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H.783

Introduced by Representatives Killacky of South Burlington, O’Sullivan of Burlington, Austin of Colchester, Birong of Vergennes, Chase of Colchester, Christie of Hartford, Coffey of Guilford, Colburn of Burlington, Cordes of Lincoln, Gardner of Richmond, Gonzalez of Winooski, Hooper of Burlington, Houghton of Essex, Kornheiser of Brattleboro, LaLonde of South Burlington, Marcotte of Coventry, Page of Newport City, Rachelson of Burlington, Redmond of Essex, Stevens of Waterbury, Townsend of South Burlington, Troiano of Stannard, Walz of Barre City, White of Hartford, and Wood of Waterbury

Referred to Committee on

Date:

Subject: Health; substance use disorder; recovery residence

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; and (3) require a municipality to treat a recovery residence as a single-family residential home under its land use bylaws.

1 An act relating to recovery residences

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

3 Sec. 1. 9 V.S.A. § 4452 is amended to read:

4 § 4452. EXCLUSIONS

5 (a) Unless created to avoid the application of this chapter, this chapter does
6 not apply to any of the following:

7 * * *

8 (b) Sections 4467 and 4468 of this chapter shall not apply to a recovery
9 residence as defined in 18 V.S.A. § 4812. All other sections of this chapter
10 shall apply to a recovery residence except that subsection 4461(c) shall require
11 a written statement itemizing any deductions from the return of a security
12 deposit within seven days rather than 14 days.

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

14 § 4812. RECOVERY RESIDENCES

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

18 (1) provides residents with peer support, an environment free from
19 alcohol, the illegal use of prescription drugs or other illegal substances, and
20 assistance accessing support services and community resources available to
21 persons recovering from substance use disorder;

1 (2) has received accreditation through the Department of Health's
2 certification process; and

3 (3) is in compliance with 9 V.S.A. § 4503, which prohibits
4 discrimination on the basis of disability, among other protected classifications,
5 including in this case the termination of participation on the basis of a
6 resident's valid prescription, including a prescription used in the course of
7 medication-assisted treatment as defined in section 4750 of this title.

8 (b) Voluntary arrangement. The decision to live in a recovery residence
9 shall be voluntary and shall not be required or mandated by any private or
10 public entity or individual. The State shall not subject any individual to
11 incarceration, penalty, or sanction based solely on temporary removal or
12 separation from a recovery residence.

13 (c) Accreditation. The Department of Health may accredit recovery
14 residences exempted from 9 V.S.A. chapter 137 as long as the recovery
15 residences comply with the following provisions and any rules adopted by the
16 Department:

17 (1) Residential agreement. Upon admission to a recovery residence, the
18 operator of the residence and the resident, with or without a support person
19 present, shall develop a written agreement, signed by both parties, which may
20 be amended as deemed necessary and appropriate by the parties, and which
21 includes, at a minimum the following terms:

1 (A) the recovery residence’s rules, a statement that the signatories
2 shall comply with the rules, and an explanation of the consequences of not
3 complying with the rules;

4 (B) provisions covering the action that shall be taken should the
5 resident return to the use of alcohol, illegal substances, or the illegal use of
6 prescription drugs, including where the resident shall be housed in the event of
7 a reoccurrence;

8 (C) payment requirements, including any security deposit, advance,
9 deposit, or prepaid rent, however named, and any policy regarding their return;
10 and

11 (D) any requirements regarding advance notice of intention to leave
12 the residence.

13 (2) Temporary removal. A recovery residence shall develop policies
14 and procedures for the removal of residents who are under the influence of
15 alcohol, illegal substances, or the illegal use of prescription drugs or who have
16 been engaging in violent or threatening behavior. The policies shall:

17 (A) provide written notice of the reason for temporary removal and
18 actions the residents shall take to avoid or to be readmitted after temporary
19 removal;

20 (B) provide harm reduction strategies; and

1 (C) require that any action taken be consistent with the terms of the
2 resident's most recent reoccurrence agreement unless that is not possible.

3 (3) Separation. The recovery residence shall have policies and
4 procedures for safe removal and permanent separation of residents for
5 violation of the policies of the recovery residence. The policies shall provide
6 that:

7 (A) the separation process shall not commence for use of alcohol,
8 illegal substances, or the illegal use of prescription drugs unless:

9 (i) the resident failed to accomplish the steps required by the
10 temporary removal; and

11 (ii) the operator has contemporary drug test results that have been
12 verified by a laboratory approved by the State;

13 (B) written notice of the intent to separate include the reason for
14 removal and separation and actions required by the resident for the resident to
15 avoid removal;

16 (C) an internal review process include:

17 (i) that the decision to remove be reviewed by a person other than
18 the original decisionmaker or a subordinate of the original decisionmaker,
19 which could be a representative of the entity that certified the recovery
20 residence;

1 (ii) an opportunity for the resident to present evidence as to why
2 the resident should not be removed; and

3 (iii) for prompt written notice of a final decision.

4 (D) return of the security deposit and pro rata share of unused rent
5 within seven days, unless the operator documents within that time period that
6 the resident damaged property beyond normal wear and tear or failed to
7 provide the advanced notice of resident's departure; and

8 (E) the resident is not precluded from future services solely based on
9 reoccurrence.

10 (4) Drug testing. A recovery residence shall have policies to ensure
11 that:

12 (A) drug testing is fairly implemented to ensure that a resident is not
13 targeted for testing without a substantial reason to believe that the resident is
14 using alcohol, illegal substances, or illegally using prescription drugs; and

15 (B) use of buprenorphine and similar substances shall not subject a
16 resident to removal if the resident has communicated that it is part of a
17 recovery effort and agreed to reasonable steps to obtain a prescription.

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

19 § 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

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

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

3 * * *

4 (G) A residential care home or group home to be operated under
5 State licensing or registration, serving not more than eight persons who have a
6 disability as defined in 9 V.S.A. § 4501, shall be considered by right to
7 constitute a permitted single-family residential use of property. This
8 subdivision (G) does not require a municipality to allow a greater number of
9 residential care homes or group homes on a lot than the number of single-
10 family dwellings allowed on the lot.

11 (H) Notwithstanding subdivision (G) of this subdivision (1), a
12 recovery residence shall be considered by right to constitute a permitted single-
13 family residential use of property regardless of its proximity to another existing
14 or permitted home. As used in this subdivision (H), “recovery residence”
15 means the same as in 18 V.S.A. § 4812.

16 * * *

17 Sec. 4. EFFECTIVE DATE

18 This act shall take effect on July 1, 2020.