
This act summary is provided for the convenience of the public and members of the General Assembly. It is intended to provide a general summary of the act and may not be exhaustive. It has been prepared by the staff of the Office of Legislative Counsel without input from members of the General Assembly. It is not intended to aid in the interpretation of legislation or to serve as a source of legislative intent.

Act No. 57 (S.3). Crimes and criminal procedures; competency to stand trial and insanity defense

An act relating to competency to stand trial and insanity as a defense

This act makes several changes to criminal proceedings related to the insanity defense and a criminal defendant's competency to stand trial, including clarifying that the court-ordered independent psychiatric examination may evaluate the defendant's competency or the defendant's sanity, or both; clarifying that the examination will be conducted either by a psychiatrist (if the person's incompetency or insanity is the result of a mental illness) or by a psychiatrist and a psychologist (if the person's incompetency or insanity is the result of a developmental disability); requiring that an examination of the defendant's sanity only be undertaken if the defendant is first found competent to stand trial, unless the defendant requests that the examinations occur concurrently; providing that the defendant is entitled to be represented by counsel appointed from Vermont Legal Aid at the commitment hearing and that the Department of Mental Health (DMH) and, if applicable, the Department of Aging and Independent Living are entitled to appear at the hearing and call witnesses; requiring that notice be provided to the prosecutor and the crime victim if: (1) a defendant committed to DMH custody is discharged from custody, is discharged to the community on an order of nonhospitalization, or elopes from custody; or (2) DMH decides not to seek continued treatment of the person; and permitting the prosecution to ask the court to permit its own psychiatrist to examine the defendant when the court-ordered examiner has found the defendant incompetent to stand trial. The act also requires DMH and the Department of Corrections (DOC) to jointly submit to the General Assembly an inventory and evaluation of those mental health services provided by the entity that DOC contracts with for health care services and requires DMH to convene the Forensic Care Working Group to report to the General Assembly on issues related to the mental health care treatment of criminal defendants.

Effective Date: July 1, 2021