

1 S.42

2 Introduced by Senators Lyons and Ayer

3 Referred to Committee on

4 Date:

5 Subject: Human services; substance abuse; system of care

6 Statement of purpose of bill as introduced: This bill proposes to create a  
7 comprehensive system of care for the administration of substance abuse  
8 prevention, intervention, treatment, and recovery services.

9 An act relating to the substance abuse system of care

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

11 Sec. 1. 18 V.S.A. chapter 94 is redesignated to read:

12 CHAPTER 94. ~~DIVISION OF ALCOHOL AND DRUG ABUSE~~  
13 ~~PROGRAMS~~ SUBSTANCE ABUSE PREVENTION AND CARE

14 Sec. 2. 18 V.S.A. chapter 94, subchapters 1, 2, 3, and 4 are added to read:

15 Subchapter 1. System of Care

16 § 4811. PRINCIPLES

17 The General Assembly adopts the following principles pertaining to  
18 substance abuse prevention, intervention, treatment, and recovery services:

1           (1) The State of Vermont's substance abuse system of care shall reflect  
2           effectiveness, ease of access, evidence-based practices, and the highest  
3           standards of care.

4           (2) A coordinated continuum of substance abuse prevention,  
5           intervention, treatment, and recovery services shall be provided throughout the  
6           State, including by the Agency of Human Services, hospitals, preferred  
7           providers, alcohol and drug abuse counselors, regardless of whether or not the  
8           counselor is affiliated with a preferred provider, and community and peer  
9           partners to ensure that services are available to individuals at all stages  
10           of addiction.

11           (3) Programs addressing substance abuse prevention, intervention,  
12           treatment, or recovery shall be responsive to changes in demonstrated need,  
13           service delivery practices, and funding resources.

14           (4) To the extent possible, the delivery of substance abuse services shall  
15           be integrated into Vermont's health care system.

16           (5) The delivery of substance abuse services shall be consistent  
17           throughout the State in terms of both access to care and the type of services  
18           offered.

19           (6) Recognizing the ongoing challenges and potential for relapse among  
20           individuals with a substance abuse disorder, services addressing both episodic  
21           and chronic substance abuse disorders shall be accessible throughout the State.

1           (7) The Commissioners of Health and of Vermont Health Access shall  
2           ensure that oversight and accountability are built into all aspects of the system  
3           of care for substance abuse services.

4           § 4812. DEFINITIONS

5           As used in this chapter:

6           (1) “Alcohol and drug abuse counselor” means the same as in 26 V.S.A.  
7           chapter 62.

8           (2) “Alcoholism” means alcohol use disorder as described in the  
9           Diagnostic and Statistical Manual of Mental Disorders (DSM-5) or  
10           its predecessor.

11           (3) “Approved substance abuse treatment program” means a treatment  
12           program which is approved by the Department of Health’s Division of Alcohol  
13           and Drug Abuse Programs as qualified to provide treatment for substance  
14           abuse.

15           (4) “Client” means a person who receives treatment services from an  
16           approved substance abuse treatment program, substance abuse crisis team, or  
17           alcohol and drug abuse counselor.

18           (5) “Detoxification” means the planned withdrawal of an individual  
19           from a state of acute or chronic intoxication as described in the placement  
20           guidelines of the American Society of Addiction Medication.

1           (6) “Incapacitated” means that a person, as a result of his or her use of  
2           alcohol or other drugs, is in a state of intoxication or of mental confusion  
3           resulting from withdrawal such that the person:

4                   (A) appears to need medical care or supervision by approved  
5           substance abuse treatment program personnel, as defined in this section, to  
6           assure his or her safety; or

7                   (B) appears to present a direct active or passive threat to the safety  
8           of others.

9           (7) “Intoxicated” means a condition in which the mental or physical  
10          functioning of an individual is substantially impaired as a result of the presence  
11          of alcohol or other drugs in his or her system.

12           (8) “Law enforcement officer” means a law enforcement officer  
13          certified by the Vermont Criminal Justice Training Council as provided in  
14          20 V.S.A. §§ 2355–2358 or appointed by the Commissioner of Public Safety  
15          as provided in 20 V.S.A. § 1911.

