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H.876

Introduced by Committee on Corrections and Institutions

Date:

Subject: Corrections; medical care; earned time

Statement of purpose of bill as introduced: This bill proposes to make amendments to various corrections laws. Specifically, this bill proposes to mandate the Department of Corrections or its third-party medical provider to provide medically necessary medications and prescriptions to inmates, in addition to coordinating support services, upon release from a correctional facility; expands the Department’s earned time program to parolees and mandates a report of expanding the earned time program to include educational credits; requires the Department to facilitate the provision of identification cards to inmates upon release from a correctional facility; creates a study committee to enhance family visitation at correctional facilities for persons who identify as parents, guardians, and parents with visitation rights; and mandates a Department report on the transition away from the use of privately operated, for-profit, or out-of-state correctional facilities to house Vermont inmates and in an effort to prohibit the use of such facilities in 2034.

19 An act relating to miscellaneous amendments to the corrections laws

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

2 Sec. 1. 28 V.S.A. § 801 is amended to read:

3 § 801. MEDICAL CARE OF INMATES

4 (a) Provision of medical care. The Department shall provide health care for
5 inmates in accordance with the prevailing medical standards. When the
6 provision of such care requires that the inmate be taken outside the boundaries
7 of the correctional facility wherein the inmate is confined, the Department
8 shall provide reasonable safeguards, when deemed necessary, for the custody
9 of the inmate while ~~he or she~~ the inmate is confined at a medical facility.

10 (b) Screenings and assessments.

11 (1) Upon admission to a correctional facility for a minimum of 14
12 consecutive days, each inmate shall be given a physical assessment unless
13 extenuating circumstances exist.

14 (2) Within 24 hours after admission to a correctional facility, each
15 inmate shall be screened for substance use disorders as part of the initial and
16 ongoing substance use screening and assessment process. This process
17 includes screening and assessment for opioid use disorders.

18 (c) Emergency care. When there is reason to believe an inmate is in need
19 of medical care, the officers and employees shall render emergency first aid
20 and immediately secure additional medical care for the inmate in accordance
21 with the standards set forth in subsection (a) of this section. A correctional

1 facility shall have on staff at all times at least one person trained in emergency
2 first aid.

3 (d) Policies. The Department shall establish and maintain policies for the
4 delivery of health care in accordance with the standards in subsection (a) of
5 this section.

6 (e) Pre-existing prescriptions; definitions for subchapter.

7 (1) Except as otherwise provided in this subsection, an inmate who is
8 admitted to a correctional facility while under the medical care of a licensed
9 physician, a licensed physician assistant, or a licensed advanced practice
10 registered nurse and who is taking medication at the time of admission
11 pursuant to a valid prescription as verified by the inmate's pharmacy of record,
12 primary care provider, other licensed care provider, or as verified by the
13 Vermont Prescription Monitoring System or other prescription monitoring or
14 information system, including buprenorphine, methadone, or other medication
15 prescribed in the course of ~~medication-assisted treatment~~ medication for opioid
16 use disorder, shall be entitled to continue that medication and to be provided
17 that medication by the Department pending an evaluation by a licensed
18 physician, a licensed physician assistant, or a licensed advanced practice
19 registered nurse.

20 (2) Notwithstanding subdivision (1) of this subsection, the Department
21 may defer provision of a validly prescribed medication in accordance with this

1 subsection if, in the clinical judgment of a licensed physician, a physician
2 assistant, or an advanced practice registered nurse, it is not medically necessary
3 to continue the medication at that time.

4 (3) The licensed practitioner who makes the clinical judgment to
5 discontinue a medication shall cause the reason for the discontinuance to be
6 entered into the inmate's medical record, specifically stating the reason for the
7 discontinuance. The inmate shall be provided, both orally and in writing, with
8 a specific explanation of the decision to discontinue the medication and with
9 notice of the right to have ~~his or her~~ the inmate's community-based prescriber
10 notified of the decision. If the inmate provides signed authorization, the
11 Department shall notify the community-based prescriber in writing of the
12 decision to discontinue the medication.

