

1 S.61

2 Introduced by Senators Sears and Ashe

3 Referred to Committee on

4 Date:

5 Subject: Courts; corrections; mental health

6 Statement of purpose of bill as introduced: This bill proposes to direct courts  
7 to appoint specialized mental health counsel to proceedings involving a person  
8 found incompetent to stand trial; change the definition of segregation to allow  
9 inmates requiring treatment to be kept in treatment settings; and require the  
10 Department of Corrections to provide evaluation, treatment, and services to  
11 those inmates who require them.

12 An act relating to offenders with mental illness

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

14 Sec. 1. 13 V.S.A. § 4820 is amended to read:

15 § 4820. HEARING REGARDING COMMITMENT

16 (a) The court before which a person is tried or is to be tried for a criminal  
17 offense shall hold a hearing for the purpose of determining whether the person  
18 should be committed to the custody of the Commissioner of Mental Health or,  
19 as provided in 18 V.S.A. chapter 206, to the Commissioner of Disabilities,

1 Aging, and Independent Living, if the person is charged on information,  
2 complaint, or indictment with the offense and:

3 (1) is reported by the examining psychiatrist following examination  
4 pursuant to sections 4814–4816 of this title to have been insane at the time of  
5 the alleged offense;

6 (2) is found upon hearing pursuant to section 4817 of this title to be  
7 incompetent to stand trial due to a mental illness, intellectual disability, or  
8 traumatic brain injury;

9 (3) is not indicted upon hearing by grand jury by reason of insanity at  
10 the time of the alleged offense, duly certified to the court; or

11 (4) upon trial by court or jury is acquitted by reason of insanity at the  
12 time of the alleged offense.

13 (b) A person subject to a hearing under subsection (a) of this section may  
14 be confined in jail or some other suitable place by order of the court pending  
15 hearing for a period not exceeding 15 days.

16 (c) The court shall appoint counsel from the Mental Health Law Project to  
17 represent the person who is the subject of the proceedings and from the  
18 Division of Mental Health of the Office of the Attorney General to represent  
19 the State in the proceeding.

1 Sec. 2. 13 V.S.A. § 4821 is amended to read:

2 § 4821. NOTICE OF HEARING; PROCEDURES

3 The person who is the subject of the proceedings, his or her attorney, the  
4 legal guardian, if any, the Commissioner of Mental Health or the  
5 Commissioner of Disabilities, Aging, and Independent Living, and the State's  
6 ~~Attorney or other prosecuting officer representing~~ counsel appointed pursuant  
7 to subsection 4820(c) of this title to represent the State in the case, shall be  
8 given notice of the time and place of a hearing under 4820 of this title.

9 Procedures for hearings for persons who are mentally ill shall be as provided in  
10 18 V.S.A. chapter 181. Procedures for hearings for persons who are  
11 intellectually disabled or have a traumatic brain injury shall be as provided in  
12 18 V.S.A. chapter 206, subchapter 3.

13 Sec. 3. 28 V.S.A. § 3 is amended to read:

14 § 3. GENERAL DEFINITIONS

15 As used in this title:

16 \* \* \*

17 (12) "Segregation" means a form of separation from the general  
18 population either for administrative or disciplinary purposes, but as used in  
19 section 701a of this title, shall not mean confinement to an infirmary or a  
20 treatment or therapeutic setting.

1 Sec. 4. 28 V.S.A. § 701a(b) is amended to read:

2 (b) ~~For purposes of As used in this title, and despite other names this~~  
3 ~~concept has been given in the past or may be given in the future section,~~  
4 “segregation” means a form of separation from the general population which  
5 may or may not include placement in a single occupancy cell and which is  
6 used for disciplinary, administrative, or other reasons. Segregation shall not  
7 mean confinement to an infirmary or treatment or therapeutic setting for  
8 purposes of evaluation, treatment, or provision of services.

9 Sec. 5. 28 V.S.A. § 907 is amended to read:

10 § 907. MENTAL HEALTH SERVICE FOR INMATES; POWERS AND  
11 RESPONSIBILITIES OF COMMISSIONER

12 The Commissioner shall administer a program of trauma-informed mental  
13 health services which shall be available to all inmates and shall provide  
14 adequate staff to support the program. The program shall provide the  
15 following services:

16 (1)(A) Within 24 hours of admittance to a correctional facility, all  
17 inmates shall be screened for any signs of mental illness, mental condition or  
18 psychiatric disability or disorder, or serious functional impairment. If as a  
19 result of the screening it is determined that the inmate is receiving services  
20 under the developmental disabilities home and community based services  
21 waiver or is currently receiving community rehabilitation and treatment

1 services, he or she will automatically be designated as having a serious  
2 functional impairment.

3 (B) Every inmate who is identified as a result of the screening as  
4 requiring inpatient evaluation, treatment, or services shall be provided with  
5 such evaluation, treatment, or services.

6 \* \* \*

7 Sec. 6. EFFECTIVE DATES

8 This act shall take effect on July 1, 2018, except for this section and Secs. 3  
9 (general definitions) and 4 (28 V.S.A. § 701a(b)) which shall take effect on  
10 July 1, 2017.