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End Homelessness Vermont
Written Testimony to the Legislative Committee on Administrative Rules on the Vermont Homelessness Response Continuum Emergency Rules

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Introduction

We are submitting this testimony both in our role leading an organization that serves hundreds of Vermonters experiencing homelessness every year, answers over 3000 hotline calls, works primarily with people living with disabilities and as an organization that sat in the room while this Legislature wrote Act 143. We were part of the conversations where lawmakers weighed exactly the kind of choices these emergency rules now make differently. We know what was proposed, what was debated, and what was deliberately left out of the statute that passed. That gives us a vantage point we want to be direct about: these rules do not reflect a good-faith reading of the statute. In section after section, they reach for the outcome the Legislature considered and declined to adopt.

Act 143 built protection for people with disabilities into every section of the statute. In these rules, and in practice, that protection is almost completely ignored and absent.

We are asking the Committee to object to these emergency rules under 3 V.S.A. § 844(e)(1). They are beyond the authority of the agency, contrary to the intent of the Legislature, and arbitrary, and the portions the Legislature never directed were not necessitated by an imminent peril to public health, safety, or welfare. Each of these grounds is laid out below.

We are the only statewide organization that works primarily with people living with disabilities and complex needs at the intersection of homelessness and housing insecurity, and all of our staff are people with lived experience who also live with disabilities. We process renewals and placements on behalf of our clients, we communicate on their behalf, and we are the only organization that represents hundreds of people in fair hearings as non-attorney advocates. That gives us a unique perspective on how these rules are impacting the people they were meant to protect.

Below you will find the Committee's grounds for objection and how these rules meet each one, the extension process, why these rules will not hold up, and our request. We have attached a complete list of problems in the emergency rules: a list of some of the most egregious disability rights violations, a list of where the rules violate the statute or exceed the rulemaking authority, and a section-by-section walkthrough.

Unless otherwise noted, section citations in this testimony (§2201 through §2218) refer to 33 V.S.A. chapter 22, the Vermont Homelessness Response Continuum, created by Act 143. Citations to "Sec." numbers refer to uncodified sections of Act 143 itself, such as its findings, legislative intent, and purpose.

The Committee's Grounds for Objection

The Committee may object to an emergency rule if it is "beyond the authority of the agency," "contrary to the intent of the Legislature," "arbitrary," or "not necessitated by an imminent peril to public health, safety, or welfare" sufficient to justify an emergency rule (3 V.S.A. § 844(e)(1)). These rules meet every one of those standards. We lay out each below, and the sections that follow go through the rule part by part.

1. Beyond the authority of the agency

Section 2216 tells the Department exactly what it may write rules about, and that grant does not extend past what is listed there. Rulemaking never supersedes statute. These rules go beyond it in two ways: they add requirements the statute never created, and they leave out protections the statute requires.

They add requirements the statute never created. Here are some examples:

1. A needs assessment interview that works as an eligibility requirement (Part 3, Section 2.00). The only intake assessment the statute allows is "a brief, standardized initial assessment form that may be completed by hand, electronically, or by telephone" (§2216(5)).
2. Conditions on extensions that narrow the reasons the statute set as a minimum (Part 8, Section 5.00; §2212(b)).
3. A 12-month period of ineligibility (Part 10, Section 3.02(a)). The statute authorizes only "a process for reinstatement of services" (§2216(10)), not a punishment.
4. Case management turned into oversight, with every contact required to allow "meaningful evaluation and documentation" of the household (Part 4, Section 4.01).
5. New grounds for termination, made mandatory with "shall be terminated" (Part 10, Sections 1.04 and 1.05). The statute lists the grounds for removal (§2210(b) through (d)) and did not give the Department authority to create new ones.
6. A screening tool that ranks people inside the six priority groups (Part 1, Section 5.00). The statute chose the groups (§2211(a)). It did not allow prioritizing within them.
7. Capacity as a condition of eligibility (Part 1, Section 4.02). The statute treats capacity only as a limit on placement (§2203(c)).

They leave out protections the statute requires. Here are some examples:

1. The disability protections the Legislature built into every section of the statute: reasonable modifications, effective communication, and accessible placements, including the use of plain language (§2211(c)); self-attestation of a disability (§2211(b)(1)(C)); protection from isolation in separate

placements (§2207(2)(B)); participation "to the extent of the eligible household's ability" (§2207(3)); an intake form that may be completed "by hand, electronically, or by telephone" (§2216(5)); and extensions when there is no reasonable alternative accessible placement for a member with a disability (§2212(b)(3)). These rules do not carry those protections into the processes that decide whether someone is sheltered: the needs assessment, verification, extensions, or notices.

2. Notices are not required to include "clear instructions, in plain language, on the process and deadlines for filing an appeal" (§2215(a)(4)), and they can be delivered in person, not in writing by email or mail (§2215(a)(2)).
3. Rooms used by survivors of domestic and sexual violence are not excluded from the room caps (Part 8, Section 3.00; §2207(5)(B)).
4. Cold-weather shelters depend on a calendar window and a capacity requirement, not the weather alone (Part 12, Sections 1.03 and 1.05(b); §2201(10)).

2. Contrary to the intent of the Legislature

We were in the room when this statute was written, and the Legislature was clear about what it is for. It intended that "unsheltered homelessness be eliminated and that homelessness in Vermont be rare, brief, and nonrecurring," that the General Assistance hotel and motel program "end and be replaced by a continuum of services," and that the continuum be "administered flexibly in a manner that... meets the specific needs of households experiencing homelessness" (Act 143, Sec. 2). One of its stated purposes is to "promote maximum flexibility in administering services and supports in the continuum" (Sec. 3).

These rules go the other way. Here are some examples:

1. They add a needs assessment interview the Legislature never created, when it wrote a brief intake form so that getting help would be simple (§2216(5)).
2. They almost entirely strip out the protections for people with disabilities that the Legislature wrote into every part of the statute, including reasonable modifications (§2211(c)), protection from isolation in separate placements (§2207(2)(B)), and participation "to the extent of the eligible household's ability" (§2207(3)).
3. They narrow the extension reasons the Legislature wrote so that people with the highest levels of need do not end up outside.
4. They revive proposals the Legislature considered and rejected: tiered eligibility for hotels and motels, ranking within the priority categories, and a period of ineligibility after removal.