13 (4) It is not the intent of the General Assembly that this subsection shall
14 create a new or additional private right of action.

15 (5) As used in this subchapter:

16 (A) "Medically necessary" describes health care services that are
17 appropriate in terms of type, amount, frequency, level, setting, and duration to
18 the individual's diagnosis or condition, are informed by generally accepted
19 medical or scientific evidence, and are consistent with generally accepted
20 practice parameters. Such services shall be informed by the unique needs of
21 each individual and each presenting situation, and shall include a determination

1 that a service is needed to achieve proper growth and development or to
2 prevent the onset or worsening of a health condition.

3 (B) ~~“Medication-assisted treatment” shall have~~ “Medication for
4 opioid use disorder” has the same meaning as in 18 V.S.A. § 4750.

5 (f) Third-party medical provider contracts. Any contract between the
6 Department and a provider of physical or mental health services shall establish
7 policies and procedures for continuation and provision of medication at the
8 time of admission and thereafter, as determined by an appropriate evaluation,
9 which will protect the ~~mental and physical~~ health of inmates.

10 (g) Prescription medication; reentry planning.

11 (1) If an offender takes a prescribed medication while incarcerated and
12 that prescribed medication continues to be both available at the facility and
13 clinically appropriate for the offender at the time of discharge from the
14 correctional facility, the Department or its contractor shall provide the
15 offender, at the time of release, with a sufficient supply of the prescribed
16 medication, not to exceed a 14-day supply, to ensure that the inmate may
17 continue taking the medication as prescribed until the offender is able to fill a
18 new prescription for the medication in the community. The Department or its
19 contractor shall also provide the offender exiting the facility with a valid
20 prescription to continue the medication after any supply provided during
21 release from the facility is depleted.

1 (2) The Department or its contractor shall identify any necessary
2 licensed health care provider or substance use disorder treatment program, or
3 both, and schedule an intake appointment for the offender with the provider or
4 program to ensure that the offender can continue care in the community as part
5 of the offender's reentry plan. The Department or its contractor may employ
6 or contract with a case worker or health navigator to assist with scheduling any
7 health care appointments in the community.

8 Sec. 2. 28 V.S.A. § 801b is amended to read:

9 § 801b. ~~MEDICATION-ASSISTED TREATMENT~~ MEDICATION FOR
10 OPIOID USE DISORDER IN CORRECTIONAL FACILITIES

11 (a) If an inmate receiving ~~medication-assisted treatment~~ medication for
12 opioid use disorder prior to entering the correctional facility continues to
13 receive medication prescribed in the course of ~~medication-assisted treatment~~
14 medication for opioid use disorder pursuant to section 801 of this title, the
15 inmate shall be authorized to receive that medication for as long as medically
16 necessary.

17 (b)(1) If at any time an inmate screens positive as having an opioid use
18 disorder, the inmate may elect to commence buprenorphine-specific
19 ~~medication-assisted treatment~~ medication for opioid use disorder if it is
20 deemed medically necessary by a provider authorized to prescribe

1 buprenorphine. The inmate shall be authorized to receive the medication as
2 soon as possible and for as long as medically necessary.

3 (2) Nothing in this subsection shall prevent an inmate who commences
4 ~~medication-assisted treatment~~ medication for opioid use disorder while in a
5 correctional facility from transferring from buprenorphine to methadone if:

6 (A) methadone is deemed medically necessary by a provider
7 authorized to prescribe methadone; and

8 (B) the inmate elects to commence methadone as recommended by a
9 provider authorized to prescribe methadone.

10 (c) The licensed practitioner who makes the clinical judgment to
11 discontinue a medication shall cause the reason for the discontinuance to be
12 entered into the inmate's medical record, specifically stating the reason for the
13 discontinuance. The inmate shall be provided, both orally and in writing, with
14 a specific explanation of the decision to discontinue the medication and with
15 notice of the right to have ~~his or her~~ the inmate's community-based prescriber
16 notified of the decision. If the inmate provides signed authorization, the
17 Department shall notify the community-based prescriber in writing of the
18 decision to discontinue the medication.

