



Legislative Wrap-up for 2020

Overview of Progress and Achievements

1. FY21 Appropriations - Act 154 (H.969)

- The Agency of Human Services (AHS) was directed to allocate \$274.5 million of Corona virus Relief Funds (CRF) for health provider stabilization of which \$3 million was specifically earmarked to Designated and Specialized Services Agencies on top of the existing health provider stabilization program which had an earlier application due date.
- \$525 million was appropriated to the Department of Public Safety for designated agency staff to work in collaboration with State Police in 7 new state police barracks.
- The Committees on Appropriations and House Health Care Committee directed the Agency of Human Services to move forward with the implementation of \$1.5 million tuition assistance and loan repayment program for DA/SSA staff providing mental health and substance use disorder services as previously appropriated.
- Approved the closure of Woodside and required submission of a long-term plan for justice-involved youth for approval by Joint Fiscal Committee – which did occur.
- Provided for level funding of health and human services.

2. Health Care and Human Services Appropriations from the Coronavirus Relief Fund Act 136 (H.965)

- The Act directed the Department of Health to use an existing federal grant to provide subgrants to community organizations to engage with specific populations most likely to experience adverse outcomes from COVID-19 based on factors such as race or ethnicity, immigrant status, sexual orientation, gender identity, disability, age, and geographic location. It also awarded \$.5 million in CRF to the Department of Health for grants to vulnerable populations including older Vermonters, individuals with a disability, and households living below 300 percent of the Federal Poverty Level to cover cleaning supplies, PPE, cash for families with children on 6 years of age; remote learning and employment expenses such as internet; and transportation expenses.

3. CRF Resources for Broadband Connectivity, Housing, and Economic Relief Act 137 (H.966)

- The Act appropriated \$17,433,500 to the COVID-Response Accelerated Broadband Connectivity Program which improve access to telehealth services. It also appropriated \$46,000,000 to the Department of Housing and Community Development and other partners to provide housing grants and assistance to Vermonters affected by the COVID-19 public health emergency and \$16,000,000 to the Department for Children and Families to fund programs and services that support safe, stable housing opportunities for Vermont households experiencing homelessness as a result of the COVID-19.

4. Health Reform – Act 140 (S.160)

- Required the Green Mountain Care Board to Review DA/SSA Fiscal Health
- Established the Mental Health Integration Council to be chaired by the Commissioner of Mental Health and to have representation by Vermont Care Partners
- Called for reports to the Legislature on continued efforts to address quality, fiscal and staffing issues at the Brattleboro Retreat

5. Vermont's Response to COVID-19 - Act 91 (H.742)

- This Act provided administrative and health care provider flexibility in responding to the COVID-19 pandemic including telehealth, flexibilities for licensing,

6. Governmental Structures Protecting the Public Health, Safety and Welfare - Act 166 (S.124)

- The Criminal Justice Council was directed to include membership by the Commissioner of Mental Health, a designated agency mental health crisis worker, and a person will lived-experience of being in mental health crisis to address racism, concerns about the treatment of marginalized populations including those with mental health conditions in the criminal justice system.

Summary of Budget and Policy Legislation

Appropriations

Budget Overview – Act 154 (H.969)

On September 25th, the Legislature approved the fiscal year 2021 budget. It repeals all the appropriations in the original first quarter budget bill. The budget restatement for fiscal year 2021 is for a full year. Although the budget preserves services to vulnerable Vermonters, there are no increases in the base budget. The total budget is \$1 billion over the FY20 budget due to federal one-time corona virus relief funds (CRF). Additionally, there was \$130 million in general funds from tax receipts filed in July which would have normally been filed and used for the previous fiscal year. Due to offsets of federal

funds \$28 million less in general fund was required for the base budget. Plus, the boost in the Medicaid match rate (FMAP) reduced another \$44 million in general fund appropriations.

Mental Health Budget Remains in DMH

The Conference Committee on the budget chose not to move the mental health budget into DVHA as proposed by the House Health Care to unify health care policy.

Corona Virus Relief Funds (CRF)

The Budget Bill appropriated \$223 million in federal Corona virus Relief Fund (CRF), not previously appropriated, which must be expended by the end of the calendar year. If more CRF funds come in or more is unspent the Joint Fiscal Committee will determine how the funds will be spent. The Agency of Human Services (AHS) is directed to allocate \$274.5 million for provider stabilization of which \$3 million is specifically appropriated to Designated and Specialized Services Agencies for expenditures through December 2020. This provision was developed by Representative Mary Hooper.

