

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 61
3 entitled “An act relating to offenders with mental illness” respectfully reports
4 that it has considered the same and recommends that the bill be amended by
5 striking out all after the enacting clause and inserting in lieu thereof the
6 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, ~~intellectual~~ developmental
20 disability, or 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 developmental
10 disability, the court shall appoint counsel from the Mental Health Law Project
11 to represent the person who is the subject of the proceedings and from the
12 Office of the 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 which may or may not include placement in a single
11 occupancy cell and which is used for disciplinary, administrative, or other
12 reasons, but shall not mean confinement to an infirmary or a residential
13 treatment setting for purposes of evaluation, treatment, or provision of
14 services.

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

16 ~~(b) For purposes of this title, and despite other names this concept has been~~
17 ~~given in the past or may be given in the future, “segregation” means a form of~~
18 ~~separation from the general population which may or may not include~~
19 ~~placement in a single occupancy cell and which is used for disciplinary,~~
20 ~~administrative, or other reasons~~ As used in this section, “segregation” shall
21 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 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 services
13 waiver or is currently receiving community rehabilitation and treatment
14 services, he or she will automatically be designated as having a serious
15 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 The Commissioner shall administer a program of trauma-informed mental
5 health services which 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 services
13 waiver or is currently receiving community rehabilitation and treatment
14 services, he or she will automatically be designated as having a serious
15 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~~ 48 hours of the screening, be ~~referred for~~ provided with such
19 treatment, evaluation, or services in a setting appropriate to the clinical needs
20 of the inmate.

21 * * *

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

3 On or before October 15, 2017:

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

11 (2) the Attorney General, in consultation with the Secretary of Human
12 Services, shall report to the Justice Oversight Committee on the resources
13 necessary for the State to comply with the requirements set forth in 13 V.S.A.
14 § 4820(c).

15 Sec. 8. LEGISLATIVE INTENT; DEPARTMENT OF CORRECTIONS;
16 USE OF SEGREGATION

17 It is the intent of the General Assembly that the Department of Corrections
18 continue to house inmates in the least restrictive setting necessary to ensure
19 their own safety as well as the safety of staff and other inmates, and to use
20 segregation only in instances when it serves a specific disciplinary or
21 administrative purpose, pursuant to 28 V.S.A. § 3, and to ensure that inmates

1 designated as seriously functionally impaired or inmates with a serious mental
2 illness receive the support and rehabilitative services they need.

3 **Sec. 9. DEPARTMENT OF CORRECTIONS; FORENSIC MENTAL**

4 **HEALTH CENTER**

5 In accordance with the principles set forth in 18 V.S.A. § 7251, and in
6 consultation with the Department of Health and the designated agencies, the
7 Department of Corrections shall create or establish access to a forensic mental
8 health center for up to 12 individuals to provide comprehensive assessment,
9 evaluation, and treatment for detainees and inmates with mental illness while
10 preventing inappropriate segregation.

11 **Sec. 10. EFFECTIVE DATES**

12 (a) This section and Secs. 3 (general definitions), 4 (28 V.S.A. § 701a(b)),
13 5 (mental health service for inmates; powers and responsibilities of
14 commissioner), 7 (Agency of Human Services; Report to Justice Oversight
15 Committee), and 8 (legislative intent, Department of Corrections; use of
16 segregation) shall take effect on July 1, 2017.

17 (b) Secs. 1 (hearing regarding commitment), 2 (notice of hearing;
18 procedures), 6 (mental health service for inmates; powers and responsibilities
19 of Commissioner), and 9 (Department of Corrections; forensic mental health
20 center) shall take effect on July 1, 2018.

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3 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE