

Legislative Wrap Up 2023 Session

ACCOMPLISHMENTS

BUDGET

1. FY2024 Appropriations Act

Overview: The fiscal year 2024 (FY24) budget as passed by the Legislature has \$8.45 billion in spending, \$193.9 million below the adjusted FY23 budget. Over \$230 million of the funding is one-time general funds (GF). All appropriations and language become effective on July 1, the first day of the fiscal year, unless specified otherwise. The Governor vetoed the bill, but on June 20th the legislature met in a special session to successfully override the veto. In response to a coalition of progressive and democratic legislators' concerns, legislative leaders had met with the Administration and agreed to legislative language to improve the State's response to people losing housing upon the closure of the pandemic federally-funding hotel program. Rather than adjust the budget, H.171, the Adult Protective Services Bill, was amended. (See summary of H.171)

What's important to us: The Budget includes a 5% base increase for developmental services, traumatic brain injury services, and preferred providers for substance use services, effective July 1, 2023, and a 3% base increase for mental health services effective July 1, 2023, plus a 2% base increase for mental health to be distributed as determined by the Agency of Human Services in the annual agreements or appropriate valuation model allocations for providers. Here's the language in the Bill:

Sec. E.300.1 DESIGNATED AND SPECIALIZED SERVICE AGENCIES; INCREASE (a) In fiscal year 2024, the Agency of Human Services shall increase funding to the designated and specialized service agencies in the following manner: (1) A five percent base increase for developmental disability services effective July 1, 2023; and (2) A three percent base increase for mental health services effective July 1, 2023. (A) The remaining mental health service fund increase shall be used to provide payment equity across the provider agencies. These funds shall be distributed as determined by the Agency of Human Services in the annual agreements or appropriate valuation model allocations for providers. The Agency shall report to the General Assembly in the fiscal year 2024 budget adjustment process on the status of these payment changes.

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The rate increase for developmental and mental health services is \$20.7 million in Global Commitment funds. The rate increase for all preferred providers is \$1.25 million in Global Commitment funds. There are also rate increases for PNMI facilities and recovery centers. Unfortunately, Choices for Care did not receive a 5% rate increase.

Impact and Follow-up: Vermont Care Partners is negotiating with the Agency of Human Services (AHS) and Departments of Mental Health (DMH) and Disability Aging and Independent Living (DAAIL) on the allocation of the 5% rate increase through the designated and specialized service agencies (DA/SSAs) provider agreements.

What's important to us: The Legislature passed \$3 million GF for workforce development for DA/SSAs which could increase if Global Commitment funds can be accessed as match. Vermont Care Partners requested this funding to continue our tuition assistance and loan repayment program and expand it to all employees.

(4) In fiscal year 2024, the amount of \$3,000,000 is appropriated from the General Fund to the Department of Mental Health to address workforce needs at the designated and specialized service agencies. These funds shall not be released until a plan to meet training and retention is mutually agreed upon by the Department of Disabilities, Aging, and Independent Living and the designated and specialized service agencies and approved by the General Assembly or the Joint Fiscal Committee if the legislature is not in session. All or a portion of these funds may be used as matching funds to the Agency of Human Services Global Commitment program to provide State match if any part of the plan is eligible to draw federal funds. It is the intent of the General Assembly to maximize the value of this one-time funding through eligible Global Commitment investment.

Impact and Follow-up: This language requires us to work with state government to develop a plan and then receive approval by the legislature or the Joint Fiscal Committee to proceed with the program. VCP has proposed replicating of the current VCP administered program expanded to all DA/SSA staff. DMH is seeking approval of the proposal by AHS and then the Joint Fiscal Committee. The Agency of Human Services matched the \$3 million with federal funds to secure \$6.9 million for the program which was approved by the Joint Fiscal Committee in September.

What's Important to us: The bill includes \$1 million to Vermont Student Assistance Corporation (VSAC) to establish a Psychiatric Mental Health Nurse Practitioner Forgivable Loan Incentive Program to provide forgivable loans to students enrolled in a master's program at an eligible school who commit to working as a psychiatric mental health nurse practitioner in Vermont. Additionally, it appropriates \$170,000 to the AHS to provide one additional year of funding for

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three-year limited-service Health Care Workforce Coordinator position created in the Agency of Human Services.

Impact and Follow-up: It is hoped that this funding will strengthen the workforce.

What's important to us: The budget bill adds five quality reviewers at DAIL, one at DMH and one at AHS.

Sec. E.333 DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT LIVING; QUALITY AND PROGRAM PARTICIPANT SPECIALIST POSITIONS (a) The five Department of Disabilities, Aging, and Independent Living Quality and Program Participant Specialist positions created in Sec. E.100 of this act shall be dedicated exclusively to the Developmental Disabilities Services division of the Department to ensure that quality oversight on-site visits for designated and specialized service agencies are performed at least annually and that Home and Community Based Services quality standards are implemented.

Impact and Follow-up: The legislative intent is to have on-site quality reviews at every developmental disability program annually.

What's important to us: DAIL is required to report to the Governor and Committees of jurisdiction regarding the implementation of the System of care plan and the extent to which the principles or service are achieved, any unmet service needs, and the number of people on wait lists for developmental services. (Section E.329)

Impact and Follow-up: This language ensures accountability and transparency.

What's important to us: The Budget includes over \$20 million in one-time funds for a two-year pilot that expands the Blueprint for Health during FY2023 and FY2024. (Sec. B.1100) It is an expansion of substance use and mental health using the hub and spoke model, including pediatric screenings and makes strategic investments with community partners.

Impact and Follow-up: It is likely that these programs will expand referrals to DA/SSAs for outpatient mental health and substance use services. There may also be increased competition for the workforce. It will be important for Agencies to collaborate with the pilots at the local level to ensure continuity of care for the people served.

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What's important to us: This language was added to the budget bill at the last minute when it became apparent that separate legislation on Independent School was not going to make it to the finish line.

Sec. E.511.1 MORATORIUM ON APPROVAL OF NEW APPROVED 16 INDEPENDENT SCHOOLS (a) Notwithstanding any provision of law to the contrary, the State Board of Education shall be prohibited from approving an application for initial approval of an approved independent school until further direction by the General Assembly.

Impact and Follow-up: The language effectively prevents the development of new therapeutic schools. Senator Brian Campion, Chair of Senate Education, informed VCP that the hesitation to make a carveout had to do with the federal Carson v Macon decision. Carving out specific types of therapeutic schools could make the State vulnerable to lawsuits that the state was not treating different types of independently schools equally, thus forcing them to lift the moratorium on religious schools that employ discriminatory practices.

Impacts and follow up: The Legislature will be monitoring the impact of this moratorium and assessing its impact and will be very interested to understand if there are barriers to current therapeutic schools expanding their capacity under this moratorium. VCP will work with CYFS Directors and therapeutic school directors to share this information with legislators.

What's Important to us: The budget includes substantial resources for housing including \$40 million for the Vermont Housing and Conservation Board (VHCB) of which \$10 million is for emergency shelter and housing for people who are unhoused. There is also \$10 million for Vermont Housing Improvement Program (VHIP). DCF has \$26.4 million for general assistance emergency housing program and \$10 million for rental deposits campsite fees and equipment, furniture and appliances, car repairs, transportation, and relocation costs.

Impact and Follow-up: These will be important resources to support people exiting the hotel programs and to prevent other people we serve from losing their housing. Housing advocates will work on legislation to improve rental protections, establish a housing ombudsman and a homeless bill of rights during the second half of the biennium.

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POLICY

H.171/Act 81, an Act Relating to Adult Protective Services – no legislative summary yet

Overview:

- A. The bill was developed by DAIL to update the adult protective services statute for vulnerable adults. An important amendment to the bill passed during the special session. It clarifies the definitions of abuse, neglect, and vulnerable adults and eliminates mandatory reporting of unintended errors. The bill, as passed, also has a less expansive definition of a vulnerable adult.
- B. During the June 20th Special Session, the bill was amended to strengthen support for individuals served in the special pandemic hotel voucher program. It extends the program to April 1, 2024, initiates formal legislative oversight during the transition process through the Joint Fiscal Committee, and enables greater flexibility of state funds to achieve the goals. Everyone in the program is required to seek alternative housing, participate in coordinated entry and case management, and accept any housing alternative offered to them within 48 hours to remain in the program. The amendment sets a goal of reducing the negotiated payments rates to hotels by 50% and requires program participants to begin contributing 30% of their income for the rooms. The language covers all people residing in hotels as of June 30, 2023, but does not extend to people who become homeless later. Finally, the amendment specifies funding for investments in housing development and repair for the population served.

What's important to us:

- A. There are important updates to the definition of abuse that are quite comprehensive in the bill which was developed by DAIL. The definition would have included “negligence” and required mandated reporters to report on errors as instances of abuse and neglect. VCP worked with other health providers to have this eliminated.
- B. DA/SSAs have a significant role in collaborating with the state and community partners in supporting individuals served in the emergency housing program, including their transition to permanent housing.