5. They rebuild the General Assistance program's restrictions and add more, making this the most restrictive version of Vermont's emergency housing program ever.

3. Arbitrary

Under Vermont law, a rule is arbitrary when "there is no factual basis for the decision made by the agency," when the decision "is not rationally connected to the factual basis asserted for the decision," or when the decision "would not make sense to a reasonable person" (3 V.S.A. § 801(b)(13)(A)).

The Department states that these rules exist to provide "a coordinated response that connects people experiencing homelessness or at risk of experiencing homelessness with supportive services and emergency housing placements" (Part 1, Section 2.00). The provisions below are not rationally connected to that purpose. They keep eligible people, most of all people with disabilities, from being connected at all. Here are some examples:

1. The only assessment allowed in the statute is "a brief, standardized initial assessment form that may be completed by hand, electronically, or by telephone" (§2216(5)). Instead, a needs assessment interview the statute never created stands between an eligible household and help (Part 3, Section 2.00), and a screening tool that is "established and maintained by the Department," but is not in the rule, then ranks the household's "relative need" (Part 1, Section 5.00). No one can see the factual basis for how they are ranked, or challenge it. One of our clients in Burlington is eligible for the continuum, but because of his disabilities he cannot get through the assessment. Our requests for a paper copy and for an accommodation were both denied. He remains outside, and as of October 9 he had been hospitalized five times since the start of September. A step that keeps an eligible person out of a program whose purpose is to connect him to shelter is not rationally connected to that purpose.
2. The statute requires that program rules "shall be reasonably modified" for people with disabilities (§2211(c)). In practice, rules are not being modified. Requests for a paper copy of the assessment and for accommodations are regularly denied, so a person with a disability cannot get through the assessment, meet a deadline, or keep a placement. Turning down a population-specific placement can also count toward removal, even when that placement would isolate a person with a disability in a way the statute prohibits (§2207(2)(B)). Punishing someone for asserting a protection the statute gives them would not make sense to a reasonable person.
3. The length of an extension is set by "housing plan progress" (Part 8, Sections 5.02 and 5.05). Housing plan progress has no rational connection to the grounds the statute sets: medical necessity, imminent risk, no reasonable alternative accessible placement, or waiting on housing, treatment, or other services (§2212(b)). One of our clients is on oxygen, has

severe liver disease, and uses a wheelchair. She clearly meets the statute's grounds. She was given less than 10 business days to submit a "more detailed housing plan," and the Department has not told us what it needs. Her housing plan has nothing to do with whether she can survive outside. For a person whose disability is the reason progress is slower, the test measures the disability.

4. There is no factual basis for a 12-month period of ineligibility (Part 10, Section 3.02(a)). Nothing in the rule explains that length or ties it to the person or the reason they left. It also runs directly against the Legislature's intent that homelessness be "rare, brief, and nonrecurring" (Act 143, Sec. 2). Keeping someone out of the program for a year makes homelessness longer, not briefer.
5. Requiring every case management contact to allow "meaningful evaluation and documentation" of the household (Part 4, Section 4.01) has no rational connection to what the statute says case management is for: support with "planning for housing stability" and other services (§2207(3)).
6. The rule presumes a notice was received 3 days after it was emailed and 14 days after it was mailed (Part 11, Section 4.01(a)), for people experiencing homelessness, who often have no stable address or phone. That would not make sense to a reasonable person.

4. Not necessitated by an imminent peril

The Legislature deemed an emergency for rules carrying out Act 143 and addressing the topics in §2216 (Act 143, Sec. 8(a)(1)). It did not direct the Department to build an intensive set of new restrictions for Level 4, the level the Legislature intended to rely on least (§2207(1)). Committee members asked at the October 9 hearing why the Department went all in on hotels and motels when that was not required. Many of the restrictions in these rules were not required by Act 143. Here are some examples: the needs assessment interview, the ranking within the priority groups, the authorization periods, the added conditions on extensions, and the 12-month period of ineligibility. No imminent peril made them necessary. If anything, they create one, by keeping eligible Vermonters with disabilities outside.

Process For Extension

We want to include one more item, because it shows the same pattern happening both outside the rule and now inside it. On July 31, 2026, the Economic Services Division sent community partners a notice describing how to request extensions of hotel and motel stays beyond the 70-day limit that took effect September 1, 2026. That notice was not part of the draft emergency rule, was not subject to any comment period, and was not adopted through any rulemaking process whatsoever. It went out as an email. In the filed emergency rule, the Department then wrote most of that email into the rule itself (Part 8, Sections 5.02 and 5.05). And in practice, it is still applying the parts it did not write in.

Section 2212(b) authorizes an extension on specific grounds. EHVT and many other providers were in the room for this language. We know the purpose it was written for. It reads: “The Department may grant extensions to the time limits established in subsection (a) of this section pursuant to criteria adopted in rule, including for: (1) an eligible household actively awaiting a placement in housing, treatment, or other services; (2) medical necessity; (3) lack of reasonable alternative accessible placements for a member of the eligible household with a disability; and (4) imminent risk to the health or safety of one or more of the eligible household’s members.” One thing follows directly from that text: the Legislature requires these four grounds, at minimum, to be the basis for any extension the Department writes into rule. Nothing in the statute conditions an extension on a household’s broader progress toward permanent housing, and nothing in the statute treats an extension as a tool for buying general “time to obtain needed supports.” In fact, the Legislature was very clear that they were trying to end the practice of rigid inflexibility and create minimum conditions under which people could get more time. This was intended to prevent the catastrophic outcomes that exist, including loss of life, constant hospital stays, and more, that occur when households who meet these categories end up unsheltered.

