

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Corrections and Institutions to which was referred  
3 House Bill No. 836 entitled “An act relating to expanding earned time to  
4 include credit for higher education degrees” respectfully reports that it has  
5 considered the same and recommends that the bill be amended by striking out  
6 all after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 28 V.S.A. § 751b is amended to read:

8 § 751b. GENERAL PROVISIONS GOVERNING OFFENDER WORK

9 (a) To return value to communities, to assist victims of crime, to establish  
10 good habits of work and responsibility, to promote the vocational training of  
11 offenders, to pursue initiatives with private business to enhance offender  
12 employment opportunities, and to reduce the cost of operation of the  
13 Department of Corrections and of other State agencies, offenders may be  
14 employed in the production and delivery of goods, services, and foodstuffs to  
15 communities, to victims of crime, to correctional facilities, to other State  
16 agencies, and to other public or private entities authorized by this subchapter.  
17 To accomplish these purposes, the Commissioner may establish and maintain  
18 industries, farms, and institutional work programs at appropriate correctional  
19 facilities or other locations, plus community service work programs throughout  
20 the State.

1 (b) An offender shall not be required to engage in unreasonable labor or to  
2 perform any work for which he or she is declared unfit by a physician  
3 employed or retained by the Department.

4 (c) The Commissioner shall establish written guidelines governing the  
5 hours and conditions of offender work, and the rates of compensation of  
6 offenders for employment. Wage payments of offenders shall be set aside in a  
7 separate fund. The guidelines of the Department may provide for the making  
8 of deductions from wages of offenders to defray part or all of the cost of  
9 offender maintenance or payments to victims of crime. The guidelines may  
10 also provide for the setting aside by the Department of a portion of an  
11 offender's wages to enable the offender to contribute to the support of his or  
12 her dependents, if any, to make necessary purchases from a commissary, to  
13 purchase approved books, instruments, and instruction not supplied by a  
14 correctional facility, and to set aside sums to be paid to the offender upon  
15 release from the custody or supervision of the Commissioner. Any interest that  
16 accrues from these wages during the period of such custody of an offender  
17 shall be credited to any fund maintained by the correctional facility for the  
18 welfare of offenders.

19 (d) The labor, work product, or time of an offender may be sold,  
20 contracted, or hired out by the State only:

21 (1) To the federal government.

1           (2) To any state or political subdivision of a state, or to any nonprofit  
2           organization that is exempt from federal or state income taxation, subject to  
3           federal law, to the laws of the recipient state, and to the rules of the  
4           Department, provided that the Commissioner or designee may disapprove any  
5           future sales of offender produced goods or services to any nonprofit  
6           organization.

7           (3) To any private person or enterprise not involving the provision of the  
8           federally authorized Prison Industries Enhancement Program, provided that the  
9           Commissioner or designee shall first determine that the offender work product  
10          in question is not otherwise produced or available within the State.

11          (4) To charitable organizations where the offender work product is the  
12          handicraft of offenders and the Commissioner or designee has approved such  
13          sales in advance.

14          (5) To political subdivisions of the State, community organizations,  
15          private persons, or enterprises when the Governor has authorized the work of  
16          offenders as necessary and appropriate as a response to a civil emergency.

17          (e) Offender work ~~programs~~ program managers shall seek to offset  
18          production, service, and related costs from product and service sales; however,  
19          this financial objective of offsetting the costs to the Department of servicing  
20          and supervising offender work programs shall not be pursued to the detriment  
21          of accomplishing the purposes of offender work programs set out in subsection

1 (a) of this section or to the detriment of private businesses as safeguarded by  
2 section 761 of this title.

3 (f) The Department of Corrections shall, in any new initiative involving  
4 sales of offender work products, seek to use the provisions of the federally  
5 authorized Prison Industries Enhancement Program.

6 (g) [Repealed.]

7 (h) The Commissioner shall consult and collaborate with the Commissioner  
8 of Labor at least annually to seek funding and support for vocational training  
9 for offenders to help offenders achieve a successful transition from the custody  
10 of the Commissioner to private life. The Commissioner shall establish and  
11 offer pathways for offenders to obtain trade and professional certifications. To  
12 the extent feasible, any vocational training program for offenders shall  
13 incorporate the professional training standards applicable to the construction  
14 and other trades, and industries, existing in the private sector.

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

16 § 801. MEDICAL CARE OF INMATES

17 (a) Provision of medical care. The Department shall provide health care for  
18 inmates in accordance with the prevailing medical standards. When the  
19 provision of such care requires that the inmate be taken outside the boundaries  
20 of the correctional facility wherein the inmate is confined, the Department

1 shall provide reasonable safeguards, when deemed necessary, for the custody  
2 of the inmate while he or she is confined at a medical facility.

3 (b) Screenings and assessments.

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

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

11 (c) Emergency care. When there is reason to believe an inmate is in need  
12 of medical care, the officers and employees shall render emergency first aid  
13 and immediately secure additional medical care for the inmate in accordance  
14 with the standards set forth in subsection (a) of this section. A correctional  
15 facility shall have on staff at all times at least one person trained in emergency  
16 first aid.

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

20 (e) Pre-existing prescriptions; no private right of action; definitions.

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

13          (2) Notwithstanding subdivision (1) of this subsection, the Department  
14          may defer provision of a validly prescribed medication in accordance with this  
15          subsection if, in the clinical judgment of a licensed physician, a physician  
16          assistant, or an advanced practice registered nurse, it is not medically necessary  
17          to continue the medication at that time.

18          (3) The licensed practitioner who makes the clinical judgment to  
19          discontinue a medication shall cause the reason for the discontinuance to be  
20          entered into the inmate's medical record, specifically stating the reason for the  
21          discontinuance. The inmate shall be provided, both orally and in writing, with

1 a specific explanation of the decision to discontinue the medication and with  
2 notice of the right to have his or her community-based prescriber notified of  
3 the decision. If the inmate provides signed authorization, the Department shall  
4 notify the community-based prescriber in writing of the decision to discontinue  
5 the medication.

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

8 (5) As used in this subchapter:

9 (A) “Medically necessary” describes health care services that are  
10 appropriate in terms of type, amount, frequency, level, setting, and duration to  
11 the individual’s diagnosis or condition, are informed by generally accepted  
12 medical or scientific evidence, and are consistent with generally accepted  
13 practice parameters. Such services shall be informed by the unique needs of  
14 each individual and each presenting situation, and shall include a determination  
15 that a service is needed to achieve proper growth and development or to  
16 prevent the onset or worsening of a health condition.

17 (B) “Medication-assisted treatment” shall have the same meaning as  
18 in 18 V.S.A. § 4750.

19 (f) Third-party medical provider contracts. Pursuant to the requirements of  
20 this section and any other applicable law, Any any contract between the  
21 Department and a provider of physical or mental health services shall establish

1 policies and procedures for continuation and provision of medication at the  
2 time of admission and thereafter, as determined by an appropriate evaluation,  
3 which will protect the mental and physical health of inmates.

4 (g) Medical care; reentry planning.

5 (1) The Department or the provider of physical or mental health services  
6 shall provide an inmate with a 30-day supply of any validly prescribed  
7 medication at the time of release from a correctional facility.

8 (2) The Department or the provider of physical or mental health services  
9 shall identify a licensed practitioner, a substance abuse treatment program, or  
10 both, and schedule an intake appointment for the inmate with the practitioner  
11 or treatment program so that the inmate can continue any medically necessary  
12 treatment upon release from a correctional facility as part of the inmate's  
13 reentry plan. The Department or the provider may employ or contract with a  
14 health navigator to assist with scheduling.

15 Sec. 3. 28 V.S.A. § 801b is amended to read:

16 § 801b. MEDICATION-ASSISTED TREATMENT IN CORRECTIONAL  
17 FACILITIES

18 (a) If an inmate receiving medication-assisted treatment prior to entering  
19 the correctional facility continues to receive medication prescribed in the  
20 course of medication-assisted treatment pursuant to section 801 of this title, the



1 inmate shall be authorized to receive that medication for as long as medically  
2 necessary.

3 (b)(1) If at any time an inmate screens positive as having an opioid use  
4 disorder, the inmate may elect to commence buprenorphine-specific  
5 medication-assisted treatment if it is deemed medically necessary by a provider  
6 authorized to prescribe buprenorphine. The inmate shall be authorized to  
7 receive the medication as soon as possible and for as long as medically  
8 necessary.

9 (2) Nothing in this subsection shall prevent an inmate who commences  
10 medication-assisted treatment while in a correctional facility from transferring  
11 from buprenorphine to methadone if:

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

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

16 (c) The licensed practitioner who makes the clinical judgment to  
17 discontinue a medication shall cause the reason for the discontinuance to be  
18 entered into the inmate's medical record, specifically stating the reason for the  
19 discontinuance. The inmate shall be provided, both orally and in writing, with  
20 a specific explanation of the decision to discontinue the medication and with  
21 notice of the right to have his or her community-based prescriber notified of

1 the decision. If the inmate provides signed authorization, the Department shall  
2 notify the community-based prescriber in writing of the decision to discontinue  
3 the medication.

4 (d)(1) As part of reentry planning, the Department shall commence  
5 medication-assisted treatment prior to an inmate's release if:

6 (A) the inmate screens positive for an opioid use disorder;

7 (B) medication-assisted treatment is medically necessary; and

8 (C) the inmate elects to commence medication-assisted treatment.

9 (2) If medication-assisted treatment is indicated and despite best efforts  
10 induction is not possible prior to release, the Department shall ensure  
11 comprehensive care coordination with a community-based provider.

12 (e)(1) Counseling or behavioral therapies shall be provided in conjunction  
13 with the use of medication for medication-assisted treatment as provided for in  
14 the Department of Health's "Rule Governing Medication-Assisted Therapy for  
15 Opioid Dependence for: (1) Office-Based Opioid Treatment Providers  
16 Prescribing Buprenorphine; and (2) Opioid Treatment Providers."

17 (2) As part of reentry planning, the Department shall educate and offer  
18 coordination to the inmate for counseling and behavioral therapies with a  
19 community-based provider.

20 Sec. 4. 28 V.S.A. § 818 is amended to read:

21 § 818. EARNED TIME; REDUCTION OF TERM

1       (a) Rule adoption. On or before September 1, 2020, the Department of  
2       Corrections shall file a proposed rule pursuant to 3 V.S.A. chapter 25  
3       implementing an earned time program to become effective on January 1, 2021.  
4       The Commissioner shall adopt rules to carry out the provisions of this section  
5       as an emergency rule and concurrently propose them as a permanent rule. The  
6       emergency rule shall be deemed to meet the standard for the adoption of  
7       emergency rules pursuant to 3 V.S.A. § 844(a).

8       (b) Earned time program; generally. The earned time program  
9       implemented pursuant to this section shall comply with the following  
10      standards:

11       (1) The program shall be available for all sentenced offenders, including  
12      furloughed offenders, provided that the program shall not be available to  
13      offenders on probation or parole, to offenders eligible for a reduction of term  
14      pursuant to section 811 of this title, to offenders sentenced to serve an  
15      interrupted sentence, or to offenders sentenced to life without parole.  
16      Offenders currently serving a sentence shall be eligible to begin earning a  
17      reduction in term when the earned time program becomes effective.  
18      Notwithstanding this subdivision (1), when an offender has been convicted of a  
19      disqualifying offense, the offender's ability to participate and earn time in the  
20      program shall be determined pursuant to subdivision (5) of this subsection.

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

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

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

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

14          (4) The Department shall:

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

18                  (B) provide timely notice not less frequently than every ~~90~~ 30 days to  
19                  the offender any time the offender receives a reduction in ~~his or her~~ the  
20                  offender's term of supervision pursuant to this section;

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

3 (D) record any reduction in an offender's term of supervision  
4 pursuant to this section on a monthly basis and ensure that victims who want  
5 information regarding changes in scheduled release dates have access to such  
6 information.

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

12 (c) Earned time; education credits.

13 (1) Notwithstanding the provision of subdivision (b)(1) of this section  
14 prohibiting offenders on parole from participating in the earned time program,  
15 the earned time program shall be available to offenders on parole to earn a  
16 reduction in term for completing an apprenticeship, a trade certification  
17 program, or a higher education degree or other credential awarded by an  
18 accredited institution of higher education.

19 (2) Offenders shall earn a reduction in term in accordance with the  
20 requirements of this subdivision (2).

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

3                   (i) attends all classes or appointments required by the offender's  
4           course of study;

5                   (ii) completes all coursework required by the offender's course of  
6           study; and

7                   (iii) is not reincarcerated from the community for a violation of  
8           release conditions, provided that an offender who loses a residence for a reason  
9           other than fault on the part of the offender shall not be deemed reincarcerated  
10          under this subdivision.

11           (B) In addition to the requirements of, and earned time awarded,  
12          pursuant to subdivision (A) of this subdivision (2), offenders shall earn a  
13          reduction of term as follows:

14                   (i) six months for obtaining a trade certification or other credential  
15          that requires completion of at least 30 credit hours for award of the certificate  
16          or credential;

17                   (ii) one year for obtaining an associate degree or a baccalaureate  
18          degree;

19                   (iii) 18 months for a master's degree; and

20                   (iv) two years for a doctoral degree.

1           (3) The Department shall designate apprenticeships, trade certification  
2           programs, or accredited institutions of higher education whose course of study  
3           qualifies for the earned time program.

4           (4) The notice and records requirements pursuant to subdivisions (b)(4)  
5           shall apply to this subsection (c).

6           (d) Definitions. As used in this section:

7           (1) “Disqualifying offense” means:

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

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

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

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

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

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

17                  (G) aggravated sexual assault of a child in violation of 13 V.S.A. §  
18           3253a.

19           (2) “Interrupted sentence” means a sentence that is not served  
20           continuously, including a sentence to be served in intervals or a sentence to the  
21           work crew.

1      Sec. 5. FAMILY VISITATION; STUDY COMMITTEE; REPORT

2            (a) Creation. There is created the Family Friendly Visitation Study  
3            Committee to examine how the Department of Corrections can facilitate  
4            greater family friendly visitation methods for inmates who are guardians and  
5            identify as father-figures.

6            (b) Membership. The Committee shall be composed of the following  
7            members:

8                    (1) the Commissioner of Corrections or designee;

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

10                   (3) a representative from Lund's Kids-A-Part program and

11            (c) Powers and duties. The Study Committee shall study methods and  
12            approaches to better family-friendly visitation for inmates who are guardians  
13            and identifying father-figure family visitation, including the following issues:

14                   (1) locating inmates at correctional facilities that are closer to family;

15                   (2) how inmates are disciplined at a correctional facility and how that  
16            may affect family visitation;

17                   (3) whether family visitation programs or policies for inmates who are  
18            guardians women and identify as mother-figures are applicable to inmates who  
19            are guardians and identify as father-figures; and

20                   (4) consulting with other stakeholders on relevant issues as necessary.



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

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

7       (f) Meetings.

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

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

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

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

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

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

1 (Committee vote: \_\_\_\_\_)

2 \_\_\_\_\_

3 Representative \_\_\_\_\_

4 FOR THE COMMITTEE