

H.819

Introduced by Representative Berbeco of Winooski

Referred to Committee on

Date:

Subject: Health; mental health; government operations; Division of Substance
Use Programs

Statement of purpose of bill as introduced: This bill proposes to move the
Division of Substance Use Programs from the Department of Health to the
Department of Mental Health.

An act relating to the Division of Substance Use Programs

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

* * * Organization of the Agency of Human Services * * *

Sec. 1. 3 V.S.A. § 3089 is amended to read:

§ 3089. DEPARTMENT OF MENTAL HEALTH

The Department of Mental Health is created within the Agency of Human
Services as the successor to and the continuation of the ~~Division~~ Divisions of
Mental Health Services and of Substance Use Programs of the Department of
Health. The Department of Mental Health shall be responsible for the
operation of the Vermont State Hospital or its successor in interest as defined
in subdivision 455(28) of this title.

* * * Impaired Driving * * *

Sec. 2. 7 V.S.A. § 656 is amended to read:

§ 656. PERSON 12 YEARS OF AGE OR OLDER AND UNDER 21 YEARS
OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING,
OR CONSUMING ALCOHOLIC BEVERAGES; IMPAIRED
DRIVING; POSSESSION OF CANNABIS; CIVIL VIOLATION

* * *

(b) Prohibited conduct; offenses.

* * *

(3) Impaired driver penalties.

(A) A person who violates subdivision (1)(E) of this subsection (b) commits a civil violation, shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Awareness Safety Program, and the Commissioner of Motor Vehicles shall suspend the person's operator's license and privilege to operate a motor vehicle in accordance with subdivision (B) of this subdivision (b)(3). A person who fails to complete the Program successfully commits a civil violation under the jurisdiction of the Judicial Bureau and shall be subject to the following:

(i) For a first offense, a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a

1 period of 180 days and compliance with the requirements of 23 V.S.A.

2 § 1209a(a)(1).

3 * * *

4 (vii) The Alcohol and Driving Program required under this section
5 shall be administered by the Department of Mental Health's Division of
6 Substance Use Programs and shall take into consideration any particular
7 treatment needs of operators under 21 years of age.

8 * * *

9 * * * Department of Health; General Provisions * * *

10 Sec. 3. 18 V.S.A. § 1 is amended to read:

11 § 1. GENERAL POWERS OF DEPARTMENT OF HEALTH

12 In accordance with this title, the Department of Health shall have power to
13 supervise and direct the execution of all laws relating to public health ~~and~~
14 ~~substance abuse~~.

15 Sec. 4. 18 V.S.A. § 5 is amended to read:

16 § 5. DUTIES OF DEPARTMENT OF HEALTH

17 The Department of Health shall:

18 (1) Conduct studies, develop State plans, and administer programs and
19 State plans for hospital survey and construction, hospital operation and
20 maintenance, and medical care, ~~and treatment of substance abuse~~.

21 * * *

1 Sec. 5. 18 V.S.A. § 13 is amended to read:

2 § 13. COMMUNITY VIOLENCE PREVENTION PROGRAM

3 * * *

4 (b)(1) A Vermont municipality or nonprofit organization may submit an
5 application for a Community Violence Prevention Program grant to the
6 Commissioner of Health. Grants awarded under this section shall be for the
7 purpose of funding innovative, evidence-based, or evidence-informed
8 approaches to reducing violence and associated community harm.

9 (2) The Commissioner of Health, in consultation with the Department of
10 Public Safety, the Department of Mental Health, and the Executive Director of
11 Racial Equity, shall develop and publish guidelines for the award of
12 Community Violence Prevention Program grants. The guidelines shall include
13 a focus on increasing community capacity to implement approaches for human
14 services, public health, and public safety collaboration to address root causes
15 of community violence and substance use through data-driven projects.

16 * * *

17 * * * Duties of the Commissioner of Health * * *

18 Sec. 6. 18 V.S.A. § 104b is amended to read:

19 § 104b. COMMUNITY HEALTH AND WELLNESS GRANTS

20 (a) The Commissioner, in consultation with the Commissioner of Mental
21 Health, shall establish a program for awarding competitive, substantial,

1 multiyear grants to comprehensive community health and wellness projects.

2 Successful projects must:

3 (1) use comprehensive approaches designed to promote healthy
4 behavior and disease prevention across the community and across the lifespan
5 of individual Vermonters and address issues that may include promoting
6 nutrition and exercise for children, community recreation programs, elderly
7 wellness, lead poisoning abatement, obesity prevention, maternal and child
8 health and immunization, mental health and substance abuse, and tobacco
9 prevention and cessation;

10 * * *

11 * * * Opioid Use Disorder * * *

12 Sec. 7. 18 V.S.A. § 4751 is amended to read:

13 § 4751. PURPOSE

14 It is the purpose of this chapter to authorize the Departments of Mental
15 Health and of Vermont Health Access to establish a regional system of opioid
16 addiction treatment.

17 Sec. 8. 18 V.S.A. § 4752 is amended to read:

18 § 4752. OPIOID USE DISORDER TREATMENT SYSTEM

19 (a) The Departments of Mental Health and of Vermont Health Access shall
20 establish by rule in accordance with 3 V.S.A. chapter 25 a regional system of
21 opioid use disorder treatment.

1 (b) The rules may address requirements for pharmacological treatment,
2 including initial assessments, ongoing follow-up, provider education, and
3 diversion prevention.

4 (c) Controlled substances for treating opioid use disorder shall be dispensed
5 only by:

6 (1) a treatment program authorized by the Department of Mental Health;
7 or

8 (2) a health care provider who is not affiliated with an authorized
9 treatment program but who meets federal requirements for use of controlled
10 substances in the pharmacological treatment of opioid use disorder.

11 (d) Controlled substances for use in treatment of opioid use disorder may
12 be prescribed via telehealth in accordance with federal requirements.

13 (e) The Department of Vermont Health Access or the ~~Department's~~
14 Department of Mental Health's pharmacy benefits manager shall not require a
15 health care provider to document a patient's adverse reaction to a medication
16 prior to prescribing an alternative medication for opioid use disorder to the
17 patient.

18 * * * Opioid Settlement * * *

19 Sec. 9. 18 V.S.A. § 4772 is amended to read:

20 § 4772. OPIOID SETTLEMENT ADVISORY COMMITTEE

1 (a) Creation. There is created the Opioid Settlement Advisory Committee
2 to provide advice and recommendations regarding remediation spending from
3 the Opioid Abatement Special Fund established pursuant to this subchapter.

4 (b) Membership.

5 (1) The Advisory Committee shall be composed of the following
6 members and shall reflect the diversity of Vermont in terms of gender, race,
7 age, ethnicity, sexual orientation, gender identity, disability status, and
8 socioeconomic status and ensure inclusion of individuals with lived experience
9 of opioid use disorder and their family members whenever possible:

10 (A) the Commissioner of Mental Health or designee, who shall serve
11 as a nonvoting chair;

12 * * *

13 (c) Powers and duties. The Advisory Committee shall demonstrate broad
14 ongoing consultation with individuals living with opioid use disorder about
15 their direct experience with related systems, including medication for opioid
16 use disorder, residential treatment, recovery services, harm reduction services,
17 overdose, supervision by the Department of Corrections, and involvement with
18 the Department for Children and Families' Family Services Division. To that
19 end, the Advisory Committee shall demonstrate consultation with individuals
20 with direct lived experience of opioid use disorder, frontline support
21 professionals, the Substance Misuse Oversight Prevention and Advisory

1 Council, and other stakeholders to identify spending priorities as related to
2 opioid use disorder prevention, intervention, treatment, and recovery services
3 and harm reduction strategies for the purpose of providing recommendations to
4 the Governor, the Department of Mental Health, and the General Assembly on
5 prioritizing spending from the Opioid Abatement Special Fund. The Advisory
6 Committee shall consider:

7 * * *

8 (d) Assistance. The Advisory Committee shall have the administrative,
9 technical, and legal assistance of the Department of Mental Health.

10 (e) Presentation. Annually, the Advisory Committee shall vote on its
11 recommendations. Recommendations shall be informed by outcomes and
12 measurements reported by previous grantees. If the recommendations are
13 supported by an affirmative vote of the majority, the Advisory Committee shall
14 present its recommendations for expenditures from the Opioid Abatement
15 Special Fund established pursuant to this subchapter to the Department of
16 Mental Health and concurrently submit its recommendations in writing to the
17 House Committees on Appropriations and on Human Services and the Senate
18 Committees on Appropriations and on Health and Welfare. The Advisory
19 Committee's written recommendations shall address how each
20 recommendation meets one or more of the criteria listed in subsections 4774(b)

1 and (c) of this subchapter. The Advisory Committee shall give priority
2 consideration to services requiring funding on an ongoing basis.

