

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Corrections and Institutions to which was referred  
3 Senate Bill No. 61 entitled “An act relating to offenders with mental illness”  
4 respectfully reports that it has considered the same and recommends that the  
5 House propose to the Senate that the bill be amended by striking out all after  
6 the enacting clause and inserting in lieu thereof the following:

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

8 § 4820. HEARING REGARDING COMMITMENT

9 (a) The court before which a person is tried or is to be tried for a criminal  
10 offense shall hold a hearing for the purpose of determining whether the person  
11 should be committed to the custody of the Commissioner of Mental Health or,  
12 as provided in 18 V.S.A. chapter 206, to the Commissioner of Disabilities,  
13 Aging, and Independent Living, if the person is charged on information,  
14 complaint, or indictment with the offense and:

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

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

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

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

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

8           (c) For a person who is found upon hearing pursuant to section 4817 of this  
9 title to be incompetent to stand trial due to mental illness or intellectual  
10 disability, the court shall appoint counsel from Vermont Legal Aid to represent  
11 the person who is the subject of the proceedings and from the Office of the  
12 Attorney General to represent the State in the proceedings.

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

14 § 4821. NOTICE OF HEARING; PROCEDURES

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

21 Procedures for hearings for persons who are mentally ill shall be as provided in

1 18 V.S.A. chapter 181. Procedures for hearings for persons who are  
2 intellectually disabled ~~or have a traumatic brain injury~~ shall be as provided in  
3 18 V.S.A. chapter 206, subchapter 3.

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

5 § 3. GENERAL DEFINITIONS

6 As used in this title:

7 \* \* \*

8 (12) Despite other names this concept has been given in the past or may  
9 be given in the future, “segregation” means a form of separation from the  
10 general population that may or may not include placement in a single  
11 occupancy cell and that is used for disciplinary or administrative reasons, but  
12 shall not mean confinement to an infirmary or a residential treatment setting  
13 for purposes of evaluation, treatment, or provision of services.

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

15 ~~(b) For purposes of this title, and despite other names this concept has been~~  
16 ~~given in the past or may be given in the future, “segregation” means a form of~~  
17 ~~separation from the general population which may or may not include~~  
18 ~~placement in a single occupancy cell and which is used for disciplinary,~~  
19 ~~administrative, or other reasons~~ As used in this section, “segregation” shall  
20 have the same meaning as in subdivision 3(12) of this title.

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

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

4 The Commissioner shall administer a program of trauma-informed mental  
5 health services ~~which~~ that shall be available to all inmates and shall provide  
6 adequate staff to support the program. The program shall provide the  
7 following services:

8 (1)(A) Within 24 hours of admittance to a correctional facility, all  
9 inmates shall be screened for any signs of mental illness, ~~mental condition or~~,  
10 psychiatric disability or disorder, or serious functional impairment. If as a  
11 result of the screening it is determined that the inmate is receiving services  
12 under the developmental disabilities home and ~~community-based~~ community-  
13 based services waiver or is currently receiving community rehabilitation and  
14 treatment services, he or she will automatically be designated as having a  
15 serious functional impairment.

16 (B) Every inmate who is identified as a result of screening by a mental  
17 health professional as requiring inpatient evaluation, treatment, or services  
18 shall, within 24 hours of the screening, be referred for such treatment,  
19 evaluation, or services in a setting appropriate to the clinical needs of the  
20 inmate.

21 \* \* \*

1 Sec. 6. 28 V.S.A. § 907 is amended to read:

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

4 \* \* \*

5 (B) Every inmate who is identified as a result of screening by a mental  
6 health professional as requiring inpatient evaluation, treatment, or services  
7 shall, within ~~24~~ 48 hours of the screening, be ~~referred for~~ provided with such  
8 treatment, evaluation, or services in a setting appropriate to the clinical needs  
9 of the inmate.

