



STATE OF VERMONT
AGENCY OF HUMAN SERVICES

MEMORANDUM

TO: Representative Emmons, Chair, House Committee on Corrections and Institutions
Senator Sears, Chair, Senate Judiciary Committee
Senator Flory, Chair, Senate Institutions Committee

FROM: Al Gobeille, Secretary, Agency of Human Services

DATE: April 19, 2017

SUBJECT: Recommended Changes to S.61 (an act relating to offenders with mental illness)

The Senate has worked incredibly hard to tackle the issue of to how to best provide services to offenders with mental illness within the Vermont prison system. The Agency of Human Services (AHS) is aligned with what it understands to be the intent of the language in S.61, however we question the course set forth in Sections 6, 7, and 9 that aim to achieve that intent.

To be operationally feasible, AHS requests the following modifications:

Section 6: Delete

Rationale for recommendation:

Until such time as a forensic inpatient psychiatric facility, or some other type of forensic unit, is adequately funded and built, the “providing” language is not possible. Currently the DOC Commissioner does not have the ability to provide inpatient treatment, evaluation, or services. Additionally, neither the DOC nor the DMH Commissioners have the ability to admit someone to an inpatient unit.

Section 7: Amend

Sec. 7. AGENCY OF HUMAN SERVICES; OFFICE OF THE ATTORNEY
GENERAL; REPORT TO JUSTICE OVERSIGHT COMMITTEE

On or before ~~October 15, 2017~~ **January 18, 2018:**

(1) the Secretary of Human Services shall report to the Justice Oversight Committee on how best to provide mental health treatment and services to

offenders in the custody of the Department of Corrections, including recommendations on whether those services should be provided by a classified State employee working within the Agency of Human Services, by designated agencies, or by other professionals contracted for professional mental health care services within the Department; and

Rationale for recommendation:

The Secretary is already tasked with evaluating and creating a plan to address the facility needs of several populations pursuant to H. 519. It makes the most sense to have the timelines consistent as the studies will overlap.

Section 9: Amend

Sec. 9. DEPARTMENT OF CORRECTIONS; DEPARTMENT OF MENTAL HEALTH; FORENSIC MENTAL HEALTH CENTER; MEMORANDUM OF UNDERSTANDING FOR PROVISION OF MENTAL HEALTH SERVICES; REPORT TO JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

On or before ~~July 1, 2017~~ **January 18, 2018**, the Department of Corrections shall:

(1) in accordance with the principles set forth in 18 V.S.A. § 7251, and in consultation with the Department of **Mental** Health and the designated agencies, develop a plan to create or establish access to a forensic mental health center on or before ~~January 2, 2018~~ **2020** to provide comprehensive assessment, evaluation, and treatment for detainees and inmates with mental illness, while preventing inappropriate segregation;

(2) jointly with the Department of Mental Health, execute a memorandum of understanding ~~to coordinate the provision of mental health treatment and services to inmates and detainees prior to January 2, 2018~~ **which formally outlines the role of DMH care management in facilitating placement of DPPs and EEs as well as the process by which DMH care management can help facilitate conversations between DOC and hospitals for inmates and detainees voluntarily seeking hospitalization.**; and

Rationale for recommendation:

(1): As with Section 7, the Secretary is already tasked with evaluating and creating a plan to address the facility needs of several populations pursuant to H. 519. It makes the most sense to have the timelines consistent as the studies will overlap. By moving the plan forward, the date of the facility opening also needs to be moved forward.

(2): DOC, by statute, is responsible for providing care for those in its custody. DOC currently complies by having a contractor who provides mental health care services within DOC facilities. As such, there is no need for DMH to provide those services nor does DMH have the staff or resources to do so. However, DMH does work with DOC to place those coming into its custody involuntarily as well as helping to facilitate referrals to hospitals for inmates seeking hospitalization voluntarily. DMH and DOC can work together to formalize this process in an MOU format.

Section 10: Amend

Sec. 10. EFFECTIVE DATES

(a) This section and Sec. 9 (Department of Corrections; Department of Mental Health; forensic mental health center; memorandum of understanding for provision of mental health services; report to Joint Legislative Justice Oversight Committee) shall take effect on passage.

(b) Secs. 3 (general definitions), 4 (28 V.S.A. § 701a(b)), 5 (mental health service for inmates; powers and responsibilities of commissioner), 7 (Agency of Human Services; Office of the Attorney General Report to Justice Oversight Committee), and 8 (legislative intent, Department of Corrections; use of segregation) shall take effect on July 1, 2017.

~~(c) Sec. 6 (mental health service for inmates; powers and responsibilities of Commissioner) shall take effect on January 2, 2018.~~

While the modified language above makes the directives technically possible, AHS does not believe the intent of the bill will be achieved through such legislation as it targets only a small part of the larger system of mental health care.

The Agency of Human Services is committed to providing mental health treatment in clinically appropriate settings to inmates with mental illness. In order to be successful in these efforts, AHS needs the flexibility to plan for and implement the necessary changes to achieve this outcome as part of a larger analysis into addressing the facility needs of several populations.

H.519, Section 32, already requires the Secretary to submit a plan and recommendations regarding facility needs for these populations on or before January 15, 2018 to the House Committees on Appropriations, on Corrections and Institutions, on Health Care, and on Human Services, and the Senate Committees on Appropriations, on Health and Welfare, and on Institutions. AHS strongly believes it is most consistent with achieving the intent of S.61 to eliminate sections 6, 7, and 9 from S.61 and add language to H.519 calling for the current study to include offenders with mental illness.