



Joint Legislative Justice Oversight Committee

Testimony on Mental Health and the Criminal Justice System

August 29, 2019

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Thank you for inviting the Vermont Center for Crime Victim Services to offer comment.

The Center has actively engaged in criminal justice reform conversations for many years. By statute, the Center is responsible for promoting the rights and needs of Vermont's crime victims. The Center supports proposals that are informed by evidence-based practices, ensure access to adequate community resources, and demonstrate the potential improve public safety and heal trauma in communities.

Victim Rights

When a criminal defendant is ruled insane or incompetent to stand trial and becomes subject to Title 18 hospitalization or non-hospitalization orders, victim rights fall entirely through the cracks. Victims should be entitled to notification when an offender in Department of Mental Health custody is moved or released into the public. Some of these cases pose extreme danger to victims and victims have the right to know where the person who committed the crime is located.

Victims have the right to notification when a defendant is transferred but the language in Title 13 is not specific in saying that the "agency having custody" will notify. Title 18 does not have specific language requiring notification for victims.

It is clear from families of victims that notification varies between practice vs. statute. In addition, when charges are dropped due to mental health issues, families can be left out and feel that nothing is being done and no one person or office is responsible for following the defendant.

CURRENT STATUTORY NOTIFICATIONS AND ORDERS
UNDER CHAPTER 157

<p>Order for Examination 13 V.S.A. § 4814</p>	<p>The court must order the Department of Mental Health to have the Defendant examined by a psychiatrist either where the Defendant provides notice of intent to rely on an insanity defense or where the issue of competency to stand trial is raised.</p>
<p>Order of Temporary Commitment 13 V.S.A. § 4815</p>	<p>The court has authority to order an inpatient examination and to order conditions for release from custody pursuant to 13 V.S.A. § 7553-7554. <i>The Department of Mental Health can determine that the defendant is not in need of further treatment during the examination period, pursuant to 18 V.S.A. § 7107(17), and release the defendant into the community.</i> 13 V.S.A. § 4815(g)(4).</p>
<p>Order Regarding Competency to Stand Trial 13 V.S.A. § 4817</p>	<p>The court must issue an order deeming a defendant incompetent to stand trial where standard is met.</p>
<p>Jury Verdict of Not Guilty by Reason of Insanity 13 V.S.A. § 4819</p>	<p>The jury must state in its verdict of not guilty by reason of insanity that the verdict was reached for that reason.</p>
<p>Custody Order Prior to Hearing Regarding Commitment 13 V.S.A. § 4820(b)</p>	<p>The Court has authority to order the defendant to jail “or some other suitable place” for up to 15 days until the hearing regarding commitment can be held.</p>
<p>Notice of Hearing Regarding Commitment 13 V.S.A. § 4821</p>	<p>Requires notice of the hearing regarding commitment (does not currently include victims).</p>
<p>Order of Commitment 13 V.S.A. § 4822(a) and 18 V.S.A. § 7101</p>	<p>The Court may order the Defendant into the care and custody of the Department of Mental Health for “an indefinite period” (defined as 90 days pursuant to Title 18)</p>
<p>Order Requiring Hearing Prior to Discharge 13 V.S.A. § 4822(a)</p>	<p>The Court may order a hearing prior to the person under a 90-day order being discharged from Department of Mental Health Custody “in any case involving personal injury or threat of personal injury[.]”</p>

Recommendations

The Center suggests changes to both Title 18 and Title 13 that would require notification to victims and families when custody is turned over to another department/agency. In addition, clear oversight to ensure notification and management (in the case of charges being dropped) needs to be held in one department/agency, such as the Attorney General's Office. Victims and their families need a contact within the justice system that can be responsive to their concerns and questions. This is critical to ensuring that a transfer from a mental health setting or hospital connects with the criminal justice system.

Thank you considering these comments.