

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 183  
3 entitled “An act relating to competency to stand trial and insanity as a defense”  
4 respectfully reports that it has considered the same and recommends that the  
5 bill be amended by striking out all after the enacting clause and inserting in  
6 lieu thereof the following:

7 Sec. 1. 13 V.S.A. § 4822 is amended to read:

8 § 4822. FINDINGS AND ORDER; PERSONS WITH A MENTAL ILLNESS

9 (a) If the court finds that the person is a person in need of treatment or a  
10 patient in need of further treatment as defined in 18 V.S.A. § 7101, the court  
11 shall issue an order of commitment directed to the Commissioner of Mental  
12 Health that shall admit the person to the care and custody of the Department of  
13 Mental Health for an indeterminate period. In any case involving personal  
14 injury or threat of personal injury, the committing court may issue an order  
15 requiring a court hearing before a person committed under this section may be  
16 discharged from custody.

17 (b) An order of commitment issued pursuant to this section shall have the  
18 same force and effect as an order issued under 18 V.S.A. §§ 7611–7622, and a  
19 person committed under this order shall have the same status and the same  
20 rights, including the right to receive care and treatment, to be examined and

1 discharged, and to apply for and obtain judicial review of his or her case, as a  
2 person ordered committed under 18 V.S.A. §§ 7611–7622.

3 (c)(1) Notwithstanding the provisions of subsection (b) of this section, at  
4 least 10 days prior to the proposed discharge of any person committed under  
5 this section, the Commissioner of Mental Health shall give notice of the  
6 discharge to the committing court and State’s Attorney of the county where the  
7 prosecution originated. In all cases requiring a hearing prior to discharge of a  
8 person found incompetent to stand trial under section 4817 of this title, the  
9 hearing shall be conducted by the committing court issuing the order under that  
10 section. In all other cases, when the committing court orders a hearing under  
11 subsection (a) of this section or when, in the discretion of the Commissioner of  
12 Mental Health, a hearing should be held prior to the discharge, the hearing  
13 shall be held in the Family Division of the Superior Court to determine if the  
14 committed person is no longer a person in need of treatment or a patient in  
15 need of further treatment as set forth in subsection (a) of this section. Notice  
16 of the hearing shall be given to the Commissioner, the State’s Attorney of the  
17 county where the prosecution originated, the committed person, and the  
18 person’s attorney. Prior to the hearing, the State’s Attorney may enter an  
19 appearance in the proceedings and may request examination of the patient by  
20 an independent psychiatrist, who may testify at the hearing.



1 Corrections and Institutions, on Health Care, and on Judiciary and to the  
2 Senate Committees on Health and Welfare and on Judiciary. The evaluation  
3 shall include a comparison as to how the type, frequency, and timeliness of  
4 mental health services provided in a correctional setting differ from those  
5 services available in the community. The evaluation shall further address how  
6 the memorandum of understanding executed by the Departments of  
7 Corrections and of Mental Health impacts the mental health services provided  
8 by the entity with whom the Department of Corrections contracts for health  
9 care services.

10 Sec. 3. FORENSIC CARE WORKING GROUP

11 (a) On or before August 1, 2020, the Department of Mental Health shall  
12 convene a working group of interested stakeholders, including as appropriate,  
13 the Department of Corrections, the Department of State’s Attorneys and  
14 Sheriffs, the Office of the Attorney General, the Office of the Defender  
15 General, the Director of Health Care Reform, and the Department of Buildings  
16 and General Services to:

17 (1) Identify any gaps in the current mental health and criminal justice  
18 system structure and opportunities to improve public safety and the  
19 coordination of treatment for individuals incompetent to stand trial or who are  
20 adjudicated not guilty by reason of insanity. The working group shall review  
21 competency restoration models used in other states and explore models used in

1 other states that balance the treatment and public safety risks posed by  
2 individuals found not guilty by reason of insanity, such as Psychiatric Security  
3 Review Boards; and

4 (2) Evaluate various models for the establishment of a State-funded  
5 forensic treatment facility for individuals found incompetent to stand trial or  
6 who are adjudicated not guilty by reason of insanity. The evaluation shall  
7 address:

8 (A) the need for a forensic treatment facility in Vermont;

9 (B) the entity or entities most appropriate to operate a forensic  
10 treatment facility;

11 (C) the feasibility and appropriateness of repurposing an existing  
12 facility for the purpose of establishing a forensic treatment facility, such as  
13 Woodside Juvenile Rehabilitation Center, versus constructing a new facility  
14 for this purpose;

15 (D) the number of beds needed in a forensic treatment facility and the  
16 impact that repurposing an existing mental health treatment facility would have  
17 on the availability of beds for persons seeking mental health treatment in the  
18 community or through the civil commitment system; and

19 (E) the fiscal impact of constructing or repurposing a forensic  
20 treatment facility and estimated annual operational costs considering  
21 “institutions of mental disease” waivers available through the Center for

1 Medicare and Medicaid Services that do not provide federal fiscal participation  
2 for forensic mental health patients.

3 (b) On or before November 1, 2020, the Department of Mental Health shall  
4 submit a report containing the findings and recommendations of the working  
5 group to the Joint Legislative Justice Oversight Committee. The report shall  
6 include proposed draft legislation adapting Connecticut’s Psychiatric Security  
7 Review Board to reflect Vermont’s mental health and criminal justice systems.

8 Sec. 4. EFFECTIVE DATE

9 This act shall take effect on July 1, 2020.

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

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Senator \_\_\_\_\_

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FOR THE COMMITTEE