

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 89
3 entitled “An act relating to establishing a forensic facility” respectfully reports
4 that it has considered the same and recommends that the House propose to the
5 Senate that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

7 Sec. 1. LEGISLATIVE INTENT

8 It is the intent of the General Assembly that an initial forensic facility be
9 authorized and operational beginning on July 1, 2024 in the nine-bed unit of
10 the current Vermont Psychiatric Care Hospital. This unit shall be relicensed as
11 a therapeutic community residence. In preparation for the operation of a
12 forensic facility, the work of the General Assembly in relation to this act shall
13 guide the Departments of Mental Health and of Disabilities, Aging, and
14 Independent Living in adopting rules and the Working Group established
15 pursuant to Sec. 6 of this act in recommending procedures and criteria for
16 commitment of individuals with development or intellectual disability to a
17 forensic facility.

18 Sec. 2. CERTIFICATE OF NEED; EXCLUSION

19 Notwithstanding any law to the contrary, the Department of Mental
20 Health’s establishment of a nine-bed forensic facility within a unit of the

1 existing Vermont Psychiatric Care Hospital is excluded from the certificate of
2 need process prescribed in 18 V.S.A. chapter 221, subchapter 5.

3 Sec. 3. RULEMAKING; CONFORMING AMENDMENTS

4 On or before July 1, 2023, the Commissioners of Mental Health and of
5 Disabilities, Aging, and Independent Living, respectively, shall file initial
6 proposed rule amendments with the Secretary of State pursuant to 3 V.S.A.
7 § 836(a)(2) to account for the establishment of the forensic facility:

8 (1) Department of Disabilities, Aging, and Independent Living,
9 Licensing and Operating Regulations for Therapeutic Community Residences
10 (CVR 13-110-12) for the purpose of allowing the use of emergency
11 involuntary procedures and the administration of involuntary medication at a
12 forensic facility; and

13 (2) Department of Mental Health, Rules for the Administration of
14 Nonemergency Involuntary Psychiatric Medications (CVR 13-150-11) for the
15 purpose of allowing the administration of involuntary medication at a forensic
16 facility.

17 Sec. 4. PRESENTATION; FORENSIC FACILITY PROGRAMMING

18 On or before February 1, 2024, the Agency of Human Services shall present
19 the following information to the House Committees on Health Care and on
20 Human Services and to the Senate Committee on Health and Welfare:

1 (1) a plan for staffing and programming at the forensic facility,
2 including whether any specialized training will be required for staff members
3 and whether any services provided at the forensic facility will be contracted to
4 third parties; and

5 (2) whether any additional resources are needed for the operation of the
6 forensic facility.

7 Sec. 5. REPORT; FORENSIC FACILITY

8 Annually, on or before January 15 between 2025 and 2030, the Department
9 of Mental Health shall submit a report to the House Committee on Human
10 Services and to the Senate Committee on Health and Welfare containing:

11 (1) the average daily census at the forensic facility, including trends
12 over time;

13 (2) the number of individuals waitlisted for the forensic facility and
14 where these individuals receive treatment or programming while waiting for a
15 bed at the forensic facility;

16 (3) aggregated demographic data about the individuals served at the
17 forensic facility; and

18 (4) an account of the number and types of emergency involuntary
19 procedures used at the forensic facility.

1 Sec. 6. WORKING GROUP ON POLICIES PERTAINING TO
2 INDIVIDUALS WITH DEVELOPMENTAL OR INTELLECTUAL
3 DISABILITY WHO ARE CRIMINAL-JUSTICE INVOLVED

4 (a) Creation. There is created the Working Group on Policies Pertaining to
5 Individuals with Developmental or Intellectual Disabilities Who are Criminal-
6 Justice Involved. The Working Group shall assess whether a forensic level of
7 care is needed for individuals with developmental or intellectual disabilities
8 who are charged with a crime of violence against another person, have been
9 determined incompetent to stand trial, and are committed to the custody of the
10 Commissioner of Disabilities, Aging, and Independent Living. If it is
11 determined that forensic-level care is needed for such individuals, the Working
12 Group shall propose legislation establishing the process and criteria for
13 committing such individuals to a forensic facility.