The Department’s notice told partners that extensions exist to give people “time to obtain needed supports,” and required every request to include the household’s housing plan, documentation of progress toward housing goals, any pending housing applications, and a statement of how the additional nights will be used toward a permanent housing outcome. The filed rule now requires every request to document that the household “is making progress toward the goals identified in the housing plan” (Part 8, Section 5.02), and sets the length of an extension by “housing plan progress” (Section 5.05). It also narrows medical necessity to a “treatment episode” and requires imminent risk to be “documented” (Section 5.01). That is not an extension process built around the four grounds the statute created. It is a general-purpose progress review, evaluated against a household’s whole housing trajectory rather than against the specific circumstance the Legislature actually wrote into law. In practice, the Department is also requiring a needs assessment before it will grant an extension, which is in neither the statute nor the rule.

There is a second problem underneath the first. Requiring a housing plan and documentation of progress toward housing goals presumes a household is already engaged with the case manager §2213 requires every eligible household to be “assigned.” The filed rule now makes assigning that case manager “subject to capacity, staffing, and geographic accessibility” (Part 4, Section 1.01). A household can be held to a housing plan standard without ever being given the case manager the statute says it must have. The only thing that makes sense to follow the statute and the intent of the law is to confirm that a household is working with a case manager.

The notice also required that extension requests be submitted at least ten days before a household’s 70th day. That deadline is not in the filed rule, but in practice the Department is still applying it. Nothing in the statute authorizes that timeline, and it does not fit the reality of the statutory grounds. What if a housing option comes up the day or two before

the 70 days run out? What if a person's disability prevents them from meeting that timeline? What if the medical condition is sudden? What if they required support to request the extension and there was no case manager available? A medical necessity can arise with no warning at all. One of our clients is on oxygen, has severe liver disease, and uses a wheelchair. She clearly qualifies for an extension. She was given less than 10 business days to submit a "more detailed housing plan," and the Department had not told us what it needs. As of Tuesday, she was granted another 7 days, with the instruction that we are not giving them a detailed enough plan. This is a person with massive barriers to housing. We cannot perform miracles, and a detailed housing plan is not a requirement for an extension in the statute. Last summer, a client of ours on oxygen died sleeping in her car.

We also want to name one additional concern directly, because it is the piece that troubles our team the most. Most of the time, when someone living with a disability has not found housing or shelter, it is because of that disability. A shelter will not take someone on oxygen. A shelter is not wheelchair accessible. A person living with complex medical needs cannot be accommodated by the placements that exist. There are extremely limited ADA-compliant apartments in our state. That means progress toward housing is naturally, predictably slower for exactly this population, through no failure of their own. A process that measures extensions against a household's demonstrated progress toward permanent housing is, for people living with disabilities, measuring them against a timeline their own disability makes harder to meet, and then asking them to produce proof of that. This both exceeds the Department's rulemaking authority and violates the ADA and disability rights law, and it does not reflect the protections §2211(c) requires: that "Program rules and case management requirements shall be reasonably modified... as necessary to avoid discrimination against eligible households with a member who has a disability." An extension in this circumstance is, in substance, an accommodation. Under the ADA there is no wrong way to ask for an accommodation, and an accommodation process cannot be rigid. It has to bend to the individual's needs, not the other way around.

The rule should track the four grounds §2212(b) provides, as a minimum, with a process to request an extension, without documentation that no one living without disabilities has to produce, and without a fixed deadline that has no basis in the statute. This process should be within the legislative intent to provide dignity, flexibility, and to ensure that people who meet these conditions do not end up outside.

These Rules Will Not Hold Up

These rules violate the statute so intensively that they lend themselves to constant fair hearings, and more. End Homelessness Vermont took it on good faith that the Department was in agreement that these rules should be made collaboratively, in a way that did not land in constant hearings. These rules do the opposite, and since September 1, that is exactly what has happened.

And the hearing process is not able to protect people. Hearing officers at the Human Services Board believe they no longer have the authority to order housing while an appeal is pending, or even to order that a preliminary recommendation be followed. The Department is largely not continuing shelter while people appeal, even though §2215(d) requires services to continue "without interruption" in all but two narrow circumstances. In fair hearings, the Department argues that each level of the continuum is a separate benefit, to cut off continued services. Act 143 created one program, not a set of separate benefits. People cannot access their legally granted rights without an order, and right now they cannot get one in time. That is very concerning to us at End Homelessness Vermont.

We have a client outside right now who has insulin-dependent diabetes. Without access to his insulin, he developed an infection in his legs so severe that he has been warned he is at risk of losing them. He applied for an extension and was denied because he could not complete the needs assessment. We asked for the assessment in paper form and were told no. We asked for an accommodation and it was denied, despite the protections in the statute. He is eligible for the continuum and in the appeals process, so the statute says he should be receiving continued benefits. Because the Department is not granting them, and the hearing officers do not believe they can order housing while his appeal is pending, there is no way to get him inside. We do not know if we will before he loses one of his legs.

This is what it is like to call the housing line. First, you wait on hold to apply. Sometimes that is 30 minutes. Sometimes it is six hours. Sometimes you wait all day and never get through. If you do get through, you are transferred to the assessment queue and wait again, sometimes for hours. Then you are sent to the reservation queue, and you wait again. This can take a day, or several days. If there is no placement at the end, you go on a "waiting list." We do not know of a single person who has been called off that list and offered a placement. After 10 days, you start the whole process over. For a person living with a disability, or without a phone, this process alone keeps them outside.

Closing

We want to name the pattern underneath all of this, because it is not incidental. The Department asked this Legislature, during the drafting of Act 143, to let it create tiered eligibility for hotel and motel placement. Lawmakers said no, and wrote §2207(6) to allow hotel and motel use whenever a household's needs "cannot be met by levels 1–3 of the Program," not by tier. The Legislature chose six priority categories in §2211(a), not a ranking within them. The Legislature discussed adding a formal period of ineligibility after someone leaves the program and chose not to write one into the statute, giving the Department authority under §2216(10) only to adopt "a process for reinstatement of services." It built in self-attestation for disability status under §2211(b)(1)(C) because it understood that requiring paperwork up front shuts people out. It protected people with disabilities from isolation under §2207(2)(B) by name. Each of these choices was made deliberately, in public, over the course of a legislative session we were present for. These emergency rules revisit nearly every one of them and land in the opposite place. That is

not a drafting error repeated many times over. It is a pattern, and one that seeks to rewrite the statute, not carry it out. We are asking the Committee to treat it as one.

