

1 S.166

2 Introduced by Senators Ashe, Ayer, and Sears

3 Referred to Committee on Institutions

4 Date: January 3, 2018

5 Subject: Human services; corrections; medication-assisted treatment

6 Statement of purpose of bill as introduced: This bill proposes to enable
7 opioid-dependent inmates to receive medication-assisted treatment in State
8 correctional facilities from providers employed by opioid treatment programs
9 throughout the State.

10 An act relating to the provision of medication-assisted treatment for inmates

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

12 ~~Sec. 1. 18 V.S.A. § 4750 is added to read:~~

13 § 4750. DEFINITION

14 As used in this chapter, “medication-assisted treatment” means the use of
15 certain medications, including either methadone or buprenorphine, in
16 combination with counseling and behavioral therapies for the treatment of a
17 substance use disorder.

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

19 ~~§ 801. MEDICAL CARE OF INMATES~~

1 * * *

2 (b) Upon admission to a correctional facility for a minimum of 14
3 consecutive days, each inmate shall be given a physical assessment unless
4 extenuating circumstances exist. The physical assessment shall include
5 screening for opioid dependence.

6 * * *

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

1 ~~practice registered nurse, it is not in the inmate's best interest to continue the~~
2 medication at that time. The licensed practitioner who makes the clinical
3 judgment shall enter the reason for the discontinuance into the inmate's
4 permanent medical record. It is not the intent of the General Assembly that
5 this subsection shall create a new or additional private right of action.

6 (2) If an inmate screens positive for opioid dependence pursuant to
7 subsection (b) of this section and had not been receiving medication-assisted
8 treatment prior to admission, the inmate may elect to commence medication-
9 assisted treatment if it is deemed clinically appropriate and in the inmate's best
10 interest by a provider employed by the nearest opioid treatment program
11 certified and accredited pursuant to 42 C.F.R. Part 8.

12 (3) As used in this subsection, "medication-assisted treatment" shall
13 have the same meaning as in 18 V.S.A. § 4750.

14 * * *

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

16 § 801b. INMATES RECEIVING MEDICATION-ASSISTED TREATMENT

17 (a) The Departments of Corrections and of Health shall work
18 collaboratively to ensure that an inmate screening positive for opioid
19 dependence at the time of admission to a State correctional facility shall be
20 allowed to continue or commence clinically appropriate medication-assisted
21 treatment while in the facility.

1 ~~(b) The Departments shall contract with opioid treatment programs~~
2 ~~throughout the State, certified and accredited pursuant to 42 C.F.R. Part 8, that~~
3 ~~serve regions in which a State correctional facility is located to provide~~
4 ~~clinically appropriate medication-assisted treatment in the facility to an inmate~~
5 ~~screening positive for opioid dependence pursuant to section 801 of this~~
6 ~~section. Treatment received pursuant to this section shall be coordinated~~
7 ~~pursuant to 18 V.S.A. § 4753.~~

8 ~~(c) As used in this section, “medication-assisted treatment” shall have the~~
9 ~~same meaning as in 18 V.S.A. § 4750.~~

10 Sec. 4. RULE; MEDICATION-ASSISTED TREATMENT IN STATE
11 CORRECTIONAL FACILITIES

12 ~~(a) The Commissioners of Health and of Corrections shall adopt a rule~~
13 ~~pursuant to 3 V.S.A. chapter 25 governing the provision of medication-assisted~~
14 ~~treatment to opioid-dependent inmates pursuant to 28 V.S.A. §§ 801 and 801b.~~

15 ~~(b) As used in this section, “medication-assisted treatment” shall have the~~
16 ~~same meaning as in 18 V.S.A. § 4750.~~

17 Sec. 5. EFFECTIVE DATE

18 ~~This act shall take effect on July 1, 2018.~~

~~Sec. 1. 18 V.S.A. § 4750 is added to read:~~

~~§ 4750. DEFINITION~~

~~As used in this chapter, “medication-assisted treatment” means the use of
certain medications, including either methadone or buprenorphine, in
combination with any clinically indicated counseling and behavioral therapies.~~

~~for the treatment of opioid use disorder.~~

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

~~§ 801. MEDICAL CARE OF INMATES~~

~~* * *~~

~~(b) Upon Within 24 hours after admission to a correctional facility for a minimum of 14 consecutive days, each inmate shall be given a physical assessment screened for opioid use disorders as part of the inmate's initial health care screening unless extenuating circumstances exist.~~

~~* * *~~

~~(e)(1) Except as otherwise provided in this subsection, an offender inmate who is admitted to a correctional facility while under the medical care of a licensed physician, a licensed advanced practice registered nurse, or a licensed nurse practitioner and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate's pharmacy of record, primary care provider, other licensed care provider, or as verified by the Vermont Prescription Monitoring System or other prescription monitoring or information system, including buprenorphine, methadone, or other medication prescribed in the course of medication-assisted treatment, shall be entitled to continue that medication and to be provided that medication by the Department pending an evaluation by a licensed physician, a licensed physician assistant, a licensed nurse practitioner, or a licensed advanced practice registered nurse. However, the Department may defer provision of medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, a nurse practitioner, or an advanced practice registered nurse, it is not in the inmate's best interest interests to continue the medication at that time. The licensed practitioner who makes the clinical judgment shall enter the reason for the discontinuance into the inmate's permanent medical record. It is not the intent of the General Assembly that this subsection shall create a new or additional private right of action.~~

