

1 S.2

2 Introduced by Senator Sears of Bennington District

3 Referred to Committee on

4 Date:

5 Subject: Corrections; offenders with a mental or other functional impairment

6 Statement of purpose: This bill proposes to extend protections currently  
7 provided only to offenders with a serious mental illness to those who have any  
8 disability which substantially impairs their ability to function in the  
9 correctional setting and to clarify the process by which the department of  
10 corrections shall screen inmates to determine if they have a mental illness or  
11 other functional impairment.

12 AN ACT RELATING TO OFFENDERS WITH A MENTAL ILLNESS  
13 OR OTHER FUNCTIONAL IMPAIRMENT

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

15 Sec. 1. 28 V.S.A. § 701a is amended to read:

16 § 701a. SEGREGATION OF INMATES WITH A SERIOUS ~~MENTAL~~  
17 ~~ILLNESS~~ FUNCTIONAL IMPAIRMENT

18 (a) The commissioner shall adopt rules pursuant to chapter 25 of Title 3  
19 regarding the classification, treatment, and segregation of an inmate with a  
20 serious ~~mental illness~~ functional impairment as defined in ~~subdivision 906(1)~~

1 and identified under subchapter 6 of this title chapter; provided that the length  
2 of stay in segregation for an inmate with a serious ~~mental illness~~ functional  
3 impairment:

4 (1) Shall not exceed 15 days if the inmate is segregated for disciplinary  
5 reasons.

6 (2) Shall not exceed 30 days if the inmate requested the segregation,  
7 except that the inmate may remain segregated for successive 30-day periods  
8 following assessment by a qualified mental health professional and approval of  
9 a physician for each extension.

10 (3) Shall not exceed 30 days if the inmate is segregated for any reason  
11 other than the reasons set forth in subdivision (1) or (2) of this subsection,  
12 except that the inmate may remain segregated for successive 30-day periods  
13 following a due process hearing for each extension, which shall include  
14 assessment by a qualified mental health professional and approval of a  
15 physician.

16 (b) For purposes of this title, and despite other names this concept has been  
17 given in the past or may be given in the future, "segregation" means a form of  
18 separation from the general population which may or may not include  
19 placement in a single occupancy cell and which is used for disciplinary,  
20 administrative, or other reasons.

1 (c) On or before the 15th day of each month, the department's health  
2 services director shall provide to the joint legislative corrections oversight  
3 committee a report that, while protecting inmate confidentiality, lists each  
4 inmate who was in segregation during the preceding month by a unique  
5 indicator and identifies the reason the inmate was placed in segregation, the  
6 length of the inmate's stay in segregation, whether the inmate has a serious  
7 ~~mental illness~~, functional impairment or is otherwise ~~on the department's~~  
8 ~~mental health roster~~ identified as receiving mental health services, and, if so,  
9 the nature of the ~~mental illness~~ functional impairment or services provided.  
10 The report shall also indicate any incident of self harm or attempted suicide by  
11 inmates in segregation. The committee chair shall ensure that a copy of the  
12 report is forwarded to the Vermont defender general and the executive director  
13 of Vermont Protection and Advocacy, Inc. on a monthly basis.

14 Sec 2. 28 V.S.A. chapter 11, subchapter 6 is amended to read:

15 Subchapter 6. Services for Inmates with Serious

16 ~~Mental Illness~~ Functional Impairment

17 § 906. DEFINITIONS

18 As used in this subchapter:

19 (1) "Serious ~~mental illness~~ functional impairment" means:

20 (A) a ~~substantial~~ disorder of thought, mood, perception, orientation, or  
21 memory, ~~any of~~ as diagnosed by a qualified mental health professional, which

1 ~~grossly~~ substantially impairs judgment, behavior, capacity to recognize reality,  
2 or ability to meet the ordinary demands of life and which substantially impairs  
3 the ability to function within the correctional setting; or

4 (B) a developmental disability, traumatic brain injury, or other organic  
5 brain disorder, or various forms of dementia or other neurological disorders, as  
6 diagnosed by a qualified mental health professional, which substantially impair  
7 the ability to function in the correctional setting.

8 (2) ~~“Mental~~ Qualified mental health professional” means a person with  
9 professional training, experience, and demonstrated competence in the  
10 treatment of mental illness or serious functional impairments who is a  
11 physician, psychiatrist, psychologist, social worker, nurse, or other qualified  
12 person determined by the commissioner of mental health.

13 (3) “Mental illness or disorder” means a condition that falls under any  
14 Axis I diagnostic categories or the following Axis II diagnostic categories as  
15 listed in the American Psychiatric Association’s Diagnostic and Statistical  
16 Manual, Volume IV, as updated from time to time: borderline personality  
17 disorder, histrionic personality disorder, mental retardation,  
18 obsessive-compulsive personality disorder, paranoid personality disorder,  
19 schizoid personality disorder, or schizotypal personality disorder.