The administration only has the authority to make rules that execute the statute, including its intent, not to rewrite the parts of it the administration does not like. Rulemaking is not a second legislative session. When the Department disagrees with a choice the Legislature made, the remedy is to go back to the Legislature and ask it to change the law, the way it already did once during the drafting of Act 143 and was told no. It is not to adopt a rule that reaches the outcome the Legislature declined to enact.

We have spent years in rooms with the people who wrote this statute, and years more in rooms with the people this statute is supposed to serve. Those are not the same rooms, and these rules read like they were written without either one in mind. Every provision above decides something real: whether a person gets a room tonight, whether someone with a disability has to produce paperwork they cannot get in time, whether someone who turned down one bad placement twice loses access to help for a year. The Legislature wrote Act 143 to meet people where they are. These rules ask them to clear hurdles the statute never built, using authority the Department was never given, in a pattern that tracks the exact proposals lawmakers considered and turned down.

I want to close by naming what ties all of this together. Each of these is, on its own, a serious policy concern, and more than that, each one is not within the statute. Taken together, these emergency rules do not just implement Act 143, they narrow it. A needs assessment the statute never created decides who gets help. People are ranked within the priority categories the Legislature chose. Extensions are narrowed, with conditions instead of a process. The disability protections written into every part of the statute have been almost entirely stripped out. And the reinstatement provisions turn a single sentence authorizing a “process” into a 12-month punishment the Legislature never enacted.

Providers cannot sustain this. Since June, our outreach is up 125% over last year. In August, incoming calls and texts were up 45%, and in September, incoming phone calls alone were up 38%.

We are asking the Committee to object to these emergency rules under 3 V.S.A. § 844(e)(1), and to file that objection with the Secretary of State. There needs to be a clear message that these rules do not comport with the statute or legislative intent, so that the people we serve can access their rights under the law, and so that the permanent rules are written to match the statute that was actually passed. This cannot wait.

Thank you for your work on this statute. I still believe it is a pathway to a better system. Just not the way it is happening now.

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Attachment: Complete List of Problems in the Emergency Rules

Our testimony covers the most serious problems. This attachment is the complete list: notice and accessibility, where people with disabilities lose protections, where these rules violate the statute or exceed the rulemaking authority, and a section-by-section walkthrough of the rules.

Notice and Accessibility

Notice of the public meeting on the draft was first given with one day's notice, then a second one was added. The comment period as a whole ran about a week. People who are currently homeless, the people these rules govern most directly, could not meaningfully engage with a technical rule on that timeline. A process that cannot include the people it is written for has already failed one of the things Act 143 was built to do.

We also flagged that the draft rules as posted could not be read using a screen reader or other assistive device. The filed emergency rule has the same problem. The posted document is not tagged for accessibility, so it lacks the structure screen readers rely on. For a rule that is supposed to govern how the State serves people with disabilities, publishing it in a form that a person with a disability cannot independently read is not a footnote. It is the same failure showing up before a single section is even reached.

Where People With Disabilities Lose Protections

The statute protects people with disabilities at nearly every stage: how a disability is proven, how someone is placed, how they are treated if something goes wrong. We watched most of these protections get written in response to direct testimony about what happens without them. These rules remove them anyway.

These are the protections in the statute, and they are not carried out throughout the rules: "The Office and community partners shall comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101–12213, and section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, for the purposes of providing reasonable modifications, effective communication, and accessible placements. Program rules and case management requirements shall be reasonably modified, including with the use of plain language, as necessary to avoid discrimination against eligible households with a member who has a disability."

1. The statute says the intake process should be brief for everyone. And we at EHVT know that we must build trust with clients before asking them overly personal questions and making a service plan. The rule layers a detailed needs assessment interview on top of the application. There is no "needs assessment" interview anywhere in the statute, and the rule gives people with disabilities no protection or accommodation in it. It adds an eligibility requirement the statute never set, which **violates the statute**.
2. The statute says the brief, standardized initial assessment must be available to complete "by hand, electronically, or by telephone" (§2216(5)),

so that people with disabilities can use what works for them. In practice, applications and assessments are taken by phone only, and requests for a paper copy or an accommodation have been denied, which **violates the statute**.

3. The statute says notices have to explain, in plain language, how and by when to appeal, and that rules have to be adjusted for people with disabilities. The notices in this rule don't have to do that, and in practice people are being refused notices altogether, or get notices without the specific factual and legal basis the statute requires, which **violates the statute**.
4. There are certain protections in the statute that allow for "extensions" that allow people to stay in a hotel or motel for longer than the allotted 70 days. The legislature laid out clearly under what conditions those extensions could be made, so that people with the highest levels of need do not end up outside, and left room for more, including accommodations. Instead, the rule narrows those reasons, and in practice DCF requires an assessment first, which **violates the statute**.
5. The statute says people only have to participate in case management, planning for housing, and other services to the extent they're able. The rule doesn't account for that when it requires proof of "progress" for extensions or removes people for not engaging, which **violates the statute**.
6. Lawmakers specifically said people with disabilities should not be isolated from everyone else in the program. While the Department can designate population-specific motels, the rule skips that protection entirely, and turning one down can count toward being removed. This violates the statute, the ADA and the Olmstead decision.
7. DCF limits which hotels can be used and doesn't build in any flexibility for an accommodation for accessibility, which exceeds the rulemaking authority and violates access to a program or benefits under the ADA.
8. Case management is meant as support, not oversight, and the statute requires accommodations to be made to meet the needs of someone living with a disability. The rule turns case manager contact into a review that isn't in the statute, with no accommodations built in, which **exceeds the rulemaking authority and violates the disability protections in the statute**.
9. Termination notices don't have to explain how and by when to appeal, or tell people their rights, including their right to an accommodation, which **violates the statute**.
10. DCF is not keeping people sheltered while they appeal, even though the statute requires it, and hearing officers do not believe they can order housing while an appeal is pending. For people with disabilities, that means

being outside while they fight for something the statute already gives them, which **violates the statute**.

