

## Senate Judiciary Committee

S.183

Margaret Bolton, MD

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Thank you for allowing me to offer testimony. I am not here as an expert on the forensic system in Vermont, but because I am part of it, both as an evaluator and up until last May as a community mental health psychiatrist. I started my career at VSH in 1994 on Brooks One. I did a Forensic Fellowship at UMass in Worcester 2005 to 2006, and since 2006 have been hired by the state (and attorneys) to perform competence and sanity evaluation on adults. We do not have a forensic system of care in this state. I would like to make some points regarding S 183;

1. **S 183 is a beginning.** The notion of hearings prior to discharge from DMH Custody makes some sense, though hearings for all those found incompetent to stand trial, and insane at the time, would put a work load on the judiciary. We have not gotten caught up in incarcerating or holding individuals charged with misdemeanors for lengthy times either in corrections or in the hospital. State's Attorney George pointed to some thorny problems with individuals, perennially not competent and not institutionalized and causing problems in the community. Designating cases that would require a discharge hearing makes sense, but saying all cases need a discharge hearing, will likely cause unintended problems.
2. **We need a system of forensic care.** What is needed is an outpatient system of care and structured inpatient system to address the oversight of individuals found NGRI (not guilty by reason of insanity) and competency restoration (if possible) for individuals found incompetent to stand trial. The inpatient setting will need to be untethered from funds that support active treatment. Choosing an arbitrary time (three years) will make no difference if there is no program or place.
3. **I support a psychiatric review board to aid in decision making.** Having the community psychiatrist be the sole individual making public safety decisions (who is released, when an order of hospitalization or non-hospitalization should end) when the public mental health system is striving toward non-coercion, makes their job difficult. Having a review board charged with overseeing treatment and making public safety decisions would help. The community psychiatrist will have a voice, but will be one of many, which will aid in treatment alliance. I also support an independent, professional review of our needs and recommendations for a system of care. A psychiatric review board may come from this, or another model. We can learn from others mistakes, and we should invest money in that effort.
4. **I applaud the separation of competence evaluations from sanity evaluations.** This makes sense legally as an incompetent defendant cannot advocate for themselves or participate in their own defense so be found simultaneously sane at the time is improper.