19 (d)(1) As part of reentry planning, the Department shall commence
20 ~~medication-assisted treatment~~ medication for opioid use disorder prior to an
21 ~~inmate's~~ offender's release if:

1 (A) the ~~inmate~~ offender screens positive for an opioid use disorder;

2 (B) ~~medication-assisted treatment~~ medication for opioid use disorder
3 is medically necessary; and

4 (C) the ~~inmate~~ offender elects to commence ~~medication-assisted~~
5 ~~treatment~~ medication for opioid use disorder.

6 (2) If ~~medication-assisted treatment~~ medication for opioid use disorder
7 is indicated and despite best efforts induction is not possible prior to release,
8 the Department shall ensure comprehensive care coordination with a
9 community-based provider.

10 (3) If an offender takes a prescribed medication as part of medication for
11 opioid use disorder while incarcerated and that prescription medication is both
12 available at the facility and clinically appropriate for the offender at the time of
13 discharge from the correctional facility, the Department or its contractor shall
14 provide the offender, at the time of release, with a legally permissible supply to
15 ensure that the offender may continue taking the medication as prescribed prior
16 to obtaining the prescription medication in the community.

17 (e)(1) Counseling or behavioral therapies shall be provided in conjunction
18 with the use of medication for medication-assisted treatment as provided for in
19 the Department of Health's "Rule Governing ~~Medication-Assisted Therapy for~~
20 ~~Opioid Dependence~~ Medication for Opioid Use Disorder for: (1) Office-Based

1 Opioid Treatment Providers Prescribing Buprenorphine; and (2) Opioid
2 Treatment Providers.”

3 (2) As part of reentry planning, the Department shall inform and offer
4 care coordination to an offender to expedite access to counseling and
5 behavioral therapies within the community.

6 (3) As part of reentry planning, the Department or its contractor shall
7 identify any necessary licensed health care provider or an opioid use disorder
8 treatment program, or both, and schedule an intake appointment for the
9 offender with the providers or treatment program, or both, to ensure that the
10 offender can continue treatment in the community as part of the offender’s
11 reentry plan. The Department or its contractor may employ or contract with a
12 case worker or health navigator to assist with scheduling any health care
13 appointments in the community.

14 Sec. 3. 28 V.S.A. § 818 is amended to read:

15 § 818. EARNED TIME; REDUCTION OF TERM

16 (a) Rule adoption. On or before September 1, ~~2020~~ 2024, the Department
17 of Corrections shall file a proposed rule pursuant to 3 V.S.A. chapter 25
18 implementing an earned time program to become effective on January 1, ~~2021~~
19 2025. The Commissioner shall adopt rules to carry out the provisions of this
20 section as an emergency rule and concurrently propose them as a permanent

1 rule. The emergency rule shall be deemed to meet the standard for the
2 adoption of emergency rules pursuant to 3 V.S.A. § 844(a).

3 (b) Earned time program; generally. The earned time program
4 implemented pursuant to this section shall comply with the following
5 standards:

6 (1) The program shall be available for all sentenced offenders, including
7 furloughed offenders, provided that the program shall not be available to
8 offenders on probation or parole, to offenders eligible for a reduction of term
9 pursuant to section 811 of this title, to offenders sentenced to serve an
10 interrupted sentence, or to offenders sentenced to life without parole.
11 Offenders currently serving a sentence shall be eligible to begin earning a
12 reduction in term when the earned time program becomes effective.

13 (A) Notwithstanding this subdivision (1), when an offender has been
14 convicted of a disqualifying offense, the offender's ability to participate and
15 earn time in the program shall be determined pursuant to subdivision (5) of this
16 subsection.

17 (B) Notwithstanding this subdivision (1), beginning on January 1,
18 2025, the program shall be available to offenders on parole.

19 (2) Offenders shall earn a reduction of seven days in the minimum and
20 maximum sentence for each month during which the offender:

21 (A) is not adjudicated of a major disciplinary rule violation; and

1 (B) is not reincarcerated from the community for a violation of
2 release conditions, provided that an offender who loses a residence for a reason
3 other than fault on the part of the offender shall not be deemed reincarcerated
4 under this subdivision.

5 (3) An offender who receives post-adjudication treatment in a residential
6 setting for a substance use disorder shall earn a reduction of one day in the
7 minimum and maximum sentence for each day that the offender receives the
8 inpatient treatment. While a person is in residential substance abuse treatment,
9 ~~he or she~~ the person shall not be eligible for earned time except as provided in
10 this subsection.

11 (4) The Department shall:

12 (A) ensure that all victims of record are notified of the earned time
13 program at its outset and made aware of the option to receive notifications
14 from the Department pursuant to this subdivision;

15 (B) provide timely notice not less frequently than every 90 days to
16 the offender any time the offender receives a reduction in ~~his or her~~ the
17 offender's term of supervision pursuant to this section;

18 (C) maintain a system that documents and records all such reductions
19 in each offender's permanent record; and

20 (D) record any reduction in an offender's term of supervision
21 pursuant to this section on a monthly basis and ensure that victims who want

1 information regarding changes in scheduled release dates have access to such
2 information.

3 (5) Notwithstanding 1 V.S.A. § 214, an offender who was serving a
4 sentence for a disqualifying offense on January 1, 2021 shall not earn any
5 earned time sentence reductions under this section after the effective date of
6 this act. This subdivision (~~5~~) shall not be construed to limit or affect earned
7 time that an offender has earned on or before the effective date of this act.

8 (c) Definitions. As used in this section:

9 (1) “Disqualifying offense” means:

10 (A) murder in violation of 13 V.S.A. § 2301;

11 (B) voluntary manslaughter in violation of 13 V.S.A. § 2304;

12 (C) kidnapping in violation of 13 V.S.A. § 2405;

13 (D) lewd and lascivious conduct with a child in violation of
14 13 V.S.A. § 2602, provided that the offense shall not be considered a
15 disqualifying offense if the offender is under 18 years of age, the child is at
16 least 12 years of age, and the conduct is consensual;

17 (E) sexual assault in violation of 13 V.S.A. § 3252(a) or (b);

18 (F) aggravated sexual assault in violation of 13 V.S.A. § 3253; or

19 (G) aggravated sexual assault of a child in violation of 13 V.S.A.
20 § 3253a.

1 this section shall, upon proper application and in advance of release from a
2 correctional facility, be provided with a nondriver identification card for a fee
3 of \$0.00.

4 (2) As part of reentry planning, the Department of Corrections shall
5 inquire with the individual to be released about the individual's desire to obtain
6 a nondriver identification card or any driving credential, if eligible, and inform
7 the individual about the differences, including any costs to the individual.

8 (3) If the individual desires a nondriver identification card, the
9 Department of Corrections shall coordinate with the Department of Motor
10 Vehicles to provide an identification card for the individual at the time of
11 release.

12 Sec. 6. FAMILY VISITATION; STUDY COMMITTEE; REPORT

13 (a) Creation. There is created the Family Friendly Visitation Study
14 Committee to examine how the Department of Corrections can facilitate
15 greater family friendly visitation methods for all inmates who identify as
16 parents, guardians, and parents with visitation rights.

17 (b) Membership. The Study Committee shall be composed of the
18 following members:

19 (1) the Commissioner of Corrections or designee;

20 (2) the Child, Family, and Youth Advocate or designee;

21 (3) a representative from Lund's Kids-A-Part program;

1 (4) the Commissioner for Children and Families or designee; and

2 (5) a representative from the Vermont Network Against Domestic and
3 Sexual Violence.