3 (f) Meetings.

4 (1) The Commissioner of Mental Health shall call the first meeting of
5 the Advisory Committee to occur on or before June 30, 2022.

6 * * *

7 Sec. 10. 18 V.S.A. § 4773 is amended to read:

8 § 4773. DESIGNATION OF LEAD STATE AGENCY

9 The Department of Mental Health shall serve as the lead State agency and
10 single point of contact for submitting requests for funding to the national
11 settlement fund administrator. Approved requests shall be disbursed to the
12 Department for deposit into the Opioid Abatement Special Fund established in
13 section 4774 of this subchapter.

14 Sec. 11. 18 V.S.A. § 4774 is amended to read:

15 § 4774. OPIOID ABATEMENT SPECIAL FUND

16 (a)(1) There is created the Opioid Abatement Special Fund, a special fund
17 established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and
18 administered by the Department of Mental Health. The Opioid Abatement
19 Special Fund shall consist of all abatement account fund monies disbursed to
20 the Department from the national abatement account fund, the national opioid
21 abatement trust, the supplemental opioid abatement fund, or any other

1 settlement funds that must be utilized exclusively for opioid prevention,
2 intervention, treatment, recovery, and harm reduction services.

3 (2) The Department shall submit a spending plan to the General
4 Assembly, informed by the recommendations of the Opioid Settlement
5 Advisory Committee established pursuant to section 4772 of this subchapter,
6 annually on or before January 15 and once funding is appropriated by the
7 General Assembly from the Opioid Abatement Special Fund, the Department
8 shall request to have the funds formally released from the national abatement
9 account fund, the national opioid abatement trust, the supplemental opioid
10 abatement fund, or any other settlement funds that must be utilized exclusively
11 for opioid prevention, intervention, treatment, recovery, and harm reduction
12 services. The Department shall disburse monies from the Opioid Abatement
13 Special Fund pursuant to 32 V.S.A. chapter 7, subchapter 3.

14 * * *

15 (b) Expenditures from the Opioid Abatement Special Fund shall be used
16 for the following opioid prevention, intervention, treatment, recovery, harm
17 reduction, and evaluation activities:

18 * * *

19 (13) the cost of the administrative, technical, and legal assistance
20 provided to the Advisory Committee by the Department of Mental Health.

1 (c) Priority for expenditures from the Opioid Abatement Special Fund shall
2 be aimed at reducing overdose deaths, including the following:

3 * * *

4 (7) supporting prevention programs, specifically:

5 (A) funding for media campaigns to prevent opioid misuse;

6 (B) funding for evidence-based or evidence-informed prevention in
7 schools;

8 (C) funding for health care provider education and outreach
9 regarding best prescribing practices for opioids consistent with current
10 Department of Mental Health and U.S. Centers for Disease Control and
11 Prevention guidelines, including providers at hospitals;

12 (D) funding for community drug disposal programs; and

13 (E) funding and training for first responders to participate in pre-
14 arrest diversion programs, post-overdose response teams, or similar strategies
15 that connect at-risk individuals to mental health services and supports;

16 * * *

17 * * * Substance Misuse Generally * * *

18 Sec. 12. 18 V.S.A. § 4803 is amended to read:

19 § 4803. SUBSTANCE MISUSE PREVENTION OVERSIGHT AND

20 ADVISORY COUNCIL

1 (a) Creation. There is created the Substance Misuse Prevention Oversight
2 and Advisory Council within the Department of Mental Health to improve the
3 health outcomes of all Vermonters through a consolidated and holistic
4 approach to substance misuse prevention that addresses all categories of
5 substances. The Council shall provide advice to the Governor and General
6 Assembly for improving prevention policies and programming throughout the
7 State and to ensure that population prevention measures are at the forefront of
8 all policy determinations. The Advisory Council's prevention initiatives shall
9 encompass all substances at risk of misuse, including:

10 * * *

11 (b) Membership.