11. Adding a "needs assessment" doesn't just go beyond what DCF is allowed to do – it also disrupts someone's dignity, their privacy, and the relationship they either already have or are about to build with a case manager.
12. The statute explicitly allows self-attestation of a disability, with 30 days to back it up with paperwork if needed. The rule does not say that explicitly in its section on verifying a disability, which hides the rights of people with disabilities.

Where These Rules Exceed or Violate the Department's Rulemaking Authority

Section 2216 tells the Department exactly what it may write rules about, and that grant does not extend past what is listed there. Here is everywhere these rules go beyond it, item by item.

1. DCF made up a screening tool to rank people inside the six priority groups that isn't anywhere in the statute. The statute did not allow for prioritizing within those groups, which **violates the statute**.
2. DCF turned "there's no room available right now" into "you're not eligible" – there is very specific eligibility under the statute, and that is not an eligibility criteria, which **violates the statute**.
3. In practice, applications and assessments can only be done by phone. The statute says the brief, standardized initial assessment can be completed by hand, electronically, or by telephone, which makes this a **violation of the statute**.
4. There's no requirement anywhere in the statute that someone has to verify their homelessness, which **exceeds the rulemaking authority**.
5. Taken together, the verification rules ask for far more burdensome proof than the statute wants, creating exactly the kind of burden lawmakers tried to avoid, which **exceeds the rulemaking authority**.
6. DCF decides someone's level of care before that person has even met a case manager, which **exceeds the rulemaking authority**.
7. DCF invented an entire "needs assessment" interview that isn't in the statute at all, and uses it as an eligibility requirement the statute never set, which **violates the statute**.
8. The statute allows extensions past the 70-day limit in hotels and motels, and it set a minimum: four reasons someone can get one, written so that people with the highest levels of need do not end up outside. DCF narrowed that minimum. And instead of creating a process to get an extension, which is

what the statute asked for, the rule adds conditions to getting one. This **violates the statute and legislative intent**.

9. In practice, DCF requires extension requests to be made at least 10 days before someone's 70th day. That deadline is not in the statute or even in the rule, and it leaves no room for a sudden medical crisis, which **exceeds the rulemaking authority**.
10. DCF, in the emergency rules, invented a 7-day first stay, then stays of up to 28 days at a time, with a new service agreement for each one, that has no basis anywhere in the statute. The statute sets one flat 70-day limit. The enactment of Act 143 ended the GA Hotel and Motel program and Act 143 seeks to have one system, so a different set of eligibility, rules and guidelines brings back exactly the kind of system that program used, which **exceeds the rulemaking authority**.
11. The statute says people living with disabilities cannot be isolated from everyone else in the program. While the Department can designate population-specific motels, the rule has to make clear that people cannot be isolated, and a person's rights should be explicit in the rule. The emergency rules skip that protection entirely, and turning one of these motels down can count toward being removed, which **violates the statute and legislative intent**.
12. DCF gave itself full control over which motels are "approved," with no flexibility for accommodations for accessibility, which **exceeds the rulemaking authority**.
13. DCF gave itself the power to withhold payment from motels – something the statute never allowed – most importantly that the payments can resume paying whenever it simply feels the problem is fixed, instead of an objective measure, which **exceeds the rulemaking authority**. Why is this a problem? Because this method, used now, is not resolving the issues. The measures should be objective, not subjective when it comes to health and safety.
14. DCF turned case management into oversight, requiring every case manager contact to allow for "meaningful evaluation and documentation" of the household. That isn't in the statute anywhere, and it is resulting in overburdened service providers who cannot meaningfully deliver services, which **exceeds the rulemaking authority**.
15. This rule adds two brand-new reasons for removal that aren't on the statute's own specific list. The Legislature carved out particular reasons for removal from the program and did not give DCF authority to create new ones, which **violates the statute**.
16. The statute only asked DCF to create "a process" for letting people back in. This rule turns that into a flat 12-month period of ineligibility, even for people

who just turned down a placement twice or had a safety incident, which **violates the statute**, is wildly inhumane, and goes against what lawmakers intended. Leaving people outside to suffer for 12 months will result in death and catastrophic outcomes.

17. In fair hearings, DCF argues that each level of the continuum is a separate benefit, to cut off continued services while people appeal. Act 143 created one program, not a set of separate benefits, which **violates the statute**.
18. DCF assumes a notice was received three days after it was emailed, or 14 days after it was mailed, whether or not that's true, which **exceeds the rulemaking authority**. Actual notice, not presumed notice, must be the standard when it is life or death.
19. The statute says cold-weather shelters open based on weather alone; this rule adds a fixed calendar window that DCF can even shorten based on "program resources," and an extra capacity requirement, which **violates the statute**.
20. The emergency rules use the word "shall" to make things rigid, even though lawmakers specifically wanted this program run with as much flexibility as possible. Where the statute says a household "may" be terminated or is "subject to" termination, the rule says it "shall be terminated." The Department does not have authority to write and create statute, a rule is meant to carry out the statute, not recreate it to their liking. This **exceeds the rulemaking authority and violates legislative intent**.

Walking Through the Emergency Rules, Part by Part

Part 1 – General Rules for the Whole Program

Section 4.02. Says a household's eligibility depends on "capacity, staffing, and geographic accessibility." The statute never says that. The statute says who is eligible (§2201(9)), and it treats capacity only as a limit on placement: DCF "shall offer to place the household in the appropriate level of care... if capacity, staffing, and geographic accessibility are available" (§2203(c)). Someone can qualify for help and still not get a room today because nothing's open, but that does not make them ineligible. In practice, here is what it's like to call the housing line. You wait on hold to apply, sometimes for 30 minutes, sometimes for six hours, sometimes all day without getting through. Then you wait again in the assessment queue, and again in the reservation queue. If there is no placement at the end, you go on a "waiting list," and we do not know of a single person who has been called off that list. After 10 days, you start the whole process over. For people with disabilities, this is worse. Accessible rooms are the hardest to find, so a rule that turns "no room available" into "not eligible" makes a person's disability the reason they are shut out. The statute requires accessible placements (§2211(c)). The rule even contradicts itself, since Part 3, Section 4.02 says eligibility lasts 12 months. This **violates the statute**.

Section 5.00. Creates a "needs assessment screening tool" that DCF uses to rank the "relative need" of eligible households. The statute already says who gets priority: households with a member who is 65 or older, has a disability, is a minor child, is pregnant, is experiencing domestic violence or other dangerous conditions, or is facing eviction (§2211(a)). The statute did not allow for prioritizing within those groups. Ranking people inside those groups is prioritizing within the prioritization. And the tool is written and kept by DCF, not in the rule, so no one can see how they are being ranked or challenge it. For people with disabilities, this means competing against each other for the priority the statute already gave them. And because the ranking comes from the needs assessment interview, someone whose disability keeps them from completing it is shut out of the ranking altogether, with no reasonable modification (§2211(c)). This is where the ranking problem starts, and it shows up again in Part 8. This **violates the statute**.

Part 3 – How People Apply for Help

Section 1.01. Says applications can be done in person, by phone, electronically, or by hand, but that is not what is happening. In practice, applications are taken by phone only. The statute says by hand (paper), electronically, or by phone (§2216(5)) – flexibility the legislature included on purpose because people with disabilities often need it and also because they were not trying to add hurdles to support. Phone-only shuts out people who cannot communicate on their own, or who simply do not have a phone. Requests for a paper copy, and for an accommodation, have been denied. This **violates the statute** and the disability protections in this law (§2211(c)).

Section 1.02. Requires a long list of application content the statute never asked for, the sheer volume of it is an unnecessary burden on people applying for emergency help.

Section 2.00. Requires every applicant to sit through an "individualized needs assessment interview" about their health and safety risks and their disability status before DCF even decides whether they are eligible, and before they have ever met a case manager. The only intake assessment the statute allows is "a brief, standardized initial assessment form that may be completed by hand, electronically, or by telephone" (§2216(5)). This rule allows the interview only in person or by phone, and says refusing to give information can mean denial (Section 3.06). That turns an interview the statute never created into an eligibility requirement that does not exist. Additionally, it does not accommodate disability, which the statute requires (§2211(c)). In practice, people are being forced to do it by phone. A person whose disability means they cannot do it by phone does not get shelter, and no accommodations are being given. Beyond the legal problem, doing this kind of intake before someone is connected to a trusted case manager means private information ends up shared beyond the people who are actually going to help them. That's not just invasive. It disrespects someone's dignity, their privacy, and the relationship they either already have or are building with a case manager. This **violates the statute**.

Section 3.00 (verification, several parts). The legislature built this program to be as flexible as possible, and the whole verification section goes the other way: overly

burdensome, with nothing in the statute authorizing a burden this heavy. The statute also requires every program rule to be reasonably modified for people with disabilities (§2211(c)), and none of these requirements are.

- *3.03:* Requires proof that someone is homeless, with third-party verification first, staff observation second, and the person's own word last. The statute does not require verification of homelessness, and it is generally a very invasive process.
- *3.04:* Says the only way to prove you live in Vermont is "a copy" of a current housing, employment, or other AHS plan, and the rule defines participation in a plan as "currently receiving benefits or services." The statute treats participation in a plan as evidence that someone intends to stay in Vermont (§2201(9)), not as paperwork they must produce. Someone who is new to the system, or whose plan has ended, cannot prove they live here.
- *3.05(a):* Requires a document to prove someone's age (65+). Hard to produce for someone sleeping outside with no belongings.
- *3.05(c):* Same problem for proving a child's age. Birth documents aren't always available for kids either.
- *3.05(b)(1):* Does not say explicitly that someone can verify a disability by self-attestation, even though the statute puts it in that list (§2211(b)(1)(C)). That hides a right written into the statute for people with disabilities.
- *3.05(e):* Requires paperwork to prove domestic violence that many survivors, especially of psychological or financial abuse, will not have.
- *3.05(f):* Requires eviction paperwork from a landlord, but the Human Services Board has ruled for more than 20 years that someone can be "constructively evicted" from an informal living situation, like staying with a friend, where there's no landlord and no lease. The rule's definition of constructive eviction in Part 2 makes this worse by requiring a landlord or a tenancy.
- *3.06:* Punishes someone for declining to answer questions. A rigid rule for a program the statute says should be run flexibly.

Together, these **exceed the rulemaking authority**.

Section 4.01. Says eligibility is decided by the application and verification, but that is not how it works. The statute does not require a needs assessment at all. The only assessment it requires is "a brief, standardized initial assessment form that may be completed by hand, electronically, or by telephone" (§2216(5)). DCF has only put one level of the continuum in place, hotels and motels, so there is no level of service to decide. Instead, the needs assessment is used to rank people inside the six priority groups, which the statute does not allow (§2211(a)). And if someone cannot complete the needs assessment, they are blocked from getting help at all. That adds an eligibility requirement that does not exist in the statute (§2201(9)). This **violates the statute**.

