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H.211

Introduced by Representatives Killacky of South Burlington, Noyes of
Wolcott, Durfee of Shaftsbury, Houghton of Essex, Page of
Newport City, Stevens of Waterbury, Townsend of South
Burlington, Walz of Barre City, and Wood of Waterbury

Referred to Committee on

Date:

Subject: Human services; housing; substance use disorder; recovery residences

Statement of purpose of bill as introduced: This bill proposes to: (1) provide
certain residential rental agreement exclusions to recovery residences;
(2) require that recovery residences have certain policies and procedures
pertaining to residential agreements, temporary removal, separation, and drug
testing; (3) require a municipality to treat a recovery residence as a single-
family residential home under its land use bylaws; (4) require the Department
of Corrections to submit a report to the General Assembly pertaining to the
number of individuals on furlough who reside in recovery residences; and
(5) establishes the Recovery Stabilization Study Committee.

An act relating to recovery residences

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

2 Sec. 1. LEGISLATIVE INTENT

3 It is the intent of the General Assembly:

4 (1) to support individuals with substance use disorder who are in
5 recovery;

6 (2) to reduce homelessness, trafficking, incarceration, and fatal drug
7 overdoses caused by the disease; and

8 (3) that any exceptions made to existing landlord and tenant
9 relationships in this act are limited solely to recovery residences operating
10 pursuant to this act, as these exceptions are intended to enable the expansion of
11 recovery residences throughout the State and ensure their accessibility to
12 individuals recovering from a substance use disorder.

13 Sec. 2. 18 V.S.A. § 4812 is added to read:

14 § 4812. RECOVERY RESIDENCES

15 (a) Definitions.

16 (1) As used in this section, “recovery residence” means a shared living
17 residence supporting persons recovering from a substance use disorder that:

18 (A) Provides tenants with peer support, an environment that prohibits
19 the use of alcohol and the illegal use of prescription drugs or other illegal
20 substances, and provides assistance accessing support services and community
21 resources available to persons recovering from substance use disorders.

1 (B) Is certified by an organization that is a Vermont affiliate of the
2 National Alliance for Recovery Residences or obtains a preliminary
3 certification within 45 days of operation and adheres to the national standards
4 established by the Alliance or its successor in interest, including duty of care
5 standards. If there is no successor in interest, the Department of Health shall
6 designate a certifying organization to uphold appropriate standards for
7 recovery housing.

8 (2) As used in this section, “the illegal use of prescription drugs” refers
9 to the use of prescription drugs by a person who does not hold a valid
10 prescription for that drug or in an amount that exceeds the dosing instructions.

11 (b) Voluntary arrangement.

12 (1) The decision to live in a recovery residence shall be voluntary and
13 shall not be required or mandated by any private or public entity or individual.

14 (2) The State shall not subject any individual to incarceration, penalty,
15 or sanction based solely on temporary removal or termination from a recovery
16 residence. This subdivision shall not limit the ability of the Department of
17 Corrections to incarcerate an individual based on criminal activity or a
18 substantial threat to public safety. If a tenant who is subject to temporary
19 removal or termination from a recovery residence is at immediate risk of
20 significant harm, the Department of Corrections shall use its best efforts to

1 transition the tenant from the recovery residence directly to another safe
2 community setting and shall incarcerate the tenant only as a last resort.

3 (c) Terms of residency; compliance.

4 (1) Landlord and tenant relationship. A recovery residence and a tenant
5 have a landlord and tenant relationship that is subject to 9 V.S.A. chapter 137,
6 except as otherwise provided in subdivisions (3)–(4) of this subsection.

7 (2) Residential rental agreement.

8 (A) A recovery residence and a tenant shall execute a written rental
9 agreement that includes:

10 (i) the policies and procedures governing the tenancy;

11 (ii) a statement that the recovery residence and the tenant will
12 comply with the policies and procedures;

13 (iii) the consequences of noncompliance;

14 (iv) the identification of a verified location where the tenant may
15 be housed in the event of temporary removal, including at least one alternative

16 housing option;

17 (v) payment requirements;

18 (vi) notice requirements and procedure for terminating the
19 tenancy;

1 (vii) the contact information for a tenant’s probation or parole
2 officer if the tenant is on furlough or parole from the Department of
3 Corrections; and

4 (viii) any other provisions to which the parties agree.

5 (B) The parties may amend a rental agreement in a written record
6 signed by the parties.

7 (C) A tenant may have a support person present when negotiating
8 and executing a rental agreement or amendment.

9 (3) Temporary removal.