~~(2) If an inmate screens positive as having a moderate or high risk for opioid use disorder pursuant to subsection (b) of this section and has not been receiving medication-assisted treatment prior to admission to a correctional facility, the inmate may elect to commence buprenorphine-specific medication-assisted treatment if it is deemed clinically appropriate and in the inmate's best interests by a qualified provider.~~

~~(3) As used in this subsection, "medication-assisted treatment" shall have the same meaning as in 18 V.S.A. § 4750.~~

* * *

*Sec. 3. RECEIPT OF METHADONE-SPECIFIC MEDICATION-ASSISTED
TREATMENT BY INMATES; PLAN*

(a) The Commissioners of Corrections and of Health jointly shall develop a plan to operationalize the use of methadone as part of medication-assisted treatment provided to inmates housed in a correctional facility who screen positive as moderate or high risk opioid users while in the custody of the Department of Corrections. The plan shall address:

(1) whether the Department of Health's or the Department of Corrections' contracted provider of health care services shall determine whether medication-assisted treatment is deemed clinically appropriate and whether it is in an inmate's best interests for methadone-specific medication-assisted treatment to be initiated while the individual is in the Department of Corrections' custody or upon his or her reentry to the community;

(2) whether the prescriptive authority for methadone shall be maintained by designated community-based treatment providers or the Department of Corrections' contracted provider of health care services and how it shall be administered to appropriate inmates; and

(3) an estimate of the costs to implement the plan developed pursuant to this section.

(b) On or before October 1, 2018, the Commissioners jointly shall submit the plan developed pursuant to subsection (a) of this section to the Joint Legislative Justice Oversight Committee. If there are not barriers beyond the control of the State, the Departments shall take steps to operationalize fully the plan, including addressing any budgetary concerns.

(c) As used in this section, "medication-assisted treatment" shall have the same meaning as in 18 V.S.A. § 4750.

*Sec. 4. MEMORANDUM OF UNDERSTANDING; MEDICATION-
ASSISTED TREATMENT IN STATE CORRECTIONAL
FACILITIES*

(a) On or before December 31, 2018, the Departments of Corrections and of Health may enter into a memorandum of understanding with opioid treatment programs throughout the State, certified and accredited pursuant to 42 C.F.R. part 8, that serve regions in which a State correctional facility is located to provide medication-assisted treatment to inmates who screen positive as moderate or high risk opioid users. Treatment received pursuant to this section shall be coordinated pursuant to 18 V.S.A. § 4753.

~~(d) As used in this section, "medication-assisted treatment" shall have the same meaning as in 18 V.S.A. § 4750.~~

Sec. 5. EFFECTIVE DATE

~~This act shall take effect on July 1, 2018.~~

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that medication-assisted treatment offered at or facilitated by a correctional facility is a medically necessary component of treatment for inmates diagnosed with opioid use disorder.

Sec. 2. 18 V.S.A. § 4750 is added to read:

§ 4750. DEFINITION

As used in this chapter, "medication-assisted treatment" means the use of U.S. Federal Drug Administration-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.

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

§ 801. MEDICAL CARE OF INMATES

* * *

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

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

* * *

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

licensed physician, a licensed physician assistant, ~~a licensed nurse practitioner~~, or a licensed advanced practice registered nurse.

(2) ~~However~~ Notwithstanding subdivision (1) of this subsection, the Department may defer provision of a validly prescribed medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, ~~a nurse practitioner~~, or an advanced practice registered nurse, it is not ~~in the inmate's best interest~~ medically necessary to continue the medication at that time.

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

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

(5) As used in this subchapter:

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

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

* * *

Sec. 4. 28 V.S.A. § 801b is added to read:

§ 801b. MEDICATION-ASSISTED TREATMENT IN CORRECTIONAL FACILITIES

(a) If an inmate receiving medication-assisted treatment prior to entering the correctional facility continues to receive medication prescribed in the course of medication-assisted treatment pursuant to section 801 of this title, the inmate shall be authorized to receive that medication for as long as

medically necessary.

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

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

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

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

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

~~(d) As part of reentry planning for an inmate who screens positive for an opioid use disorder and for whom medication assisted treatment is medically necessary, the Department shall commence medication-assisted treatment prior to release. If medication-assisted treatment is indicated and despite best efforts induction is not possible prior to release, the Department shall ensure comprehensive care coordination with a community-based provider.~~

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

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

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

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

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

(e) Any counseling or behavioral therapies provided in conjunction with the use of medication-assisted treatment shall be medically necessary.

* * *

Sec. 5. MEMORANDUM OF UNDERSTANDING; MEDICATION-ASSISTED TREATMENT IN STATE CORRECTIONAL FACILITIES

(a) On or before December 31, 2018, the Departments of Corrections and of Health may enter into a memorandum of understanding with opioid treatment programs throughout the State, certified and accredited pursuant to 42 C.F.R. part 8, that serve regions in which a State correctional facility is located to provide medication-assisted treatment to those inmates for whom a licensed practitioner has determined medication-assisted treatment is medically necessary. Treatment received pursuant to this section shall be coordinated pursuant to 18 V.S.A. § 4753.

(b) As used in this section, “medication-assisted treatment” shall have the same meaning as in 18 V.S.A. § 4750.

Sec. 5a. EVALUATION; MEDICATION-ASSISTED TREATMENT FACILITATED BY CORRECTIONAL FACILITIES

On or before January 15, 2022, the Department of Corrections shall present an evaluation on the effectiveness of the medication-assisted treatment program facilitated by correctional facilities to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2018.