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S.266

Introduced by Senators Ram Hinsdale, Hardy and Perchlik

Referred to Committee on

Date:

Subject: Human services; judiciary; substance use disorder; prevention;
treatment

Statement of purpose of bill as introduced: This bill proposes to: (1) prevent an individual in treatment for substance use disorder and who is charged with a misdemeanor from being summoned in a misdemeanor proceeding; (2) limit drug-related criminal liability and civil forfeiture actions against individuals associated with an approved overdose prevention site program; (3) establish harm reduction centers; (4) address barriers to recovery for substance use disorder, including examination of recovery residences; and (5) establish an overdose prevention working group.

An act relating to substance use disorder treatment and overdose prevention

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 * * * Court Appearance While in Residential Treatment for Substance Use

3 Disorder * * *

4 Sec. 1. 13 V.S.A. § 15 is added to read:

5 § 15. MISDEMEANOR AND FELONY PROCEEDINGS; DEFENDANT'S

6 APPEARANCE NOT REQUIRED WHILE IN SUBSTANCE USE

7 DISORDER RESIDENTIAL TREATMENT OR SUPPORTIVE

8 SETTING

9 (a)(1) An individual who is charged with a crime shall not be required to
10 appear, and shall not be summoned for, any court proceeding in the case that is
11 set to occur while the individual is receiving substance use disorder treatment
12 or mental health treatment related to a substance use disorder in a residential or
13 supportive setting unless the individual poses an imminent risk of substantial
14 physical harm to a specific individual or group of individuals. The individual
15 may be required to attend the proceeding when the individual is no longer part
16 of the treatment program, provided that accommodations shall be made
17 permitting the individual to appear through electronic means if the proceeding
18 is set to occur in a county or state in which the individual does not reside.

19 (2) This subsection shall apply to treatment the individual is receiving in
20 Vermont or any other jurisdiction.

1 (B) a staff member or administrator of an approved overdose
2 prevention site program, including a health care professional, manager,
3 employee, or volunteer; or

4 (C) a property owner who owns real property at which an approved
5 overdose prevention site program is located and operates.

6 (2) The immunity provisions of this section apply only to the use and
7 derivative use of evidence gained as a proximate result of participation in or
8 with an approved overdose prevention site program.

9 (k) An overdose prevention site program shall:

10 (1) provide a space supervised by health care professionals or other
11 trained staff where people who use drugs can consume pre-obtained drugs;

12 (2) provide sterile injection supplies, collect used hypodermic needles
13 and syringes, and provide secure hypodermic needle and syringe disposal
14 services;

15 (3) answer questions on overdose prevention practices;

16 (4) administer first aid, if needed, and monitor and treat potential
17 overdoses;

18 (5) provide referrals to addiction treatment, medical, and social services
19 upon request;

20 (6) educate participants on the risks of contracting HIV and viral
21 hepatitis, wound care, and safe sex education;

1 (7) provide overdose prevention education and access to or referrals to
2 obtain naloxone;

3 (8) educate participants regarding proper disposal of hypodermic
4 needles and syringes;

5 (9) provide reasonable security of the program site;

6 (10) establish operating procedures for the program as well as eligibility
7 criteria for program participants; and

8 (11) train staff members to deliver services offered by the program.

9 (l) An entity may apply to the Vermont Department of Health or a district
10 or municipal board of health for approval to operate an overdose prevention
11 site program. Entities may apply to establish and operate more than one
12 program. The Department of Health or district or municipal board shall
13 approve or deny the application within 45 days after receipt of the application
14 and shall provide a written explanation to the applicant of the basis for a
15 denial. Approval for a program shall be for a period of two years and may be
16 renewed. An entity operating an overdose prevention site program shall
17 submit an annual report to the approving agency at a date set by the agency
18 that shall include:

19 (1) the number of program participants;

20 (2) aggregate information regarding the characteristics of the program
21 participants;

1 § 4802. DEFINITIONS

2 As used in this chapter:

3 * * *

4 (3) “Approved substance ~~abuse~~ use disorder treatment program” means
5 a treatment program ~~which~~ that is approved by the Secretary as qualified to
6 provide treatment for a substance abuse use disorder.

7 * * *

8 § 4812. LIMITATON ON PRIOR AUTHORIZATION AND LENGTH OF
9 STAY REQUIREMENTS FOR RESIDENTIAL TREATMENT

10 (a) A health insurance plan shall not require prior authorization, nor impose
11 limitations on the length of stay, for a patient who is receiving residential
12 treatment at a participating substance use disorder treatment program if the
13 treatment and length of stay are deemed necessary by the patient and the
14 patient’s treatment team.

15 (b) As used in this section, “health insurance plan” means any health
16 insurance policy or health benefit plan offered by a health insurer as defined in
17 section 9402 of this title as well as Medicaid and any other public health care
18 assistance program offered or administered by the State or by any subdivision
19 or instrumentality of the State. The term does not include policies or plans
20 providing coverage for a specified disease or other limited benefit coverage.

1 § 4813. RESTRICTIONS ON STATE FUNDING FOR RESIDENTIAL
2 PROGRAMS

3 An approved substance use disorder treatment program that provides
4 residential treatment shall allow patient screening, intake, and admission
5 through the Department of Health’s Helplink Program in order to be eligible
6 for grants from the State of Vermont or reimbursements for the treatment of
7 patients receiving Medicaid and any other public health care assistance
8 program offered or administered by the State or by any subdivision or
9 instrumentality of the State.

10 § 4814. RECOVERY STABILIZATION HOUSING

11 The Agency of Human Services shall establish, monitor, and support
12 recovery stabilization programs designed to provide vulnerable individuals
13 experiencing substance use disorder with continuous access to safe housing
14 and supportive services during periods of instability associated with substance
15 use disorder. A recovery stabilization program shall provide community-
16 based, residential respite beds as part of a coordinated safety net that
17 temporarily houses individuals on a short-term basis; provides for health
18 monitoring to prevent fatal overdoses when necessary; provides recovery
19 counseling; and provides comprehensive service coordination related to
20 housing, drug treatment, and other components of a recovery stabilization plan.
21 A recovery stabilization program shall be voluntary and accessible statewide to

1 individuals in need of recovery stabilization services, including tenants living
2 in recovery residences who are experiencing current intoxication, individuals
3 waiting to begin residential drug treatment programs, and individuals who
4 experienced a recent overdose.

5 § 4815. HARM REDUCTION CENTERS

6 (a) A network of approved harm reduction centers shall be established at
7 geographically diverse locations throughout the State for the purpose of
8 preventing overdoses and providing services to individuals with substance use
9 disorder, such as:

10 (1) distributing sterile syringes and safely disposing of used needles;

11 (2) distributing Narcan;

12 (3) providing fentanyl testing strips;

13 (4) initiating an individual on low barrier buprenorphine within three
14 hours following request;

15 (5) providing continued access to medication-assisted treatment using
16 low barrier methods;

17 (6) providing telehealth services to the extent permitted under federal
18 law; and

19 (7) making support staff, such as peer support staff, nurses licensed
20 pursuant to 26 V.S.A. chapter 28, and social workers licensed pursuant to

1 26 V.S.A. chapter 61 available on-site to provide services and assistance to
2 clients.

3 (b) An entity seeking to operate a harm reduction center shall apply to the
4 Department of Health for approval. The Department shall determine the
5 criteria necessary for operation of an approved harm reduction center by rule
6 pursuant to 3 V.S.A. chapter 25, including assurance of appropriate training of
7 personnel operating the harm reduction center and administering medication-
8 assisted treatment.

9 (c) Annually on December 1, the Department, in consultation with any
10 approved harm reduction centers, shall submit a report to the Senate
11 Committee on Health and Welfare and the House Committee on Human
12 Services regarding:

13 (1) the number of approved harm reduction centers in the State and the
14 number of clients served by each center;

15 (2) the type of services provided by the harm reduction centers; and

16 (3) an evaluation of the approved harm reduction centers' ability to
17 provide services to individuals who previously had limited or no access to
18 substance use disorder treatment services.

19 Sec. 5. APPROPRIATION; APPROVED HARM REDUCTION CENTERS

20 In fiscal year 2023, \$500,000.00 shall be appropriated from the General
21 Fund to the Department of Health for the purpose of distributing to approved

1 harm reduction centers throughout the State based on the anticipated number of
2 clients to be served at each center.

3 Sec. 6. APPROPRIATIONS; RECOVERY STABILIZATION HOUSING

4 In fiscal year 2023, \$1,000,000.00 is appropriated from the General Fund to
5 the Agency of Human Services to establish, monitor, and support recovery
6 stabilization programs as described in 18 V.S.A. § 4814.

7 Sec. 7. REPORT; AVAILABILITY OF RESIDENTIAL RECOVERY

8 STABILIZATION SERVICES

9 Annually on October 1, 2022 through October 1, 2025, the Agency of
10 Human Services shall submit a report to the House Committees on General,
11 Housing, and Military Affairs and on Human Services and to the Senate
12 Committees on Economic Development, Housing and General Affairs and on
13 Health and Welfare, which shall indicate by county:

14 (1) the location, availability, and number of beds available for
15 individuals who desire and are in need of residential recovery stabilization
16 services;

17 (2) the number of individuals who sought, but were denied, residential
18 recovery stabilization services for lack of an available bed in the preceding
19 fiscal year; and

1 (3) for every year after 2022, if the level of such service is inadequate to
2 meet the need, the plan for increasing availability of services to a level that
3 meets the need.