16           (9) “Licensed hospital” means a hospital licensed under chapter 43 of  
17          this title.

18           (10) “Person who abuses alcohol” means a person suffering from the  
19          condition of alcoholism.

1           (11) “Person who abuses drugs or alcohol” means anyone who drinks  
2           alcohol or consumes other drugs to an extent or with a frequency that impairs  
3           or endangers his or her health or the health and welfare of others.

4           (12) “Protective custody” means a civil status in which an incapacitated  
5           person is detained by a law enforcement officer for the purposes of:

6                   (A) assuring the safety of the individual or the public, or both; and

7                   (B) assisting the individual to return to a functional condition.

8           (13) “Secretary” means the Secretary of Human Services or the  
9           Secretary’s designee.

10           (14) “Substance abuse” means the misuse of alcohol or other drugs  
11           consistent with the description of substance use disorder in the Diagnostic and  
12           Statistical Manual of Mental Disorders (DSM-5) or its predecessor.

13           (15) “Substance abuse crisis team” means an organization approved by  
14           the Secretary to provide emergency treatment and transportation services to  
15           persons who abuse drugs or alcohol pursuant to the provisions of this chapter.

16           (16) “System of care” means the continuum of substance abuse  
17           prevention, intervention, treatment, and recovery services offered consistently  
18           throughout geographically diverse regions of the State.

19           (17) “Treatment” means the broad range of medical, detoxification,  
20           residential, outpatient, aftercare, care coordination, and follow-up services  
21           which are needed by persons who abuse drugs or alcohol and may include a

1 variety of other medical, social, vocational, and educational services relevant  
2 to the rehabilitation of these persons.

3 § 4813. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS

4 (a) The Division of Alcohol and Drug Abuse Programs shall plan, operate,  
5 and evaluate a consistent, effective, and comprehensive continuum of  
6 substance abuse programs. These programs shall coordinate care with  
7 Vermont's health, mental health, and human services systems. All duties,  
8 responsibilities, and authority of the Division shall be carried out and exercised  
9 by and within the Department of Health.

10 (b) Under the direction of the Commissioner of Health, the Deputy  
11 Commissioner of Alcohol and Drug Abuse Programs shall review, approve,  
12 and coordinate all alcohol and drug programs developed or administered by  
13 any State agency or department, except for alcohol and drug education  
14 programs developed by the Agency of Education in conjunction with the  
15 Alcohol and Drug Abuse Council pursuant to 16 V.S.A. § 909.

16 (c)(1) Any federal or private funds received by the State for purposes of  
17 alcohol and drug treatment shall be in the budget of and administered by the  
18 Agency of Human Services.

19 (2) To the extent possible, funds shall be used in a manner that creates a  
20 comprehensive and coordinated network of services throughout the State.

1        (d) With regard to alcohol and drug treatment, the Commissioner of Health  
2        may contract with the Secretary of State for the provision of adjudicative  
3        services of one or more administrative law officers and other investigative,  
4        legal, and administrative services related to licensure and discipline of alcohol  
5        and drug abuse counselors.

6        § 4814. SYSTEM OF CARE

7        (a) The Commissioner of Health shall coordinate and supervise a  
8        continuum of geographically diverse substance abuse services throughout the  
9        State that shall include at least the following:

10        (1) prevention programming and services, including initiatives to deter  
11        substance use among youths;

12        (2) Screening, Brief Intervention, Referral to Treatment (SBIRT) in  
13        health care and human services settings;

14        (3) treatment, including medicated-assisted treatment, outpatient  
15        services by a licensed alcohol and drug abuse counselor regardless of whether  
16        the counselor is affiliated with a preferred provider, inpatient and residential  
17        services, and transitional housing;

18        (4) peer recovery services and centers;

19        (5) coordination of complex care between health, mental health, and  
20        human services systems; and

1           (6) licensure of alcohol and drug abuse counselors pursuant to  
2           26 V.S.A. § 3235.

3           (b) The Commissioners of Health, of Mental Health, and of Vermont  
4           Health Access, in consultation with preferred providers and other community  
5           partners, shall develop and implement a plan aimed at creating a cohesive  
6           substance abuse system of care in Vermont. The plan shall foster a unified  
7           provider network in which providers are reimbursed for comprehensive  
8           services that are responsive to patient needs. The plan shall balance the  
9           delivery of episodic and chronic treatment services, and case management  
10           services shall be available to chronically lapsing patients to ensure consistency  
11           in treatment and recovery over time.