10 (A) A recovery residence shall adopt policies and procedures that
11 govern the temporary removal of a tenant. A recovery residence may
12 temporarily remove a tenant who is currently intoxicated and who is creating a
13 risk for other tenants by using alcohol or illegal substances; engaging in the
14 illegal use of prescription drugs; or engaging in violent, sexually harassing, or
15 threatening behavior.

16 (i) Minimally, a recovery residence’s temporary removal policy
17 shall:

18 (I) provide written notice of the reason for temporary removal
19 and of the actions the tentant must take to avoid temporary removal or to be
20 readmitted after temporary removal;

1 (II) design and implement harm reduction strategies for a
2 tenant who is temporarily removed, which may include distribution of
3 naloxone to the tenant upon temporary removal or other strategies more
4 appropriate to the tenant’s recovery needs; and

5 (III) take action that is consistent with the tenant’s most recent
6 reoccurrence agreement to the extent possible, or if the reoccurrence agreement
7 is not actionable, help connect the tenant with community resources that may
8 include access to medical care, access to inpatient treatment, and services
9 provided by a local public inebriate program, homeless shelter, or recovery
10 center. Failure of a recovery residence to connect a tenant with one or more of
11 these community resources may result in rescission of certification.

12 (ii) A recovery residence shall not temporarily remove a tenant
13 based on the tenant receiving medication-assisted treatment, as defined in
14 section 4750 of this title.

15 (B) Notwithstanding 9 V.S.A. §§ 4463 and 4464, a recovery
16 residence that complies with the policies and procedures adopted pursuant to
17 this subdivision (c)(3) may temporarily deny a tenant access to the recovery
18 residence but shall allow a tenant to take essential medication and personal
19 property, such as clothing, money, telephone or related device, or any other
20 item the tenant deems necessary for safety when leaving the residence. The

1 recovery residence shall ensure safekeeping of property left at the recovery
2 residence during the temporary removal.

3 (4) Termination of tenancy.

4 (A) A recovery residence shall adopt policies and procedures that
5 govern the termination of tenancy of a tenant who violates one or more
6 provisions of the rental agreement, consistent with the following:

7 (i) A recovery residence shall:

8 (I) provide written notice of its intent to terminate the tenancy
9 that includes the reason for termination and the actions the tenant must take to
10 avoid removal;

11 (II) design and implement harm reduction strategies for a
12 tenant whose tenancy is terminated, which may include distribution of
13 naloxone to the tenant upon removal or other strategies more appropriate to the
14 tenant's recovery needs; and

15 (III) adopt a review process under which:

16 (aa) a person other than the original decision maker or a
17 subordinate of the original decision maker, which may include a Vermont
18 affiliate of the National Alliance for Recovery Residences, reviews the
19 decision to terminate the tenancy;

20 (bb) the tenant has a meaningful opportunity to present
21 evidence why the tenant should not be removed; and

1 (cc) the tenant receives prompt written notice of a final
2 decision.

3 (ii) A recovery residence shall not:

4 (I) terminate a tenancy because a tenant uses alcohol or illegal
5 substances or engages in the illegal use of prescription drugs unless:

6 (aa) the tenant fails to take the actions required to avoid
7 temporary removal or to be readmitted after temporary removal; and

8 (bb) the recovery residence has contemporary drug test
9 results verified by a laboratory approved by the State; or

10 (II) terminate a tenancy based on the tenant receiving
11 medication-assisted treatment, as defined in section 4750 of this title.

12 (B) Notwithstanding 9 V.S.A. §§ 4467 and 4468, a recovery
13 residence that complies with the policies and procedures adopted pursuant to
14 this subdivision (c)(4) may terminate the tenancy of a tenant pursuant to the
15 notice requirements and procedure for terminating the tenancy provided in the
16 rental agreement.

17 (d) Drug testing. A recovery residence shall adopt policies and procedures
18 that govern drug testing of tenants and shall apply the policies and testing
19 procedures fairly among tenants.

20 (e) Future services. A recovery residence shall not deny future services to
21 a tenant who has been either temporarily removed from a recovery residence or

1 whose tenancy has been terminated, based solely on the tenant's use of alcohol
2 or illegal substances or the illegal use of prescription drugs.

3 Sec. 3. 24 V.S.A. § 4412 is amended to read:

4 § 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

5 Notwithstanding any existing bylaw, the following land development
6 provisions shall apply in every municipality:

7 (1) Equal treatment of housing and required provisions for affordable
8 housing.