Sec. B.1121 AGENCY OF HUMAN SERVICES; HEALTH CARE PROVIDER STABILIZATION GRANT PROGRAM

(a) Appropriation. The sum of \$247,500,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Human Services in fiscal year 2021 for purposes of establishing the Health Care Provider Stabilization Grant Program as set forth in this section. The Agency shall disburse these funds to eligible health care provider applicants as expeditiously as possible using a needs-based application process. ()

(d) Specific allocations. Notwithstanding any provisions of this section to the contrary, of the funds appropriated in subsection (a) of this section, the Agency of Human Services shall make the following allocations for the following purposes: ()

(3) Up to \$3,000,000.00 for COVID-19-related expenses incurred by designated and specialized service agencies through December 30, 2020.

Mental Health and Public Safety

The legislature spent considerable time developing the language on mental health and public safety. The idea originated in the Senate Judiciary Committee and received extensive attention by the Appropriations Committees and House Health Care Committee which took extensive testimony. Issues that were debated included: maintaining the funding at the Department of Public Safety; the role of peers and the potential for coercion; and the necessary data collection. The final language follows.

Sec. E.209 PUBLIC SAFETY – STATE POLICE ()

(c)(1) Of this appropriation, \$525,000 is allocated for expanding the capacity of embedded mental health clinicians in barracks through contractual arrangements with local Designated Mental Health Agencies and through a master memorandum of understanding with the Department of Mental Health. This program intends to strengthen partnerships between law enforcement and mental health and social service entities.

(2) The Department of Public Safety shall collaborate with the Department of Mental Health to develop a master memorandum of understanding that supports a unified statewide program that incorporates trauma-informed responses and is developed with the ongoing engagement of stakeholders, including individuals with lived experience of a mental health condition or psychiatric disability, those whose identities cause them to experience additional marginalization, and those with direct experience with families in crisis and domestic violence.

(3) The Department, in partnership with the Designated Agencies, shall provide the following reports: (A) on or before January 15, 2021, to the House Committees on Appropriations, on Judiciary and on

Health Care and to the Senate Committees on Appropriations, on Judiciary, and on Health and Welfare on the implementation status of this program; and

(B) on or before January 15, 2022, to the House Committees on Appropriations, on Judiciary and on Health Care and to the Senate Committees on Appropriations, Judiciary, and on Health and Welfare on:

(i) the impAct of this program in promoting a better understanding, more effective response, and greater public safety in addressing mental health issues;

(ii) the impAct of this program in addressing crisis response to mental health and other public safety emergencies, and

(iii) the impAct of this program on individuals whose mental health issues have led to law enforcement interAction by connecting individuals to ongoing mental health support with the goal of reducing future mental health crises that would require a law enforcement response.

Sec. E.314.2 MENTAL HEALTH CRISIS SERVICES; DATA COLLECTION

(a) The Department of Mental Health, in collaboration with the Director of Racial Equity, the Mental Health Crisis Response Commission, and the Department of Public Safety, shall explore strategies for collecting data related to persons accessing emergency services related to a mental health crisis. The Department shall solicit recommendations from persons with lived experience of a mental health condition or psychiatric disability and members of other impActed communities, including those communities experiencing inequities or marginalization, such as racial discrimination, that expose them to additional risks from unnecessary law enforcement or mental health system interventions.

(b)(1) The Department, in collaboration with the Director of Racial Equity, the Mental Health Crisis Response Commission, and the Department of Public Safety and in consultation with persons with lived experience and members of other impActed communities, shall examine how to collect the following types of data in a manner that comports with the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d-5 and 1320d-6, and ensures best clinical prActice:

(A) the number of 911 calls received by category that are related to an individual's medical condition, mental or emotional condition, developmental or intellectual disability, or substance use, or any combination thereof;

(B) the race of the individuals that are the subject of a 911 call;

(C) the number and race of individuals referred to the Department of Mental Health or arrested for a misdemeanor or felony, or both, or where no subsequent Action was taken;

(D) the number of referrals received by the Department of Mental Health from State law enforcement agencies;

(E) the race of individuals referred to the Department of Mental Health by State law enforcement agencies;

(F) the number of individuals referred to the Department of Mental Health by State law enforcement agencies who are already a client of a designated or specialized service agency; and

(G) the disposition of a referral to the Department of Mental Health, by race, including whether the individual was referred for mental health or substance misuse services, regardless of whether Action was taken by the Department or the individual was referred to another State agency.

(2) The Department shall also examine and make recommendations regarding how to store data securely and make aggregated data available to the public.