12           § 4815. REPORTING REQUIREMENTS

13           The Department of Health, in consultation with the Departments of Mental  
14           Health and of Vermont Health Access, shall report annually on or before  
15           January 15 to the Senate Committee on Health and Welfare and to the House  
16           Committee on Human Services on the following:

17           (1) timeliness and extent to which individuals with a substance abuse  
18           disorder receive appropriate services;

19           (2) utilization across the continuum of substance abuse prevention,  
20           intervention, treatment, and recovery services and the population served;

21           (3) individual experience of care and satisfaction;





1     § 4822. AUTHORITY AND ACCOUNTABILITY FOR ALCOHOL ABUSE  
2             SERVICES; RULES FOR ACCEPTANCE INTO TREATMENT

3             (a) The Secretary shall have the authority and accountability for providing  
4             or arranging for the provision of a comprehensive system of alcohol abuse  
5             prevention and treatment services.

6             (b) All State funds appropriated specifically for the prevention and  
7             treatment of alcohol abuse and any federal or private funds that are received by  
8             the State for these purposes shall be in the budget of and be administered by a  
9             single governmental unit designated by the Secretary. This provision does not  
10            apply to the programs of the Department of Corrections.

11            (c) The Secretary shall adopt rules and standards pursuant to 3 V.S.A.  
12            chapter 25 for the implementation of the provisions of this chapter. In  
13            establishing rules regarding admissions to alcohol treatment programs, the  
14            Secretary shall adhere to the following guidelines:

15                (1) A client shall be initially assigned or transferred to outpatient  
16                treatment, unless he or she is found to require medical treatment,  
17                detoxification, or residential treatment.

18                (2) A person shall not be denied treatment solely because he or she has  
19                withdrawn from treatment against medical advice on a prior occasion or  
20                because he or she has relapsed after earlier treatment.

1           (3) An individualized treatment plan shall be prepared and maintained  
2           on a current basis for each client.

3           (4) Provision shall be made for a continuum of coordinated treatment  
4           services, so that a person who leaves a program or a form of treatment shall  
5           have other appropriate treatments available.

6           Subchapter 3. Alcohol and Drug Abuse Treatment Council

7           § 4831. ALCOHOL AND DRUG ABUSE TREATMENT COUNCIL

8           (a) Creation. There is created an alcohol and drug abuse treatment council  
9           to foster coordination and integration of substance abuse services across the  
10           substance abuse system of care.

11           (b) Membership. The Council shall be composed of the following  
12           ten members:

13           (1) the Secretary of Human Services or designee;

14           (2) the Deputy Commissioner of the Department of Health's Division of  
15           Alcohol and Drug Abuse Programs;

16           (3) the Commissioner of Mental Health or designee;

17           (4) the Commissioner of Vermont Health Access or designee;

18           (5) the Director of the Blueprint or designee;

19           (6) a representative of the preferred providers, appointed by  
20           the Governor;

1           (7) two licensed alcohol and drug abuse counselors serving different  
2 regions of the State, appointed by the Governor;

3           (8) a high school administrator or practicing teacher involved in  
4 substance abuse prevention services, appointed by the Governor; and

5           (9) a member of the peer community involved in recovery services,  
6 appointed by the Governor.

7           (c) Report. Annually on or before January 15, the Council shall submit a  
8 written report to the House Committee on Human Services and to the Senate  
9 Committee on Health and Welfare with its findings and any recommendations  
10 for legislative action.

11           (d) Meetings.

12           (1) The Secretary of Human Services shall call the first meeting of the  
13 Council to occur on or before September 1, 2015.

14           (2) The Committee shall select a chair and vice chair from among its  
15 members at the first meeting.

16           (3) A majority of the membership shall constitute a quorum.

17           (e) Reimbursement. Members of the Council who are not employees of the  
18 State of Vermont and who are not otherwise compensated or reimbursed for  
19 their attendance shall be entitled to per diem compensation and reimbursement  
20 of expenses pursuant to 32 V.S.A. § 1010 for no more than four meetings  
21 annually.

1     § 4832. ADMINISTRATIVE SUPPORT

2             The Agency of Human Services shall provide the Council with such  
3     administrative support as is necessary for it to accomplish the purposes of  
4     this chapter.

5     § 4833. POWERS AND DUTIES

6             The Council shall assess substance abuse services and service delivery in  
7     the State, including the following:

8             (1) the effectiveness of existing substance abuse services in Vermont  
9     and opportunities for improved treatment; and

10            (2) strategies for enhancing the coordination and integration of  
11     substance abuse services across the system of care.

12                     Subchapter 4. Law Enforcement and Incarceration

13     § 4841. TREATMENT AND SERVICES

14            (a) When a law enforcement officer encounters a person who, in the  
15     judgment of the officer, is intoxicated as defined in section 4812 of this title,  
16     the officer may assist the person, if he or she consents, to his or her home, to  
17     an approved substance abuse treatment program, or to some other mutually  
18     agreeable location.

19            (b) When a law enforcement officer encounters a person who, in the  
20     judgment of the officer, is incapacitated as defined in section 4812 of this title,  
21     the person shall be taken into protective custody by the officer. The officer

1 shall transport the incapacitated person directly to an approved substance abuse  
2 treatment program with detoxification capabilities, or to the emergency room  
3 of a licensed general hospital for treatment, except that if a substance abuse  
4 crisis team or an alcohol and drug abuse counselor exists in the vicinity and is  
5 available, the person may be released to the team or counselor at any location  
6 mutually agreeable between the officer and the team or counselor. The period  
7 of protective custody shall end when the person is released to a substance  
8 abuse crisis team, an alcohol and drug abuse counselor, a clinical staff person  
9 of an approved substance abuse treatment program with detoxification  
10 capabilities, or a professional medical staff person at a licensed general  
11 hospital emergency room. The person may be released to his or her own  
12 devices if, at any time, the officer judges him or her to be no longer  
13 incapacitated. Protective custody shall in no event exceed 24 hours.

14 (c) If an incapacitated person is taken to an approved substance abuse  
15 treatment program with detoxification capabilities and the program is at  
16 capacity, the person shall be taken to the nearest licensed general hospital  
17 emergency room for treatment.

18 (d) A person judged by a law enforcement officer to be incapacitated, and  
19 who has not been charged with a crime, may be lodged in protective custody in  
20 a secure facility not operated by the Department of Corrections for up to

1 24 hours or until judged by the person in charge of the facility to be no longer  
2 incapacitated, if and only if:

3 (1) the person refuses to be transported to an appropriate facility for  
4 treatment or, if once there, refuses treatment or leaves the facility before he or  
5 she is considered by the responsible staff of that facility to be no longer  
6 incapacitated; or

7 (2) no approved substance abuse treatment program with detoxification  
8 capabilities and no staff physician or other medical professional at the nearest  
9 licensed general hospital can be found who will accept the person for  
10 treatment.

11 (e) A person shall not be lodged in a secure facility under subsection (d) of  
12 this section without first being evaluated and found to be indeed incapacitated  
13 by a substance abuse crisis team, an alcohol and drug abuse counselor, a  
14 clinical staff person of an approved substance abuse treatment program with  
15 detoxification capabilities, or a professional medical staff person at a licensed  
16 general hospital emergency room.

17 (f) Except for a facility operated by the Department of Corrections, a  
18 lockup facility shall not refuse to admit an incapacitated person in protective  
19 custody whose admission is requested by a law enforcement officer, in  
20 compliance with the conditions of this section.

1       (g) Notwithstanding subsection (d) of this section, a person under 18 years  
2       of age who is judged by a law enforcement officer to be incapacitated and who  
3       has not been charged with a crime shall not be held at a lockup facility or  
4       community correctional center. If needed treatment is not readily available,  
5       the person shall be released to his or her parent or guardian. If the person has  
6       no parent or guardian in the area, arrangements shall be made to house him or  
7       her according to the provisions of 33 V.S.A. chapter 53. The official in charge  
8       of an adult jail or lockup facility shall notify the Deputy Commissioner of  
9       Alcohol and Drug Abuse Programs of any person under 18 years of age  
10       brought to an adult jail or lockup facility pursuant to this chapter.

11       (h) If an incapacitated person in protective custody is lodged in a secure  
12       facility, his or her family or next of kin shall be notified as promptly as  
13       possible. If the person is an adult and requests that there be no notification, his  
14       or her request shall be respected.

15       (i) A taking into protective custody under this section is not an arrest.

16       (j) Law enforcement officers, persons responsible for supervision in a  
17       secure facility, members of a substance abuse crisis team, and alcohol and drug  
18       abuse counselors who act under the authority of this section are acting in the  
19       course of their official duty and are not criminally or civilly liable therefor,  
20       unless for gross negligence or willful or wanton injury.



1     § 4842. INCARCERATION FOR INEBRIATION PROHIBITED

2             A person who has not been charged with a crime shall not be incarcerated in  
3     a facility operated by the Department of Corrections on account of the person's  
4     inebriation.

5     Sec. 3. SUBSTANCE ABUSE SYSTEM OF CARE PLAN

6             On or before January 15, 2016, the Commissioners of Health, of Mental  
7     Health, and of Vermont Health Access shall present the plan developed  
8     pursuant to 18 V.S.A. § 4814(b) to the Senate Committee on Health and  
9     Welfare and to the House Committee on Human Services. The Commissioners  
10    shall also update the Committees on their respective Departments' progress  
11    implementing the plan to date.

12    Sec. 4. SUBSTANCE ABUSE REPORT; DATA SETS AND  
13             BENCHMARKS

14             On or before November 15, 2015, the Commissioner of Health shall submit  
15    a report to the Chairs of the Senate Committee on Health and Welfare and of  
16    the House Committee on Human Services identifying those data sets necessary  
17    to respond to the reporting requirements in 18 V.S.A. § 4815, and identifying  
18    which data sets, if any, overlap with existing data collection by the Department  
19    or providers. The Commissioner shall also identify any other benchmarks  
20    pertaining to the substance abuse system that will enable members of the  
21    General Assembly better assess the system.

1       Sec. 5. REPORT; SUBSTANCE ABUSE PREVENTION IN SCHOOLS

2           On or before January 15, 2016, the Secretary of Education shall report to  
3       the Senate Committee on Health and Welfare and to the House Committee on  
4       Human Services regarding:

5           (1) the status of the comprehensive health education program as it  
6       pertains to substance abuse;

7           (2) all other Agency initiatives aimed at preventing or treating substance  
8       abuse among students; and

9           (3) recommendations as to whether separating academic and support  
10       services offered by substance abuse prevention counselors in schools would be  
11       cost-effective and improve student outcomes.

12       Sec. 6. REPORT; SERVICES FOR MENTAL HEALTH, SUBSTANCE  
13       ABUSE, AND CO-OCCURRING DISORDERS

14       On or before January 15, 2015, the Department of Mental Health and the  
15       Department of Health's Division of Alcohol and Drug Abuse Programs, in  
16       consultation with stakeholders, shall survey and report on those services  
17       provided to individuals with a mental health, substance abuse, or co-occurring  
18       disorder by designated agencies and the Blueprint for Health's community  
19       health teams. The report shall:

1           (1) catalogue services for individuals with mental health, substance  
2           abuse, and co-occurring disorders to identify where, if any, gaps in services or  
3           overlapping services exist;

4           (2) propose any structural changes necessary to foster a collaborative  
5           relationship between the designated agencies and community health teams; and

6           (3) survey the relative pay scales of providers employed by the  
7           designated agencies and community health teams by provider type and county.

8           Sec. 7. REPEAL

9           (a) 18 V.S.A. §§ 4801–4807 (Division of Alcohol and Drug Abuse  
10           Programs) are repealed on July 1, 2015.

11           (b) 18 V.S.A. § 4808 (treatment and services) is repealed on July 1, 2017.

12           Sec. 8. EFFECTIVE DATES

13           This act shall take effect on July 1, 2015, except 18 V.S.A. §§ 4841  
14           (treatment and services) and 4842 (incarceration for inebriation prohibited)  
15           shall take effect on July 1, 2017.