Section 4.03. Combines a household's eligibility decision and a denial into one notice, and the notice is not required to include the clear, plain-language instructions on how to appeal and the deadlines for appealing that the statute requires (§2215(a)(4)). The rule also lets DCF hand someone a notice in person, when the statute requires notice of a termination, reduction, or suspension in writing by email or mail (§2215(a)(2)). In practice, it is worse. People who are turned away from shelter are being refused a notice altogether, even though being turned away after being found eligible is a reduction in benefits that the statute requires written notice for. And when notices are sent, they do not include the specific factual and legal basis for the decision, which both the statute (§2215(a)(1)) and DCF's own rule (Part 1, Section 9.01) require. For people with disabilities, a notice that does not explain how to appeal or by when, or that is handed over in person with nothing in writing, is a door they cannot open. The statute requires effective communication and plain language for people with disabilities (§2211(c)). Separately, a court case (Groundworks) established that denial notices need their own clear process. This **violates the statute**.

Section 5.00. Hands someone a "service agreement" deciding their level of help right at intake, before they've even been assigned to or met with a case manager or before they have met with the already established case manager. Lawmakers specifically wanted fewer bureaucratic hurdles, not more and for more case managers to be included in the continuum. At most, the next step should just be connecting someone to a case manager – or letting them stay with the one they already have – with immediate shelter as a bridge if no case manager is available yet. The statute says each eligible household "shall be assigned a case manager" (§2213). The rule makes that "subject to capacity, staffing, and geographic accessibility" (Part 4, Section 1.01), which does not comport with the statute.

Part 4 – Case Management

Section 4.01. The statute says every eligible household is to be given a case manager (§2213), and that the household agrees to work with that case manager (§2210(a)(3)). That is the requirement. Case management is in the statute as support. It is not meant to be a bureaucratic hurdle to shelter, or paper pushing for providers. This section turns it into both, by requiring that every contact allow for "meaningful evaluation and documentation" of the household. The statute does not allow for this type of oversight. And the statute says case management requirements "shall be reasonably modified" for people with disabilities (§2211(c)), but this section limits contact to in person, phone, or methods DCF approves, with nothing built in for someone who cannot do either.

Part 8 – Hotel and Motel Rules

The needs assessment and the screening tool aren't in the statute at all. That's the root of many of the problems and is an attempt to create and narrow eligibility criteria which was explicitly rejected by the legislature.

Section 1.00. The statute says any eligible household unable to be served elsewhere can get one, if a room's available (§2207(6)). The administration asked lawmakers to let it limit eligibility this way, and lawmakers said no. This system does it anyway.

Section 3.00 (room limits). The numbers match the statute. But the statute also says rooms used by domestic and sexual violence survivors, under a specific program, don't count toward that limit at all – and that protection is missing here. This is a critically important gap: without it, survivors could end up competing for room slots the statute meant to guarantee them separately. Separately, as a matter of real-world impact: these caps will lead to genuinely catastrophic outcomes for people experiencing homelessness. Because it will also limit available rooms.

Section 4.00. Creates authorization periods the statute never created: a 7-day first stay, then stays of up to 28 days at a time, with a new service agreement for each one. The statute just says 70 days, period – no tiers. And legislative intent is to end the GA program and handle the continuum as one. As well as to have the household working with a case manager, not having authorization periods, service agreements and assessments. For people with disabilities, every new authorization and service agreement is another deadline and another chance to be cut off, with no reasonable modification built in (§2211(c)).

Section 5.00. Restricts the four reasons the Legislature gave for getting more time in a motel. The statute says DCF may grant extensions "including for: (1) an eligible household actively awaiting a placement in housing, treatment, or other services; (2) medical necessity; (3) lack of reasonable alternative accessible placements for a member of the eligible household with a disability; and (4) imminent risk to the health or safety of one or more of the eligible household's members" (§2212(b)). We were in the room when these were written. The intent was to make sure that people with these extremely high levels of need do not end up outside. "Including" means the rule must cover these four. It does not limit extensions to only these, which leaves room for others, including an extension as an accommodation for a disability (§2211(c)). Nothing in the statute gives DCF authority to narrow them. This section of the rules does narrow them. It limits medical necessity to people in the middle of a "treatment episode," requires imminent risk to be "documented," and makes every request prove "progress toward the goals identified in the housing plan." The statute built these four options so the program could respond to what a person actually needs; these conditions defeat that purpose. In practice, DCF is also requiring an assessment before it will grant an extension, which is not in the statute or the rule. One client with insulin-dependent diabetes, who was warned he could lose his legs to infection, was denied an extension because he could not complete it, and our requests for a paper version and an accommodation were denied. That is just one example. DCF is also requiring extension requests to be made at least 10 days before someone's 70th day, which is not in the statute or the rule and leaves no room for a sudden medical crisis. Another client, who is on oxygen, has severe liver disease, and uses a wheelchair, clearly qualifies for an extension. She was given less than 10 business

days to submit a “more detailed housing plan,” and DCF has not said what it needs. This **violates the statute**.

Section 6.00. The statute explicitly said that people living with disabilities should not be isolated from everyone else in the program (§2207(2)(B)). While the Department can designate population-specific hotels, the rule has to make clear that people cannot be isolated, and a person’s rights should be explicit in the rule. This section skips that protection entirely, and a household that turns down a segregated motel can have that refusal counted toward being terminated from the program (Part 10, Section 1.02). This is also a federal problem: a Supreme Court case called Olmstead says forcing people with disabilities into separate settings, when they could be served alongside everyone else, violates the Americans with Disabilities Act. This **violates the statute** and the disability protections in this law (§2211(c)).

Section 7.00. This is a strange narrow rule about which motels are “approved,” and it seems to attempt to limit the ability of someone to ask for an accommodation. This section also lets DCF withhold payment from a motel for rule violations, something the statute never authorized, and it lets DCF resume payments whenever it is “satisfied,” instead of once the problem is actually fixed and confirmed fixed. Worth knowing: this kind of payment-withholding hasn’t historically improved conditions in hotels – it’s led to fewer hotels being willing to participate at all. An objective measure that determines when payment resumes is more appropriate and would be more successful.

Part 10 – Ending Someone’s Services, and Getting Back In

Removal from any part of this program should be named in the emergency rules as the absolute last resort after every other option has been tried.