20 (4) “Screening” means an initial survey to identify whether an inmate  
21 has immediate treatment needs or is in need of further evaluation.

1 § 907. MENTAL HEALTH SERVICE FOR INMATES; POWERS AND  
2 RESPONSIBILITIES OF COMMISSIONER

3 The commissioner shall administer a program of mental health services  
4 which shall be available to all inmates and shall provide adequate staff to  
5 support the program. The program shall provide the following services:

6 (1) Within 24 hours of admittance to a correctional facility all inmates  
7 shall be screened for any signs of ~~serious~~ serious mental illness or disorder, trauma, or  
8 serious functional impairment.

9 (A) If as a result of the screening it is determined that the inmate is  
10 receiving services under the developmental services waiver or is currently  
11 receiving community rehabilitation and treatment services, he or she will  
12 automatically be designated as having a serious functional impairment.

13 (B) If an inmate has signs of trauma, the person carrying out the  
14 regular medical screening upon admission to the facility shall further screen  
15 the inmate for indicators of post-traumatic stress disorder. Signs of trauma are  
16 reports by a person of an event or series of events that are life-threatening or  
17 overwhelming, such as combat exposure, rape, sexual molestation, or domestic  
18 violence. If indicators of post-traumatic stress disorder are found at the  
19 medical screening, the inmate will receive a thorough evaluation pursuant to  
20 subdivision (2) of this section.

1           (2) A thorough evaluation, conducted in a timely and reasonable fashion  
2 by a qualified mental health professional, which includes a review of available  
3 medical and psychiatric records. The evaluation shall be made of each inmate  
4 who:

5           (A) has a history of ~~serious~~ mental illness or disorder;

6           (B) has received community rehabilitation and treatment services; or

7           (C) ~~who~~ shows signs or symptoms of ~~serious~~ mental illness or  
8 disorder or of serious functional impairment at the initial screening or as  
9 observed subsequent to entering the ~~department in a timely and reasonable~~  
10 ~~fashion. The evaluation shall be conducted by a mental health professional~~  
11 ~~who is qualified by training and experience to provide diagnostic,~~  
12 ~~rehabilitative, treatment or therapeutic services to persons with serious mental~~  
13 ~~illness. The evaluation shall include review of available medical and~~  
14 ~~psychiatric records~~ facility.

15           (3) The development and implementation of an individual treatment  
16 plan, when a clinical diagnosis by a qualified mental health professional  
17 indicates an inmate is suffering from ~~serious~~ mental illness or disorder or from  
18 serious functional impairment. The treatment plan shall be explained to the  
19 inmate by a qualified mental health professional.

20           (4) Access to a variety of services and levels of care consistent with the  
21 treatment plan to inmates suffering ~~serious~~ mental illness or disorder or serious

1 functional impairment. These services shall include, as appropriate, the  
2 following:

3 (A) Follow-up evaluations.

4 (B) Crisis intervention.

5 (C) Crisis beds.

6 (D) Residential care within a correctional institution.

7 (E) Clinical services provided within the general population of the  
8 correctional facility.

9 (F) Services provided in designated special needs units.

10 (G) As a joint responsibility with the department of mental health and  
11 the department of disabilities, aging, and independent living, and working with  
12 community mental health centers, the implementation of discharge planning  
13 for community services.

14 (H) Other services that the department of corrections, the department  
15 of disabilities, aging, and independent living, and the department of mental  
16 health jointly determine to be appropriate.

17 (5) Procedures to actively seek and identify any inmate who has not  
18 received the enhanced screening, evaluation, and access to mental health  
19 services appropriate for inmates suffering from a ~~serious~~ serious mental illness or  
20 disorder or a serious functional impairment.

1           (6) Special training to medical and correctional staff to enable them to  
2 identify and initially deal with inmates with a ~~serious~~ mental illness or disorder  
3 or a serious functional impairment. This training shall include the following:

4           (A) Recognition of signs and symptoms of ~~serious~~ mental illness or  
5 disorder or of serious functional impairment in the inmate population.

6           (B) Recognition of signs and symptoms of chemical dependence and  
7 withdrawal.

8           (C) Recognition of adverse reactions to psychotropic medication.

9           (D) Recognition of improvement in the general condition of the  
10 inmate.

11           (E) Recognition of mental retardation.

12           (F) Recognition of mental health emergencies and specific  
13 instructions on contacting the appropriate professional care provider and taking  
14 other appropriate action.

15           (G) Suicide potential and prevention.

16           (H) Precise instructions on procedures for mental health referrals.

17           (I) Any other training determined to be appropriate.