12 (1) The agenda of the Council shall be determined by an executive
13 committee composed of the following members:

14 (A) the Commissioner of Mental Health or designee, who shall serve
15 as chair;

16 * * *

17 (h) Compensation and reimbursement. Members of the Council who are
18 not employed by the State or whose participation is not supported through their
19 employment or association shall be entitled to per diem compensation and
20 reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more
21 than six meetings per year, unless further authorized by the Commissioner of

1 Health. Payments to members of the Council authorized under this subsection
2 shall be made from monies appropriated to the Department of Mental Health.

3 Sec. 13. 18 V.S.A. § 4804 is amended to read:

4 § 4804. MANAGER OF SUBSTANCE MISUSE PREVENTION

5 There is created the permanent position of the Manager of Substance
6 Misuse Prevention within the Department of Mental Health for the purpose of:

7 (1) coordinating the work of the Substance Misuse Prevention Oversight
8 and Advisory Council established pursuant to section 4803 of this title; and

9 (2) coordinating regional planning.

10 Sec. 14. 18 V.S.A. § 4806 is amended to read:

11 § 4806. DIVISION OF SUBSTANCE USE PROGRAMS

12 (a) The Division of Substance Use Programs shall plan, operate, and
13 evaluate a consistent, effective program of substance use programs. All duties,
14 responsibilities, and authority of the Division shall be carried out and exercised
15 by and within the Department of Mental Health.

16 (b) The Division shall be responsible for the following services:

17 (1) prevention and intervention;

18 (2) [Repealed.]

19 (3) project CRASH schools; and

20 (4) alcohol and drug treatment.

1 (c) Under the direction of the Commissioner of Mental Health, the Division
2 shall review and approve all alcohol and drug programs developed or
3 administered by any State agency or department.

4 (d) Any federal or private funds received by the State for purposes of
5 subdivision (b)(4) of this section shall be in the budget of and administered by
6 the Department of Mental Health.

7 (e) [Repealed.]

8 Sec. 15. 18 V.S.A. § 4812 is amended to read:

9 § 4812. SUBSTANCE MISUSE PREVENTION SPECIAL FUND

10 (a) The Substance Misuse Prevention Special Fund is established and
11 managed by the ~~Vermont~~ Department of Mental Health in accordance with 32
12 V.S.A. chapter 7, subchapter 5.

13 * * *

14 * * * Department of Mental Health; General Provisions * * *

15 Sec. 16. 18 V.S.A. § 7201 is amended to read:

16 § 7201. MENTAL HEALTH

17 (a) The Department of Mental Health, as the successor to the ~~Division~~
18 Divisions of Mental Health Services and of Substance Use Programs of the
19 Department of Health, shall centralize and more efficiently establish the
20 general policy and execute the programs and services of the State concerning
21 mental health, substance use, and integrate and coordinate those programs and

1 services with the programs and services of other departments of the State, its
2 political subdivisions, and private agencies, so as to provide a flexible
3 comprehensive service to all citizens of the State in mental health, substance
4 use, and related problems.

5 (b) The Department shall ensure equal access to appropriate mental health
6 care and substance use programming in a manner equivalent to other aspects of
7 health care as part of an integrated, holistic system of care.

8 Sec. 17. 18 V.S.A. § 7202 is amended to read:

9 § 7202. COORDINATION

10 The Department of Mental Health shall be responsible for coordinating
11 efforts of all agencies and services, government and private, on a statewide
12 basis in order to promote and improve the mental health of individuals through
13 outreach, education, and other activities, including substance use prevention
14 and treatment programming. The Department of Disabilities, Aging, and
15 Independent Living shall be responsible for coordinating the efforts of all
16 agencies and services, government and private, on a statewide basis in order to
17 promote and improve the lives of individuals with developmental disabilities.

18 Sec. 18. 18 V.S.A. § 7206 is amended to read:

19 § 7206. RECOMMENDATIONS AND REPORTS

20 The Department shall from time to time study comprehensively ~~the~~
21 problems related to mental health problems of and substance use in the State,

1 develop programs for mental health services, substance use programming, and
2 recommend as to the integration within the Department of any other related
3 agencies and services as it considers proper. It shall also periodically review
4 and evaluate the mental health and substance use prevention and treatment
5 programs.

6 * * * Mental Health System of Care * * *

7 Sec. 19. 18 V.S.A. § 7253 is amended to read:

8 § 7253. CLINICAL RESOURCE MANAGEMENT AND OVERSIGHT

9 The Commissioner of Mental Health, in consultation with health care
10 providers as defined in section 9432 of this title, including designated
11 hospitals, designated agencies, individuals with mental conditions or
12 psychiatric disabilities, and other stakeholders, shall design and implement a
13 clinical resource management system that ensures the highest quality of care
14 and facilitates long-term, sustained recovery for individuals in the custody of
15 the Commissioner.

16 * * *

17 (2) For the purpose of maintaining the integrity and effectiveness of the
18 clinical resource management system, the Department of Mental Health shall:

19 * * *

20 (B) coordinate care across the mental and physical health care
21 systems as well as ensure coordination within the Agency of Human Services,

1 particularly the Department of Corrections, the ~~Department of Health's~~
2 Division of Substance Use Programs, and the Department of Disabilities,
3 Aging, and Independent Living;

4 * * *

5 * * * Snowmobiles * * *

6 Sec. 20. 23 V.S.A. § 3207f is amended to read:

7 § 3207f. PERSONS UNDER 21 YEARS OF AGE; ALCOHOL
8 CONCENTRATION OF 0.02 OR MORE

9 * * *

10 (f) The alcohol program required under this section shall be administered
11 by the Department of Mental Health's Division of Substance Use Programs
12 and shall take into consideration any particular treatment needs of operators
13 under 21 years of age.

14 * * *

15 * * * Vessels * * *

16 Sec. 21. 23 V.S.A. § 3323a is amended to read:

17 § 3323a. PERSONS UNDER 21 YEARS OF AGE; ALCOHOL
18 CONCENTRATION OF 0.02 OR MORE

19 * * *

20 (f) The alcohol program required under this section shall be administered
21 by the Department of Mental Health's Division of Substance Use Programs

1 and shall take into consideration any particular treatment needs of operators
2 under 21 years of age.

3 * * *

4 * * * Regulation of Pharmacists * * *

5 Sec. 22. 26 V.S.A. § 2080 is amended to read:

6 § 2080. NALOXONE HYDROCHLORIDE; DISPENSING OR
7 FURNISHING

8 (a) The Board of Pharmacy shall adopt protocols for licensed pharmacists
9 to dispense or otherwise furnish naloxone hydrochloride to patients who do not
10 hold an individual prescription for naloxone hydrochloride. Such protocols
11 shall be consistent with rules adopted by the Commissioner of Mental Health.

12 * * *

13 * * * Peer Recovery Support Specialists * * *

14 Sec. 23. 26 V.S.A. § 3191 is amended to read:

15 § 3191. DEFINITIONS

16 As used in this chapter:

17 * * *

18 (4) “Code of Ethics for Certified Peer Recovery Support Specialists”
19 means the code of ethics for certified peer recovery support specialists
20 approved and adopted by the Department of Mental Health.

21 * * *

1 the Director in matters relating to peer support and recovery support. Advisors
2 shall be appointed to five-year staggered terms to serve as advisors in matters
3 related to the administration of this chapter. At least one of the initial
4 appointments shall be less than a five-year term.

5 * * *

6 * * * Juvenile Justice Director * * *

7 Sec. 26. 33 V.S.A. § 5272 is amended to read:

8 § 5272. JUVENILE JUSTICE UNIT; JUVENILE JUSTICE DIRECTOR

9 * * *

10 (c) The Juvenile Justice Director shall ensure that the following occur:

11 * * *

12 (3) cooperation among appropriate departments, including the
13 Department; the Agency of Education; the Departments of Corrections, of
14 Labor, of Mental Health, of Public Safety, and of Disabilities, Aging, and
15 Independent Living; and the Department of Mental Health's Division of
16 Substance Use Programs;

17 * * *

18 * * * Transfer of Rulemaking Authority * * *

19 Sec. 27. TRANSFER OF RULEMAKING AUTHORITY

20 The Department of Mental Health shall assume the rulemaking authority for
21 rules under the per view of the Department of Health's Division of Substance

1 Use Programs. The rules of the Department of Health's Division of Substance
2 Use Programs in effect on July 1, 2027, shall be the rules of the Department of
3 Mental Health until they are amended or repealed.

4 * * * Effective Date * * *

5 Sec. 28. EFFECTIVE DATE

6 This act shall take effect on July 1, 2027.