4 (c) Powers and duties. The Study Committee shall study methods and
5 approaches to better family friendly visitation for inmates who identify as
6 parents, guardians, and parents with visitation rights, including the following
7 issues:

8 (1) establishing a Department policy that facilitates family friendly
9 visitation to inmates who identify as parents, guardians, and parents with
10 visitation rights;

11 (2) assessing correctional facility capacity and resources needed to
12 facilitate greater family friendly visitation to inmates who identify as parents,
13 guardians, and parents with visitation rights;

14 (3) evaluating the possibility of locating inmates at correctional facilities
15 closer to family;

16 (4) assessing how inmate discipline at a correctional facility affects
17 family visitation;

18 (5) examining the current Kids-A-Part visitation program and
19 determining steps to achieve parity with the objectives pursuant to subsection
20 (a) of this section;

21 (6) exploring more family friendly visiting days and hours; and

1 (7) consulting with other stakeholders on relevant issues as necessary.

2 (d) Assistance. The Study Committee shall have the administrative,
3 technical, and legal assistance of the Department of Corrections.

4 (e) Report. On or before January 15, 2025, the Study Committee shall
5 submit a written report to the House Committee on Corrections and Institutions
6 and the Senate Committee on Judiciary with its findings and any
7 recommendations for legislative action.

8 (f) Meetings.

9 (1) The Commissioner of Corrections or designee shall call the first
10 meeting of the Study Committee to occur on or before August 1, 2024.

11 (2) The Study Committee shall meet not more than six times.

12 (3) The Commissioner of Corrections or designee shall serve as the
13 Chair of the Study Committee.

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

15 (5) The Study Committee shall cease to exist on February 15, 2025.

16 (g) Compensation and reimbursement. Members of the Study Committee
17 who are not employees of the State of Vermont and who are not otherwise
18 compensated or reimbursed for their attendance shall be entitled to
19 compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010
20 for not more than six meetings per year.

1 Sec. 7. OUT-OF-STATE CORRECTIONAL FACILITIES; TRANSITION;
2 REPORT

3 (a) Intent. It is the intent of the General Assembly that, by 2034, the
4 practice of Vermont inmates being housed in privately operated, for-profit, or
5 out-of-state correctional facilities shall be prohibited so that corporations are
6 not enriched for depriving the liberty of persons sentenced to imprisonment. It
7 is the further intent of the General Assembly that such a prohibition does not
8 affect inmates that are incarcerated pursuant to an interstate compact.

9 (b) Report. On or before January 1, 2026, the Department of Corrections,
10 in consultation with the Office of the State Auditor, the Judiciary, the
11 Department of Buildings and General Services, the Department of State's
12 Attorneys and Sheriffs, the Office of the Defender General, and the Law
13 Enforcement Advisory Board, shall submit a written report in the form of an
14 actionable plan to the House Committee on Corrections and Institutions and
15 the Senate Committee on Judiciary detailing the feasibility of necessary steps
16 and preparations required to transition away from contracting with privately
17 operated, for-profit, or out-of-state correctional facilities. The report shall
18 include:

19 (1) an assessment of the current contracts with privately operated, for-
20 profit, or out-of-state correctional facilities, including the duration of the
21 contract, fiscal implications, and the number of inmates housed at each facility;

1 (2) strategies to transition Vermont inmates currently housed at privately
2 operated, for-profit, or out-of-state correctional facilities to Vermont-based
3 correctional facilities or alternative rehabilitation programs;

4 (3) an analysis of the financial and operational impact of ending
5 contracts with privately operated, for-profit, or out-of-state correctional
6 facilities, including any potential cost savings or additional expenses incurred
7 by the State;

8 (4) plans to enhance the capabilities of Vermont-based correctional
9 facilities in anticipation of any changes to Vermont's incarcerative population
10 resulting from the termination of contracts with privately operated, for-profit,
11 or out-of-state correctional facilities; and

12 (5) any recommendations for legislative action that may be necessary to
13 transition away from contracting with privately operated, for-profit, or out-of-
14 state correctional facilities.

15 (c) Collaboration. In preparation of its report pursuant to subsection (b) of
16 this section, the Department shall collaborate with all relevant government
17 agencies, relevant community organizations, and relevant advocacy groups.

18 (d) Legislative consideration. The written report submitted pursuant to
19 subsection (b) of this section shall be considered for legislative action during
20 the 2026 legislative session.

1 Sec. 8. EFFECTIVE DATE

2 This act shall take effect on July 1, 2024.