(c) On or before September 1, 2021, the Department shall report the recommendations developed pursuant to this section to the House Committee on Health Care and to the Senate Committee on Health and Welfare, including the extent to which the information collected may inform the data available through the dashboard established pursuant to Sec. B.1121(d)(4)(B) of this Act.

Woodside Juvenile Detention Facility

The Appropriations Act language repealed the existing law and closes the Woodside facility permanently effective October 1st. It also required the Administration to submit a long-term plan for residential services and treatment for youths who are in the custody of the Department for Children and Families and those in the custody of the Department of Corrections who had historically been served in Woodside, are adjudicated or charged with a delinquent or criminal Act, and who require secure placement. See the report here: <https://ljfo.vermont.gov/assets/Meetings/Joint-Fiscal-Committee/2020-11-20/13181af890/Report-from-DCF-on-Long-Tem-Plan-for-Justice-Involved-Youth10-29-2020.pdf> The plan was required to compare the expertise and costs of nonprofit versus state operation of facility with a no-reject/no-eject approach. See the cost comparison here: <https://ljfo.vermont.gov/assets/Meetings/Joint-Fiscal-Committee/2020-11-20/02f06d3261/Beckett-State-of-Vermont-Budget-Comparison11-12-2020.pdf>

The Joint Legislative Justice Oversight Committee and the Joint Legislative Child Protection Committee met jointly in mid-November to review the Agency's plan and report to the Joint Fiscal Committee on their recommendation as to whether to approve the Agency's plan. On November 20, 2020, the Joint Fiscal Committee approved their recommendation to have DCF contract with Beckett to develop a new program for justice involved youth. The conditions for DCF are in this memo: <https://ljfo.vermont.gov/assets/Meetings/Joint-Fiscal-Committee/2020-11-20/176a0ea354/Memo-from-JLCPOC-and-JLLJOC.pdf>

Sec. E.316 LONG-TERM PLAN FOR JUSTICE-INVOLVED YOUTHS

(a) Notwithstanding 2020 Acts and Resolves No. 120, Sec. A.29 and 33 V.S.A. §§ 5801 and 5802, on or before October 18, 2020, the Agency of Human services shall permanently cease operations at the Woodside Juvenile Rehabilitation Center facility and discontinue all associated programming and treatment services for youths provided at that facility.

(b) On or before November 1, 2020, the Agency of Human Services shall submit to the Joint Legislative Child Protection Oversight Committee, the Joint Legislative Justice Oversight Committee, the Senate Committee on Judiciary, and the House Committee on Human Services a long-term plan for Vermont youths who are in the custody of the Department for Children and Families, are adjudicated or charged with a delinquent or criminal Act, and who require secure placement (target population). The long-term plan to provide ongoing residential treatment and services to the target population shall: (1) continue to adequately fund alternative programs and placements for the target population, including those programs and placements that currently accept such youths; and (2) provide placements for all youths under 18 years of age who are in the custody of the Department of Corrections and who have historically been placed at Woodside Juvenile Rehabilitation Center instead of a Department of Corrections facility pursuant to the memorandum of understanding between the Department for Children and Families and the Department of Corrections.

(c) On or before November 1, 2020, the Agency of Human Services shall: (1) in consultation with the Joint Fiscal Office, conduct a cost comparison, including available federal matching funds, associated with contracting with a provider of youth treatment and services to operate a youth treatment facility in Vermont with the costs associated with the State operating a similar youth treatment facility, to include: (A) the "no reject/no eject" service capacity need for both the contract service arrangement and the State-operated facility; and (B) an evaluation of any construction and renovation costs necessary for a contracted provider of residential treatment services or the State; (2) evaluate the capacity and expertise of the contracted provider of residential treatment services to successfully operate a program appropriate for the target population, including: (A) conducting a treatment model evaluation; (B) determining whether the model is evidence-based, strength based, trauma informed, and focused on

restorative practices; and (C) evaluating the cultural competency training of staff; and (3) include the results of the cost comparison and capacity and expertise evaluation required by this subsection in its report pursuant to subsection (b) of this section.

(d)(1) On or before November 13, 2020, the Joint Legislative Justice Oversight Committee and the Joint Legislative Child Protection Committee shall: (A) meet jointly to review the Agency's plan pursuant to subsection (b) of this section, including the cost-comparison, capacity, and expertise evaluations required by subsection (c) of this section; and (B) report to the Joint Fiscal Committee on the Committees' joint recommendation on whether to approve the Agency's plan pursuant to subsection (b) of this section. (2) On or before November 20, 2020, the Joint Fiscal Committee shall act on the recommendation.

(e) On or before December 15, 2020, the Agency of Human Services shall report jointly to the Joint Legislative Justice Oversight Committee and the Joint Legislative Child Protection Committee regarding:

- (1) the status of the FY21 appropriation for Woodside including the costs expended to-date for the partial year operation of Woodside;
- (2) the placements and costs projected for the remainder of the fiscal year to support the Agency of Human Services' plan for target population placements, including costs associated with third-party contractors; and
- (3) the status of FY21 funding for target population placements.

Policy Legislation

Health Care and Human Services Appropriations from the Coronavirus Relief Fund Act 136 (H.965)

The Act acknowledged the Department of Mental Health's pending federal grant application for suicide prevention and directed the Department to notify the General Assembly if it does not receive the grant and of any need for and availability of CRF monies for suicide prevention initiatives. The Act appropriated \$200,000.00 for a grant to Pathways Vermont to operate its peer warm line 24 hours per day, seven days per week until December 30, 2020 and to conduct outreach to health care providers and others across Vermont to make them aware of the warm line and encourage them to use it. The Act directed the Department of Health to use an existing federal grant to the greatest extent allowable to provide subgrants to community organizations to engage with specific populations most likely to experience adverse outcomes from COVID-19 based on factors such as race or ethnicity, immigrant status, sexual orientation, gender identity, disability, age, and geographic location. It also appropriated \$500,000.00 to the Department to provide monies to the subgrantees to help them meet the essential needs of members of these populations for food, shelter, health care, and emotional support. The Act directed the Department to seek insights and recommendations from the subgrantees, along with the recommendations from the Governor's Racial Equity Task Force, to enhance and expand upon the Department's previous work in addressing health disparities in Vermont and to consider ways to include members of affected populations in its future work.

COVID-19 Funding and Assistance for Broadband Connectivity, Housing, and Economic Relief Act 137 (H.966)

The Act appropriated \$17,433,500 to the COVID-Response Accelerated Broadband Connectivity Program. This expansion of broadband is to improve access to telehealth services. The Department of Health received \$800,000 for the COVID-Response Telehealth Connectivity Program to be administered by the Vermont Program for Quality in Health Care, Inc. (VPQHC) to support equitable access to telehealth services by providing outreach and educational opportunities that improve digital literacy

skills of patients and providers and also by providing the equipment needed to support telehealth needs during the public health emergency, particularly in areas that are digitally and medically underserved. VPQHC shall make every effort to identify and prioritize assistance to vulnerable and high-risk patients. It also appropriated \$46,000,000 to the Department of Housing and Community Development and other partners to provide housing grants and assistance to Vermonters affected by the COVID-19 public health emergency and \$16,000,000 to the Department for Children and Families to fund programs and services that support safe, stable housing opportunities for Vermont households experiencing homelessness as a result of the COVID-19 public health emergency and related administrative costs.

Miscellaneous Health Care Bill – Act 140 (H.960)

The final health care bill included the Vermont Care Partners request that the Green Mountain Care Board:

Collect and review data from each community mental health and developmental disability agency designated by the Commissioner of Mental Health or of Disabilities, Aging, and Independent Living pursuant to chapter 207 of this title, which may include data regarding a designated or specialized service agency's scope of services, volume, utilization, payer mix, quality, coordination with other aspects of the health care system, and financial condition, including solvency. The Board's processes shall be appropriate to the designated and specialized service agencies' scale and their role in Vermont's health care system, and the Board shall consider ways in which the designated and specialized service agencies can be integrated fully into systemwide payment and delivery system reform.

The Act established a Mental Health Integration Council to help ensure that all sectors of the health care system actively participate in integrating mental health in the health care system as envisioned in the Department of Mental Health 2020 Report, "Vision 2030: A 10-Year Plan for an Integrated and Holistic System of Care." It will have 23 members, including a representative of Vermont Care Partners and will be chaired by the Commissioner of Mental Health or designee, with the Commissioner of Health or designee serving as Vice Chair. A final report will be due to the Legislature by January 15, 2023.

The legislation also set quality oversight measures as conditions of further State funding for the Brattleboro Retreat. DMH is required to report to the Legislature on patient experiences and quality of care at the Brattleboro Retreat. An interim report to the Legislature was due October 1, 2020 describing the steps the Retreat is taking to improve communications and relations with its employees, with a final report due by February 1, 2021.