4 * * * Report of the Overdose Prevention Working Group * * *

5 Sec. 8. OVERDOSE PREVENTION WORKING GROUP

6 (a) Creation. There is created the Overdose Prevention Working Group to
7 examine miscellaneous issues related to preventing overdoses and treating
8 substance use disorder.

9 (b) Membership. The Working Group shall be composed of the following
10 members, including at least two members who are Black, Indigenous, or

11 Persons of Color:

12 (1) the Secretary of Human Services or designee;

13 (2) the Commissioner of Health or designee;

14 (3) a representative, appointed by the Vermont Association for Mental
15 Health and Addiction Recovery;

16 (4) a representative, appointed by the Vermont Foundation of Recovery,
17 Inc.;

18 (5) a representative, appointed by the Howard Center Safe Recovery;

19 (6) two individuals with lived experience of substance use disorder,
20 appointed by Howard Center Safe Recovery;

21 (7) a representative, appointed by Vermont Legal Aid;

1 (8) two representatives, appointed by Vermonters for Criminal Justice
2 Reform, including one of whom is an advocate;

3 (9) two individuals with a lived experience of criminal justice
4 involvement, appointed by Vermonters for Criminal Justice Reform;

5 (10) a representative, appointed by the University of Vermont's Center
6 on Rural Addiction;

7 (11) three family members of individuals lost to fatal overdoses,
8 appointed by the Vermont chapter of the Recovery Advocacy Project;

9 (12) a physician prescribing medication-assisted treatment in Vermont,
10 appointed by Howard Center Safe Recovery; and

11 (13) two individuals with lived experience of participating in
12 medication-assisted treatment, appointed by Howard Center Safe Recovery.

13 (c) Powers and duties. The Working Group shall examine miscellaneous
14 issues related to preventing overdoses and treating substance use disorder,
15 including:

16 (1) shifting away from a criminal justice approach to a health-centered
17 approach for addressing possession of a personal use supply of a regulated
18 drug, looking to models including Vermont's H.422 of 2021, An act relating to
19 decriminalizing possession and dispensing of a personal use supply of
20 regulated drugs; Oregon Measure 110 of 2020, Drug Addiction Treatment and
21 Recovery Act; and Portugal's decriminalization model;

1 (2) decriminalizing certain chemical compounds found in plants and
2 fungi that are commonly used for medicinal, spiritual, religious, or ethnogenic
3 purposes;

4 (3) addressing strategies to use the Housing First model in a manner that
5 more effectively prevents overdoses;

6 (4) identifying opportunities for individuals with dual mental health and
7 substance use disorders to be better supported to avoid overdoses; and

8 (5) study recovery housing best practices relating to voluntary and
9 involuntary status at a recovery residence and how best to support an
10 individual during relapse without removing the individual from the recovery
11 residence.

12 (d) Assistance. The Working Group shall have the administrative,
13 technical, and legal assistance of the Department of Health.

14 (e) Report. On or before December 1, 2022, the Working Group shall
15 submit a written report to the House Committees on Human Services and on
16 Judiciary and the Senate Committees on Health and Welfare and on Judiciary
17 with its findings and any recommendations for legislative action.

18 (f) Meetings.

19 (1) The Commissioner of Health or designee shall call the first meeting
20 of the Working Group to occur on or before August 1, 2022.

21 (2) The Commissioner of Health or designee shall be the chair.

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

2 (4) The Working Group shall cease to exist on December 1, 2022.

3 (g) Compensation and reimbursement. Members of the Working Group
4 shall be entitled to per diem compensation and reimbursement of expenses as
5 permitted under 32 V.S.A. § 1010 for not more than six meetings. These
6 payments shall be made from monies appropriated to the Department of
7 Health.

8 * * * Conforming Revisions * * *

9 Sec. 9. CONFORMING REVISIONS

10 When preparing the Vermont Statutes Annotated for publication in 2022,
11 the Office of Legislative Counsel shall replace the phrase “approved substance
12 abuse treatment program” with the phrase “approved substance use disorder
13 treatment program” throughout 18 V.S.A. chapter 94.

14 * * * Effective Date * * *

15 Sec. 10. EFFECTIVE DATE

16 This act shall take effect on July 1, 2022.