
Stephanie Barrett, Associate Fiscal Officer, JFO  
Maria Belliveau, Associate Fiscal Officer, JFO  
Matt Riven, Deputy Commissioner, Department of Finance and Management  
Richard Donahey, Director Budget and Management Operations