

## **S.91 Proposed Edits**

### **Section 1:**

We need to have clarity around who pays for the sanity evaluation when the defendant is indigent because “the State” is confusing.

13 V.S.A. § 4801(2)(b): The defendant shall have the burden of proof in establishing insanity as an affirmative defense by a preponderance of the evidence. The defendant shall be responsible for hiring the defendant’s own forensic evaluator for the purpose of establishing insanity provided that the Defender General’s office shall pay for the evaluation for an indigent defendant.

### **Section 2:**

*To address multiple evaluations:*

13 V.S.A. § 4814(a)(5): The court shall not order subsequent evaluations to be performed by DMH unless there is clinical evidence provided by the treating physician that the person is successfully engaging in treatment and showing improvement which would suggest a potential change in competency. Nothing in this section shall limit the parties’ abilities to secure their own evaluations voluntarily or under Criminal Rule 16.1.

To address no-shows:

13 V.S.A. § 4814(e): Should a defendant not appear for an evaluation ordered under this section, the court shall issue a bench warrant unless good cause is shown by defense counsel.

*To address payment of competency evaluations:*

13 V.S.A. § 4814(b): omit the second line.