Impact and Follow-up:

- A. DAIL will update the adult protective services rules and communicate the new reporting standards.
- B. DAs have required responsibilities set out in the provider agreement with AHS for supporting individuals in the hotel voucher program. All agencies are providing support on an ongoing basis.

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S.47/Act 25 An Act relating to the transport of individuals requiring psychiatric care – [Legislative Summary](#)

Overview: This act updates the warrant statutes and came as the result of a VCP workgroup spearheaded by Emergency Services Directors, seeking to update the warrant statute to clarify practices in the field.

What's important to us: It ensures that Qualified Mental Health Professionals [QMHP] are not responsible for taking people into custody and cannot be ordered by judges to transport people under a warrant. Whereas previously, Emergency Services staff could use a reliable report as grounds to write a warrant, witnesses will now have to sign a sworn statement if they were the only party who witnessed a person's behavior that makes the person subject to the warrant. DMH will be convening a workgroup to further revise the statute and to understand the impact of the signed statement procedure on safety and access to care.

Impacts and follow-up: DMH staff will be meeting with Emergency Services Directors to work through the next steps regarding the implementation of the signed statement procedure and the workgroup. The workgroup may come back to the Legislature next year with some further proposed changes to the statute.

H.282/Act 37 An act relating to the Psychological Interjurisdictional Compact – [Act Summary](#)

Overview: This act, "*Psychpact*", adopts the Psychology Interjurisdictional Compact in Vermont, effective on July 1, 2024. The Compact allows doctoral level psychologists to practice telepsychology and temporary in-person psychology in other Compact states in which the psychologist does not hold a professional license.

What's important to us: It expands the market of professionals and extends geographic limits for Vermont practitioners.

Impact and Follow-up: It will be key for VCP Clinical Directors and HR Directors to assess the impact of joining these compacts on the recruitment and retention of clinical staff.

H.62/Act 34 Interstate Counseling Compact – [Act Summary](#)

Overview: Vermont joins the Psychological Interjurisdictional Compact and the Interstate Counseling Compact, allowing greater portability of two types of professionals with mental health licenses into the state: psychologists, and licensed clinical mental health counselors

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What's important to us: It expands the market of professionals and extends geographic limits for Vermont practitioners.

Impacts and follow-up: It will be key for VCP Clinical Directors and HR Directors to assess the impact of joining these compacts on the recruitment and retention of clinical staff.

S.91/Act 28, An act relating to competency to stand trial and insanity as a defense – [Act Summary](#)

Overview: This bill separates competency and sanity evaluations, adds psychologist as professionals eligible to conduct these evaluations and a requires consideration of adding more types of mental health professionals eligible to conduct these evaluations, and requires a report on developing a competency restoration program in Vermont.

What's important to us: VCP and DA/SSAs will not be directly involved in the processes but the end result may improve the expediency of the processes which is now backlogged.

Impacts and follow-up: DMH believes that separating these evaluations will allow for quicker access to evaluations. Medical Director Group Chair Dr. Simha Ravven of the Howard Center has been a leading advocate for a competency restoration program for Vermont and will likely have a hand in fashioning the legislative report and advocacy that follows.

H.481 /Act 56, An Act Related to Public Health Initiatives to Address Death by Suicide – [Act Summary](#)

Overview: The intention of this bill is to codify the role of the Director of Suicide Prevention in state law, and to clarify expectations and accountability for the Suicide Prevention Plan.

What's important to us: Of note, this act requires the Director of Suicide Prevention to develop and submit a model protocol for schools on suicide prevention, education, and postvention services. It also requires the Director of Suicide Prevention, in collaboration with the Agency of Human Services and other stakeholders, to develop and submit a model protocol for health care facilities regarding suicide prevention and postvention services.

Impacts and follow up: It will be important for VCP to stay in close contact with the Department of Mental Health and The Agency of Education to ensure understanding of school-based suicide screening, education and postvention. The Department of Mental Health's Suicide Prevention

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Director has recently visited all VCP Director Groups. It will be important to have a strong stakeholder presence as the model protocol is developed.

S.138 /Act 29, Maintaining safety of independent schools – [Act Summary](#)

Overview: This bill sets requirements for approved independent schools on options-based response drills, emergency operation plans, visitor and access policies, and behavioral threat assessment teams. For schools who do not already have a behavioral threat assessment team, these are required by July 1, 2025.

What's important to us: VCP provided input on the language in the emergency operations plan softening the role of law enforcement. This was not accepted. We also suggested adjustments to the source of bias trainings for behavioral threat assessment teams. The bill was adjusted to require the Agency of Education and the Department of Public Safety to provide guidance in this area to schools, in consultation with the Office of Racial Equity.

Impacts and follow up: In final testimony, it became clear that there was a stakeholder group who had been working together on the bill language on behavioral threat assessment teams and a Working Group to protect students from harassment and discrimination. This summer, VCP will be meeting with Rachel Seelig from the Disability Law Project who has a key advocacy role in these groups to ensure that the therapeutic school perspective is heard.

H.230/Act 45, An act relating to implementing mechanisms to reduce suicide and community violence – [Act Summary](#)

Overview: This act contains several provisions related to reducing suicide by firearms and to reducing community violence.

What's important to us: The Legislature heard a lot of testimony about what works for suicide prevention and focused efforts on safe gun storage, expanding who can apply for extreme risk protection orders to family and household members, and establishing a 72-hour waiting period for the transfer of firearms.

Impacts and follow-up: It's possible that our Emergency Services programs will be able to educate and support family members on the use of Extreme Risk Protection Orders. They Programs may want to follow up with local law enforcement,

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S.36/Act 24, An act relating to crimes against health care workers at hospitals and against emergency medical treatment providers – [Act Summary](#)

Overview: This bill was developed by the Vermont Association of Hospitals and Health Systems (VAHHS) to address workplace violence, particularly in emergency departments. It allows for and defines conditions for warrantless arrests in hospitals and during emergency medical treatment (EMT) interventions.

What's important to us: VCP wanted to ensure that people in psychiatric crisis will not experience increased risk of warrantless arrest when they need treatment. This concern was heard and in the end the bill forbids arrests if a person is not stabilized, has not yet been evaluated or is awaiting transport for health care.

Impacts and Follow-up: VPQHC will work with stakeholders regarding adequate training including de-escalation practices, sufficient staffing levels, ongoing assessment of visitors and patients for aggressive behavior, adapting care interventions and environments, and whether certain populations are disproportionately impacted. The Department of Public Safety will report on statutory changes needed to collect data on responses and arrests.

S.89/Act 27, An act relating to establishing a Forensic Facility – [Bill Summary](#)

Overview: This bill establishes a forensic facility within a 9-bed wing of VT Psychiatric Care Hospital to open July of 2024 for people who have committed a violent crime and been determined incompetent to stand trial or adjudicated not guilty by reason of insanity.

What's Important to us: The facility creates a needed resource for the continuum of residential services for individuals with mental health conditions. The facility originally was going to be available for people with I/DD but concerns about using an “institutional” environment for this population were raised.

Impacts and Follow-up: A Working Group addressing individuals with I/DD who are criminal justice involved is tasked with assessing whether a forensic level of care is needed for people who are committed to the custody of the Commissioner of DAIL and at risk of violence. Both VCP and VCIN will have representation. The Working Group is required to submit a report containing proposed legislation by December 1, 2023.

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S. 100/Act 47 An act relating to housing opportunities made for everyone – [Act Summary](#)

Overview: This expansive legislation, also known as the HOME (Housing Opportunities Made for Everyone), makes modest reforms to zoning and Act 250, and establishes resources to expand and improve housing resources.

What's important to us: Included in the bill is the Vermont Rental Housing Improvement Program which may enable DA/SSAs to work with shared living providers to access funds to meet DAIL health, safety and accessibility requirements; the new CMS settings rule; and reduce homelessness and destabilization currently being experienced by people with disabilities. The testimony by the Vermont Developmental Disabilities Council and VCP led to the addition of improving accessibility to access the grant and loan funds. Additionally, the bill eliminates restrictions on establishing accessory units by single family homeowners.

Impacts and Follow-up: Once the Department of Housing and Community Development establish the program private landlords will be able to access the funds from statewide or regional nonprofit housing organizations. There will be fewer barriers to setting up Echo housing units for people with disabilities.

S.9 An Act relating to the authority of the State Auditor to examine the books and records of State contractors. This legislation was not passed.

Overview: If passed, this bill would enable the State Auditor to have full access to the books and records of all contractors with state government.

What's important to us: It would add yet another, potential oversight process of DA/SSAs. A previous study by the State Auditor on the oversight of DA/SSAs by DMH and DAIL was problematic because the complexity of the funding was not well understood by the State Auditor's Office.

Impacts and Follow-up: The bill passed the Senate during the first biennium. VCP teamed with health care providers to express concerns leading the House Government Operations Committee not moving forward with it. It is likely that the State Auditor will press to have the bill move forward in the second half of the biennium.

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