10 \* \* \*

11 Sec. 7. AGENCY OF HUMAN SERVICES; OFFICE OF THE ATTORNEY  
12 GENERAL; REPORT TO STANDING COMMITTEES

13 On or before January 18, 2018:

14 (1) the Secretary of Human Services shall report to the House and  
15 Senate Committees on Judiciary, the House Committee on Corrections and  
16 Institutions, the Senate Committee on Health and Welfare, and the House  
17 Committee on Health Care on how best to provide mental health treatment and  
18 services to offenders in the custody of the Department of Corrections,  
19 including recommendations on whether those services should be provided by a  
20 classified State employee working within the Agency of Human Services, by

1 designated agencies, or by other professionals contracted for professional  
2 mental health care services within the Department; and

3 (2) the Secretary of Human Services, in consultation with the Attorney  
4 General, shall report to the Justice Oversight Committee, the House and Senate  
5 Committees on Judiciary, and the House and Senate Committees on  
6 Appropriations on the resources necessary to comply with the requirements set  
7 forth in 13 V.S.A. § 4820(c). The Committees on Appropriations shall  
8 consider the report during their FY 2019 budget deliberations in determining  
9 the appropriate funding for the State to meet the requirements of 13 V.S.A. §  
10 4820(c).

11 Sec. 8. LEGISLATIVE INTENT; DEPARTMENT OF CORRECTIONS;

12 USE OF SEGREGATION

13 It is the intent of the General Assembly that the Department of Corrections  
14 continue to house inmates in the least restrictive setting necessary to ensure  
15 their own safety as well as the safety of staff and other inmates, and to use  
16 segregation only in instances when it serves a specific disciplinary or  
17 administrative purpose, pursuant to 28 V.S.A. § 3, and to ensure that inmates  
18 designated as seriously functionally impaired or inmates with a serious mental  
19 illness receive the support and rehabilitative services they need.

1 Sec. 9. DEPARTMENT OF CORRECTIONS; DEPARTMENT OF  
2 MENTAL HEALTH; FORENSIC MENTAL HEALTH CENTER;  
3 MEMORANDUM OF UNDERSTANDING FOR PROVISION OF  
4 MENTAL HEALTH SERVICES; REPORT TO **STANDING**  
5 **COMMITTEES**

6 On or before **January 18, 2018**, the Department of Corrections shall:

7 (1) in accordance with the principles set forth in 18 V.S.A. § 7251, and  
8 in consultation with the Department of **Mental** Health and the designated  
9 agencies, develop a plan to create or establish access to a forensic mental  
10 health center on or before **July 1, 2019** to provide comprehensive assessment,  
11 evaluation, and treatment for detainees and inmates with mental illness, while  
12 preventing inappropriate segregation;

13 (2) jointly with the Department of Mental Health, execute a  
14 memorandum of understanding **that formally outlines the role of the**  
15 **Department of Mental Health in:**

16 **(A) facilitating placement of inmates identified as a result of**  
17 **screening to require inpatient evaluation, treatment, or services and inmates**  
18 **requiring emergency examinations; and**

19 **(B) facilitating conversations between the Department of Corrections**  
20 **and hospitals for those inmates and detainees voluntarily seeking**  
21 **hospitalization; and**

1           (3) together with the Department of Mental Health, reporting on the  
2           status of the memorandum of understanding and the forensic mental health  
3           center plan to the House and Senate Committees on Judiciary, the House  
4           Committee on Corrections and Institutions, the House Committee on Health  
5           Care, and the Senate Committee on Health and Welfare.

6           Sec. 10. EFFECTIVE DATES

7           (a) This section and Sec. 9 (Department of Corrections; Department of  
8           Mental Health; forensic mental health center; memorandum of understanding  
9           for provision of mental health services; report to standing committees) shall  
10           take effect on passage.

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

16           (c) Sec. 6 (mental health service for inmates; powers and responsibilities of  
17           Commissioner) shall take effect on July 1, 2019.

18           (d) Secs. 1 (hearing regarding commitment) and 2 (notice of hearing;  
19           procedures) shall take effect on July 1, 2018.

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(Committee vote: \_\_\_\_\_)

\_\_\_\_\_

Representative \_\_\_\_\_

FOR THE COMMITTEE