

# The Vermont Statutes Online

## Title 13 : Crimes And Criminal Procedure

### § 5301. Definitions

As used in this chapter:

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(7) For the purpose of this chapter, "listed crime" means any of the following offenses:

- (A) stalking as defined in section 1062 of this title;
- (B) aggravated stalking as defined in subdivision 1063(a)(3) or (4) of this title;
- (C) domestic assault as defined in section 1042 of this title;
- (D) first degree aggravated domestic assault as defined in section 1043 of this title;
- (E) second degree aggravated domestic assault as defined in section 1044 of this title;
- (F) sexual assault as defined in section 3252 of this title or its predecessor as it was defined in section 3201 or 3202 of this title;
- (G) aggravated sexual assault as defined in section 3253 of this title;
- (H) lewd or lascivious conduct as defined in section 2601 of this title;
- (I) lewd or lascivious conduct with a child as defined in section 2602 of this title;
- (J) murder as defined in section 2301 of this title;
- (K) aggravated murder as defined in section 2311 of this title;
- (L) manslaughter as defined in section 2304 of this title;
- (M) aggravated assault as defined in section 1024 of this title;
- (N) assault and robbery with a dangerous weapon as defined in subsection 608(b) of this title;

(O) arson causing death as defined in section 501 of this title;

(P) assault and robbery causing bodily injury as defined in subsection 608(c) of this title;

(Q) maiming as defined in section 2701 of this title;

(R) kidnapping as defined in section 2405 of this title or its predecessor as it was defined in section 2401 of this title;

(S) unlawful restraint in the second degree as defined in section 2406 of this title;

(T) unlawful restraint in the first degree as defined in section 2407 of this title;

(U) recklessly endangering another person as defined in section 1025 of this title;

(V) violation of abuse prevention order as defined in section 1030 of this title, excluding violation of an abuse prevention order issued pursuant to 15 V.S.A. § 1104 (emergency relief) or 33 V.S.A. § 6936 (emergency relief);

(W) operating vehicle under the influence of intoxicating liquor or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(e) and (f);

(X) careless or negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);

(Y) leaving the scene of an accident with serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c);

(Z) burglary into an occupied dwelling as defined in subsection 1201(c) of this title;

(AA) the attempt to commit any of the offenses listed in this section;

(BB) abuse (section 1376 of this title), abuse by restraint (section 1377 of this title), neglect (section 1378 of this title), sexual abuse (section 1379 of this title), financial exploitation (section 1380 of this title), and exploitation of services (section 1381 of this title);

(CC) aggravated sexual assault of a child in violation of section 3253a of this title;

(DD) human trafficking in violation of section 2652 of this title; and

(EE) aggravated human trafficking in violation of section 2653 of this title.

## **Chapter 157 : Insanity As A Defense**

### **§ 4820. Hearing regarding commitment**

When a person charged on information, complaint or indictment with a criminal offense:

(1) Is reported by the examining psychiatrist following examination pursuant to sections 4814-4816 of this title to have been insane at the time of the alleged offense.

(2) Is found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to a mental disease or mental defect.

(3) Is not indicted upon hearing by grand jury by reason of insanity at the time of the alleged offense, duly certified to the court.

(4) Upon trial by court or jury is acquitted by reason of insanity at the time of the alleged offense; the court before which such person is tried or is to be tried for such offense, shall hold a hearing for the purpose of determining whether such person should be committed to the custody of the Commissioner of Mental Health. Such person may be confined in jail or some other suitable place by order of the court pending hearing for a period not exceeding 15 days.

### **4822. Findings and order; persons with a mental illness**

(a) If the court finds that the person is a person in need of treatment or a patient in need of further treatment as defined in 18 V.S.A. § 7101, the court shall issue an order of commitment directed to the Commissioner of Mental Health, which shall admit the person to the care and custody of the Department of Mental Health for an indeterminate period. In any case involving personal injury or threat of personal injury, the committing court may issue an order requiring a court hearing before a person committed under this section may be discharged from custody.

(b) An order of commitment issued pursuant to this section shall have the same force and effect as an order issued under 18 V.S.A. §§ 7611-7622, and a person committed under this order shall have the same status and the same rights, including the right to receive care and treatment, to be examined and discharged, and to apply for and obtain judicial review of his or her case, as a person ordered committed under 18 V.S.A. §§ 7611-7622.

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## Title 18 : Health

### § 7101. Definitions

As used in this part of this title, the following words, unless the context otherwise requires, shall have the following meanings:

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(16) "A patient in need of further treatment" means:

(A) a person in need of treatment; or

(B) a patient who is receiving adequate treatment, and who, if such treatment is discontinued, presents a substantial probability that in the near future his or her condition will deteriorate and he or she will become a person in need of treatment.

(17) "A person in need of treatment" means a person who has a mental illness and, as a result of that mental illness, his or her capacity to exercise self-control, judgment, or discretion in the conduct of his or her affairs and social relations is so lessened that he or she poses a danger of harm to himself, to herself, or to others:

(A) A danger of harm to others may be shown by establishing that:

(i) he or she has inflicted or attempted to inflict bodily harm on another; or

(ii) by his or her threats or actions he or she has placed others in reasonable fear of physical harm to themselves; or

(iii) by his or her actions or inactions he or she has presented a danger to persons in his or her care.

(B) A danger of harm to himself or herself may be shown by establishing that:

(i) he or she has threatened or attempted suicide or serious bodily harm; or

(ii) he or she has behaved in such a manner as to indicate that he or she is unable, without supervision and the assistance of others, to satisfy his or her need for nourishment, personal or medical care, shelter, or self-protection and safety, so that it is probable that death, substantial physical bodily injury, serious mental deterioration, or serious physical debilitation or disease will ensue unless adequate treatment is afforded.

## Chapter 181 : Judicial Proceedings

### § 7617. Findings; order

(a) If the court finds that the proposed patient was not a person in need of treatment at the time of admission or application or is not a patient in need of further treatment at the time of the hearing, the court shall enter a finding to that effect and shall dismiss the application.

(b) If the proposed patient is found to have been a person in need of treatment at the time of admission or application and a patient in need of further treatment at the time of the hearing, the court may order the person:

(1) hospitalized in a designated hospital;

(2) hospitalized in any other public or private hospital if he or she and the hospital agree; or

(3) to undergo a program of treatment other than hospitalization.

(c) Prior to ordering any course of treatment, the court shall determine whether there exists an available program of treatment for the person which is an appropriate alternative to hospitalization. The court shall not order hospitalization without a thorough consideration of available alternatives.

(d) Before making its decision, the court shall order testimony by an appropriate representative of a hospital, a community mental health agency, public or private entity or agency, or a suitable person, who shall assess the availability and appropriateness for the individual of treatment programs other than hospitalization.

(e) Prior to ordering the hospitalization of a person, the court shall inquire into the adequacy of treatment to be provided to the person by the hospital. Hospitalization shall not be ordered unless the hospital in which the person is to be hospitalized can provide him or her with treatment which is adequate and appropriate to his or her condition.

(f) Preference between available hospitals shall be given to the hospital which is located nearest to the person's residence except when the person requests otherwise or there are other compelling reasons for not following the preference.

**§ 7621. Hearing on application for continued treatment; orders**

(a) The hearing on the application for continued treatment shall be held in accordance with the procedures set forth in sections 7613, 7614, 7615, and 7616 of this title.

(b) If the court finds that the patient is a patient in need of further treatment and requires hospitalization it shall order hospitalization for up to one year.

(c) If the court finds that the patient is a patient in need of further treatment but does not require hospitalization, it shall order nonhospitalization for up to one year. If the treatment plan proposed by the commissioner for a patient in need of further treatment includes admission to a secure residential recovery facility, the court may at any time, on its own motion or on motion of an interested party, review the need for treatment at the secure residential recovery facility.

(d) If at any time during the period of nonhospitalization ordered under subsection (c) of this section, it comes to the attention of the court, that the person is not complying with the order, or that the alternative treatment has not been adequate to meet the patient's treatment needs, the court may, after proper hearing:

(1) Consider other treatments not involving hospitalization, modify its original order, and direct the patient to undergo another program of alternative treatment for an indeterminate period, up to the expiration date of the original order; or

(2) Order that the patient be hospitalized, up to the expiration date of the original order.

(e) If the court finds that the patient is not a patient in need of further treatment, it shall order the patient discharged.

(f) This section shall not be construed to prohibit the court from issuing subsequent orders after a new application is filed pursuant to section 7620 of this title.