The Act extends and expands health care-related regulatory flexibility permitted in Act 91 as a result of the COVID-19 pandemic. It required the Department of Financial Regulation to convene a working group to develop recommendations for health insurance and Medicaid coverage of health care services delivered by telephone after the COVID-19 state of emergency ends, with a report due to the legislative committees by December 1, 2020. It also required the Vermont Program for Quality in Health Care, Inc. (VPQHC) to consult with its Statewide Telehealth Workgroup, the Department of Public Service, and organizations representing health care providers and consumers to identify areas of the State with particular broadband needs related to health care and opportunities to use federal funds and other funds to increase access to clinically appropriate telehealth services. (excerpted from legislative summary)

Vermont's Response to COVID-19 - Act 91 (H.742)

This Act provided administrative and health care provider flexibility in responding to the COVID-19 pandemic. It allowed the Agency of Human Services and the Green Mountain Care Board to waive or modify certain regulatory processes and requirements as appropriate to prioritize direct patient care, allow flexible staffing, and preserve provider sustainability. It directs the Department of Financial Regulation to consider adopting emergency rules to expand health insurance coverage for and reduce out-of-pocket costs related to COVID-19 diagnosis, treatment, and prevention; modify or suspend deductible requirements for prescription drugs; and expand access to and reimbursement for health care services delivered remotely. It allowed recently retired Vermont health care professionals and health care professionals licensed in other states to deliver health care services to Vermonters using telehealth, as part of the staff of a licensed facility, or under a temporary license, and provided the Office of Professional Regulation and Board of Medical Practice flexibility to waive certain requirements during a state of emergency. The Act also expands health insurance coverage for telehealth, including requiring coverage for health care services delivered using store-and-forward means and, until January 1, 2026, requiring health insurance plans to reimburse providers the same amount for the same services whether provided in person or through telemedicine. (largely excerpted from Legislative summary)

Justice Reinvestment Act 148 (S.338)

The budget included \$360,000 for Justice Reinvestment II and establishes method to allocate future savings for future investments. This language is complimentary S.338 (Act 148) passed and signed into law this Summer. The Act focused on reducing incarceration and redirecting resources to support these efforts. Specifically, it (excerpt from summary on legislative website):

- Establishes an avenue for certain people to be eligible for parole consideration prior to reaching their minimum sentence; establishes two tiers of presumptive parole to be rolled out over the next 3 years; and sets up a system of administrative review of all presumptive parole cases prior to release.
- Reduces furlough to three types of statuses: Temporary Furlough, Treatment Furlough, and Community Supervision Furlough; repeals reintegration furlough, furlough without approved housing, treatment furlough for low-risk people, and treatment furlough for people with specific DUI convictions; and establishes a review and notification process for furlough revocations.
- Allows incarcerated people to earn 7 days off their minimum sentence for every month they are incarcerated without a major disciplinary rule violation and removes the requirement that a person participate in DOC-recommended programming to earn good time.
- Requires stakeholders to develop recommendations regarding racial and geographic disparities in sentences and report to the standing committees; directs the Parole Board to report to the standing committees on the administrative burden of the new presumptive parole policy and the anticipated change in that burden from expanding presumptive parole eligibility in 2023 to offenders who commit certain listed offenses; tasks the Justice Reinvestment II Working Group with overseeing the implementation of the policies in the Act if federal funding is available and gives the Working Group specific directives to work with the Council of State Governments.

Governmental Structures Protecting the Public Health, Safety and Welfare - Act 166 (S.124)

The Act directed the Criminal Justice Council to include membership by the Commissioner of Mental Health, a mental health crisis worker, and a person with lived experience of being in mental health crisis. The Council is responsible to regulate, set standards and train for law enforcement. The legislation required greater focus on racism and the experience of BIPOC Vermonters. The public hearings on the bill identified concerns about racism and interActions with people with mental health conditions. The intent of the bill is to improve equity within the criminal justice system. The legislation asked the

Council to develop policies on use of body cams, surplus military equipment and facial recognition technology, as well.

Workers Compensation and COVID Act 150 (S342)

The Act presumes that frontline workers are eligible for workers compensation unless the employer can prove through a preponderance of evidence that they became infected outside of the workplace. The employee would be covered by workers compensation if they test positive for COVID-19 any time between April 1, 2020 and January 15, 2021. In addition, the Act required the Commissioner of Financial Regulation to examine the potential to create a special fund to reimburse workers' compensation costs related to COVID-19 and maintains the existing rates of contribution for the Workers' Compensation Administration Fund.