14 (b) Membership. The Working Group shall be composed of the following
15 members:

16 (1) an employee of the Department of Disabilities, Aging, and
17 Independent Living who represents the public guardianship program or who is
18 a public safety specialist;

19 (2) a representative, appointed by the Disability Law Project of Vermont
20 Legal Aid;

1 (3) a representative, appointed by the Developmental Disabilities

2 Council;

3 (4) a representative, appointed by the Green Mountain Self-Advocates;

4 (5) a representative, appointed by Vermont Care Partners;

5 (6) a psychologist with experience conducting competency evaluations
6 under Act 248, appointed by the Vermont Psychological Association;

7 (7) two individuals with lived experience of a developmental or
8 intellectual disability, one of whom has previous experience in the criminal
9 justice system or civil commitment system, or both, appointed by Vermont

10 Legal Aid;

11 (8) a family member of an individual with a developmental or
12 intellectual disability who has experience in the criminal justice system or Act
13 248, appointed by the State Program Standing Committee for Developmental

14 Services;

15 (9) a representative of the Vermont Crisis Intervention Network;

16 (10) the Commissioner of Disabilities, Aging, and Independent Living
17 or designee;

18 (11) the Commissioner of Mental Health or designee;

19 (12) the Commissioner of Corrections or designee;

20 (13) the Executive Director of the Department of State’s Attorneys and
21 Sheriffs or designee;

1 (14) the Defender General or designee;

2 (15) two members of the House of Representatives, one of whom is
3 from the House Committee on Human Services and one of whom is from the
4 House Committee on Judiciary, appointed by the Speaker; and

5 (16) two members of the Senate, one of whom is from the Senate
6 Committee on Health and Welfare and one of whom is from the Senate
7 Committee on Judiciary, appointed by the Committee on Committees.

8 (c) Powers and duties. The Working Group shall assess the need for a
9 forensic level of care for individuals with developmental or intellectual
10 disability, including:

11 (1) the extent to which a forensic facility addresses any unmet needs or
12 gaps in resources for individuals with developmental or intellectual disabilities;

13 (2) the specific circumstances under which an individual committed to
14 the custody of the Commissioner of Disabilities, Aging, and Independent
15 Living could be placed in a forensic facility;

16 (3) improvements to address concerns with the due process for
17 individuals subject to the custody of the Commissioner of Disabilities, Aging,
18 and Independent Living in a forensic facility;

19 (4) the roles of Vermont Legal Aid, an ombudsman, or Disability Rights
20 Vermont in serving individuals with developmental or intellectual disabilities
21 placed in a forensic facility;

1 (5) necessary changes to 13 V.S.A. chapter 157 or 18 V.S.A. chapter
2 206; and

3 (6) investments, policies, and programmatic options for high-quality
4 community-based supports for at-risk individuals committed to the custody of
5 the Commissioner of Disabilities, Aging, and Independent Living.

6 (d) Assistance. The Working Group shall have the administrative,
7 technical, and legal assistance of the Department of Disabilities, Aging, and
8 Independent Living.

9 (e) Report. On or before November 17, 2023, the Working Group shall
10 submit a written report to the House Committees on Human Services and on
11 Judiciary and to the Senate Committees on Health Welfare and on Judiciary
12 with its findings and any recommendations for legislative action, including
13 proposed legislative language.

14 (f) Meetings.

15 (1) The representative of the Department of Disabilities, Aging, and
16 Independent Living shall call the first meeting of the Working Group to occur
17 on or before September 1, 2023.

18 (2) The Committee shall select a chair from among its members at the
19 first meeting.

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

21 (4) The Working Group shall cease to exist on December 1, 2023.

1 (g) Compensation and reimbursement. Members of the Working Group
2 not otherwise compensated for their participation in the Working Group shall
3 be entitled to per diem compensation and reimbursement of expenses as
4 permitted under 32 V.S.A. § 1010 for not more than 10 meetings. These
5 payments shall be made from monies appropriated to the Department of
6 Disabilities, Aging, and Independent Living.

7 (h) Definition.

8 (1) As used in this section, “forensic facility” means a residential
9 facility, licensed as a therapeutic community residence as defined in 33 V.S.A.
10 § 7102(11), for an individual initially committed pursuant to:

11 (A) 13 V.S.A. § 4822 who is in need of treatment or further treatment
12 pursuant to 18 V.S.A. chapter 181 within a secure setting for an extended
13 period of time; or

14 (B) 13 V.S.A. § 4823 who is in need of custody, care, and
15 habilitation pursuant to 18 V.S.A. chapter 206, within a secure setting for an
16 extended period of time.

17 (2) As used in this subsection, “secure” has the same meaning as in 18
18 V.S.A. § 7620.

19 * * * Effective Date * * *

20 Sec. 7. EFFECTIVE DATE

21 This act shall take effect on passage.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE