

1 *S.61 – Sections 1, 2, and 7 for House Judiciary Review*

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

3 § 4820. HEARING REGARDING COMMITMENT

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

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

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

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

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

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

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

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

10 § 4821. NOTICE OF HEARING; PROCEDURES

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

17 Procedures for hearings for persons who are mentally ill shall be as provided in
18 18 V.S.A. chapter 181. Procedures for hearings for persons who are
19 intellectually disabled ~~or have a traumatic brain injury~~ shall be as provided in
20 18 V.S.A. chapter 206, subchapter 3.

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

3 On or before January 18, 2018:

4 (1) the Secretary of Human Services shall report to the House and
5 Senate Committees on Judiciary, the House Committee on Corrections and
6 Institutions, the Senate Committee on Health and Welfare, and the House
7 Committee on Health Care on how best to provide mental health treatment and
8 services to offenders in the custody of the Department of Corrections,
9 including recommendations on whether those services should be provided by a
10 classified State employee working within the Agency of Human Services, by
11 designated agencies, or by other professionals contracted for professional
12 mental health care services within the Department; and

13 (2) the Secretary of Human Services, in consultation with the Attorney
14 General, shall report to the Justice Oversight Committee, the House and Senate
15 Committees on Judiciary, and the House and Senate Committees on
16 Appropriations on the resources necessary to comply with the requirements set
17 forth in 13 V.S.A. § 4820(c). The Committees on Appropriations shall
18 consider the report during their FY 2019 budget deliberations in determining
19 the appropriate funding for the State to meet the requirements of 13 V.S.A. §
20 4820(c).

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