Refusing a placement (Section 1.02). Allows termination if someone turns down a placement “two or more times.” The statute’s actual word is “repeatedly,” which normally means an established pattern, not just two instances – stretching it this far is itself a violation of what the statute says. This isn’t how case management is supposed to work: a case manager’s job is to keep working with someone to find something that fits, not to count strikes toward a cutoff. There also needs to be a clear disability protection here: someone should never be terminated for declining a placement specifically because it’s an institutional or group setting, no matter how many times that happens – failing to protect that violates disability rights under the statute, the ADA, and the same Olmstead principle mentioned above, just showing up from the opposite direction.

New reasons for removal (Sections 1.04 and 1.05). Adds two reasons someone can be kicked out that the statute never listed: not participating enough in case management, and no longer meeting basic eligibility. The statute’s actual list is fraud, repeated refusal of placement, and safety issues. The Legislature clearly carved out these particular reasons for removal from the program. It did not give the Department authority to create new ones. And even for those, the statute says a household “may” be terminated or is “subject to” termination. These new sections say a household “shall be terminated,” which takes away

any judgment about whether removal is needed. This program was built to help people stay housed, not to invent new reasons to remove them. (The second one, about eligibility, is also a scenario that's almost impossible to picture happening in real life.) Section 1.04 also says nothing about people only having to participate in case management "to the extent of the eligible household's ability" (§2207(3)), and it makes no room for reasonable modifications for disability (§2211(c)). Someone whose disability makes it hard to keep appointments or stay in contact can be removed for the very thing the statute protects. This **violates the statute**.

Notice of removal (Section 2.02). Same problem as the application notice in Part 3: it is not required to include clear, plain-language instructions on how and by when to appeal (§2215(a)(4)), and it can be handed to someone in person, when the statute requires notice of a termination in writing by email or mail (§2215(a)(2)). In practice, notices also leave out the specific factual and legal basis for the decision. The notice does not have to tell people their rights, including their right to a reasonable accommodation (§2211(c)) and that they cannot be removed for reasons related to their disability. The statute protects people from removal for misconduct related to a disability (§2210(d)), and requires reasonable accommodations before anyone is removed for refusing placements (§2210(c)). The rule itself only expresses that protection for misconduct, and nowhere else in Part 10. For people with disabilities, a termination notice that does not explain their rights, how to appeal, or by when is a door they cannot open. The statute requires effective communication and plain language for people with disabilities (§2211(c)). This **violates the statute**.

Getting back in (Section 3.00 and following). The statute tells DCF to create "a process" for letting people back into the program after being removed. What's actually written isn't a process at all – just a list of conditions someone has to meet, plus a bare application form. And DCF shouldn't be the one deciding when an issue is "resolved" in the first place – doing so requires more invasive oversight than is appropriate, and it goes against what lawmakers wanted: for people to work with a case manager and face fewer bureaucratic hurdles, not more. That determination should be worked out between the person and their case manager.

The 12-month period of ineligibility (Section 3.02(a)). This violates the statute, is wildly inhumane, and goes against what lawmakers intended. The statute only allows DCF to create "a process" for reinstatement, nothing about a period of ineligibility at all. This section instead takes the opportunity to force people to attempt survival outside for 12 months. In other words, it turns that into a flat 12-month period of ineligibility, and it applies not just to fraud, but to someone who turned down a placement twice or had a safety incident. Lawmakers talked about adding a period of ineligibility like this and decided against it. A 30-day version that existed in the GA Emergency Housing program, and it's already known to cause serious harm and this is 365 days. Twelve months means someone could be forced to survive without help, unhoused, for a full year. People will have catastrophic outcomes and lose their lives.

Case management shouldn't stop. Case management should continue no matter whether someone is inside or outside the program at any given moment – access to it shouldn't depend on program status at all. Once someone and their case manager have worked through whatever led to termination, getting back in should just continue that same relationship, not restart as something separate.

Part 11 – Appealing a Decision

Section 4.01(a). The emergency rules assume someone received a notice three days after it was emailed, or 14 days after it was mailed, whether or not that's actually true, and put it on the person to prove otherwise, with no basis for that assumption anywhere in the statute. The rule also says nothing about notices handed to someone in person. There should be actual notice, not presumed receipt of notice. When someone's ability to get emergency housing and their well being depends on getting actual notice in time, this should require proof they actually got it. For people with disabilities, proving when they actually got a notice is one more barrier, and the rule offers no reasonable modification (§2211(c)).

Continued benefits during an appeal (Section 4.00). The statute says that if someone asks for a fair hearing within 14 days of receiving notice, DCF "shall continue to provide services under the Program without interruption" until the Human Services Board decides, with only two narrow exceptions (§2215(d)). In practice, DCF is largely not continuing shelter while people appeal, and argues that each level of the continuum is a separate benefit. But Act 143 created one program, not a set of separate benefits (§2201(20)). And hearing officers do not believe they can order housing while an appeal is pending, so people stay outside while they wait. This **violates the statute**.

Part 12 – Emergency Cold-Weather Shelters

Section 1.03. Sets a fixed date range (December 1 to March 31) for when cold-weather shelters can even open, and lets DCF shorten it based on "program resources." The statute says this should depend only on the weather, with no fixed dates at all – so this violates the statute's actual standard, not just filling in a detail the statute left open. It can get dangerously cold in Vermont before December 1st, and this section could leave a gap right when it's needed.

Section 1.05(b). Adds an extra requirement – proving there's no other shelter space available – before a cold-weather shelter can open. The statute's rule for opening these shelters is about the weather alone, so this violates that same standard by narrowing it.

Sections 1.09 and 1.10. Require a lot of paperwork and intake steps at cold-weather shelters, including proving there is "no other safe shelter option," collecting demographic information, and signing paperwork about shelter rules. The statute specifically says these shelters should keep paperwork to a minimum. What's required here goes well beyond that.

Section 1.09(d). Says a guest should only be discharged as a last resort, after real efforts to fix the problem have been tried. This actually reflects what the whole law intended for the entire program, not just cold-weather shelters. The rest of these rules, especially the removal rules in Part 10, doesn't follow that same intent at all.