9 * * *

10 (G) A residential care home or group home to be operated under
11 State licensing or registration, serving not more than eight persons who have a
12 disability as defined in 9 V.S.A. § 4501, and a recovery residence as defined in
13 18 V.S.A. § 4812, serving not more than eight persons, shall be considered by
14 right to constitute a permitted single-family residential use of property. This
15 subdivision (G) does not require a municipality to allow a greater number of
16 residential care homes or group homes on a lot than the number of single-
17 family dwellings allowed on the lot.

18 * * *

19 Sec. 4. REPORT; RECOVERY RESIDENCE; FURLOUGH

20 On or before January 1, 2022 and annually thereafter through January 1,
21 2025, the Department of Corrections, in collaboration with the Vermont

1 Alliance for Recovery Residences, shall submit a report to the House
2 Committees on General, Housing, and Military Affairs, on Corrections and
3 Institutions, and on Human Services and to the Senate Committees on
4 Economic Development, Housing and General Affairs, on Health and Welfare,
5 and on Judiciary containing:

6 (1) the number of individuals on furlough who reside in recovery
7 residences as defined in 18 V.S.A. § 4812 during the preceding year;

8 (2) the number of individuals who have violated the conditions of their
9 furlough and were removed from their recovery residence and returned to
10 prison, including the action that caused the Department to find the individual
11 violated furlough; and

12 (3) data regarding the Department's efforts to transition each tenant
13 from a recovery residence directly to another community setting and thereby
14 incarcerating the tenant for lack of residence only as a last resort.

15 Sec. 5. RECOVERY STABILIZATION STUDY COMMITTEE

16 (a) Creation. There is created the Recovery Stabilization Study
17 Committee to monitor statewide access to recovery stabilization programs
18 that provide vulnerable persons with substance use disorders continuous
19 access to safe housing, including:

20 (1) during periods of instability associated with substance use; and

1 (2) following a temporary or permanent removal from a recovery
2 residence pursuant to 18 V.S.A. § 4812.

3 (b) Membership. The Study Committee shall be composed of the
4 following members:

5 (1) the Commissioner of Health or designee, who shall serve as chair;

6 (2) the Commissioner of Mental Health or designee;

7 (3) the Commissioner of Corrections or designee;

8 (4) one current member of the House of Representatives, serving on
9 either the Committee on General, Housing, and Military Affairs or on the
10 Committee on Human Services, who shall be appointed by the Speaker of the
11 House;

12 (5) one current member of the Senate, serving on either the Committee
13 on Economic Development, Housing and General Affairs or on the
14 Committee on Health and Welfare, who shall be appointed by the Committee
15 on Committees;

16 (6) a representative, who shall be appointed by the Vermont Alliance
17 of Recovery Residences;

18 (7) a representative, who shall be appointed by Vermont Legal Aid;

19 (8) a representative, who shall be appointed by Vermonters for
20 Criminal Justice Reform; and

21 (9) any other stakeholders who the chair deems appropriate.

1 (c) Powers and duties. The Study Committee shall study recovery
2 stabilization programming, including:

3 (1) access to current recovery stabilization programs in Vermont,
4 including any gaps in services;

5 (2) recovery stabilization models used successfully in other
6 jurisdictions to enable participants to find employment or attend school,
7 move into independent housing, and avoid relapse and those models'
8 applicability in Vermont; and

9 (3) recommendations for a more integrated system of recovery
10 stabilization programs.

11 (d) Assistance. The Study Committee shall have the administrative,
12 technical, and legal assistance of the Department of Health.

13 (e) Report. On or before December 1, 2021, the Study Committee shall
14 submit a written report to House Committees on General, Housing, and
15 Military Affairs and on Human Services and to the Senate Committees on
16 Economic Development, Housing and General Affairs and on Health and
17 Welfare with its findings and any recommendations for legislative action.

18 (f) Meetings.

19 (1) The Commissioner of Health or designee shall call the first meeting
20 of the Study Committee to occur on or before July 15, 2021.

21 (2) A majority of the membership shall constitute a quorum.

1 (3) The Study Committee shall cease to exist on December 15, 2021.

2 (g) Compensation and reimbursement.

3 (1) For attendance at meetings during adjournment of the General
4 Assembly, a legislative member of the Study Committee serving in his or her
5 capacity as a legislator shall be entitled to per diem compensation and
6 reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than four
7 meetings. These payments shall be made from monies appropriated to the
8 General Assembly.

9 (2) Other members of the Study Committee shall be entitled to per
10 diem compensation and reimbursement of expenses as permitted under
11 32 V.S.A. § 1010 for not more than four meetings. These payments shall be
12 made from monies appropriated to the Department of Health.

13 Sec. 6. EFFECTIVE DATE

14 This act shall take effect on July 1, 2021.