

# Journal of the House

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Friday, May 14, 2021

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

## Devotional Exercises

A moment of silence was held in lieu of a devotional.

## Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House of Representatives that on the thirteenth day of May, 2021, he signed a bill originating in the House of the following title:

**H. 145      An act relating to amending the standards for law enforcement use of force**

## Bill Referred to Committee on Appropriations

**S. 25**

Senate bill, entitled

An act relating to miscellaneous cannabis regulation procedures

Appearing on the Calendar for Notice, and pursuant to Rule 35(a), carrying an appropriation, was referred to the Committee on Appropriations.

## Bill Referred to Committee on Ways and Means

**S. 62**

Senate bill, entitled

An act relating to creating incentives for new remote and relocation workers

Appearing on the Calendar for Notice, and pursuant to Rule 35(a), affecting the revenue of the State, was referred to the Committee on Ways and Means.

**Ceremonial Reading****H.C.R. 63**

House concurrent resolution honoring former Vermont Natural Resources Board Vice Chair Martha Illick and her husband, Terrence Dinnan, of Charlotte

Offered by: Reps. Yantachka of Charlotte, Birong of Vergennes, Brumsted of Shelburne, Lanpher of Vergennes, Lippert of Hinesburg, and Webb of Shelburne; Senators Lyons, Chittenden, McCormack, Pearson, and Ram

Having been adopted in concurrence on Friday, May 7, 2021 in accord with Joint Rule 16b, was read.

**Senate Proposal of Amendment Concurred in  
With a Further Amendment Thereto****H. 426**

The Senate proposed to the House to amend House bill, entitled

An act relating to addressing the needs and conditions of public school facilities in the State

The Senate proposed to the House to amend the bill as follows:

First: In Sec. 1, findings; intent, in the section heading, by inserting ; Purpose after “Intent” and by adding a subsection (e) to read as follows:

(e) The purpose of the funding appropriated in this act is to enable supervisory unions and supervisory districts to utilize their Elementary and Secondary School Emergency Relief Fund allocations to improve the conditions for health and safety of students and staff, to address other eligible facilities needs, and to position the State in addressing the backlog of school facilities needs in an efficient and equitable manner.

Second: In Sec. 2, school construction; facilities standards; Capital Outlay Financing Formula; Agency of Education; State Board of Education; update, in subsection (c), by striking out “State Board” and inserting in lieu thereof Agency of Education and by inserting to the State Board after “technical assistance”

Third: By striking out Sec. 3, school facilities conditions assessment; Agency of Education; Department of Buildings and General Services, in its entirety and inserting in lieu thereof the following:

Sec. 3. SCHOOL FACILITIES INVENTORY AND CONDITIONS  
ASSESSMENT; AGENCY OF EDUCATION; DEPARTMENT OF  
BUILDINGS AND GENERAL SERVICES; REPORT

(a) On or before September 1, 2021, the Secretary of Education, in coordination with the Commissioner of Buildings and General Services, shall issue a request for proposal for a school facilities inventory and conditions assessment to ascertain the extent of need for additional support to school districts as a result of the COVID-19 pandemic and to inform the Agency of Education of the statewide school facilities needs and costs.

(b) The Secretary of Education shall contract with an independent third party to conduct the inventory and assessment described in subsection (a) of this section. The inventory shall be completed on or before January 15, 2022, and the assessment shall be completed on or before October 1, 2022.

(c) The independent third party hired pursuant to subsection (b) of this section shall conduct the inventory and assessment in two phases.

(1) the inventory phase of the contract shall include collecting information about the current state of school facilities and immediate plans to invest in school facilities, including:

(A) general information about facilities, age of buildings, and major mechanical systems;

(B) a review of school facility conditions, space utilization, and suitability of the facility and its spaces to deliver educational and support services;

(C) building systems' condition and performance to address the health and safety of students and employees, including energy efficiency improvements and indoor air quality, accessibility to and within buildings, and condition of technology systems, and;

(D) a review of any information collected by Efficiency Vermont about school building systems as part of the School Indoor Air Quality Program, as established in 2020 Acts and Resolves No. 120, Sec. A.51.

(2) the assessment phase of the contract shall include:

(A) A planning phase that utilizes the expertise of the consultant and other stakeholders to finalize the evaluation criteria and methodology for the collection of data.

(B) Sufficient information to assist the General Assembly to establish a ranking system based on categories to prioritize schools with the highest needs for future school construction funding. The categories shall include:

(i) capacity and utilization;

(ii) safety and security infrastructure;

(iii) accessibility;

(iv) technology infrastructure;

(v) capacity to deliver STEAM (science, technology, engineering, arts, and math) programming; and

(vi) building systems' condition and performance, including energy efficiency improvements and indoor air quality to address the health and safety of students and employees.

(d) The Secretary is authorized to use not more than \$2,500,000.00 from the amount allocated to the Agency of Education from the Elementary and Secondary School Emergency Relief Fund pursuant to Section 2001(c) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 to conduct the inventory and assessment described in this section.

(e) The Agency of Education shall create a database to enter the information from the assessment described in subsection (a) of this section. This information shall include a school's physical address and GIS coordinates.

(f) On or before January 15, 2022, the Secretary of Education shall submit a report to the House and Senate Committees on Education presenting the findings of the inventory described in subsection (a) of this section and a progress update on the assessment phase.

(g) As used in this section, "school" means a public school as defined in 16 V.S.A. § 11.

Fourth: By striking out Sec. 8, effective dates, in its entirety and inserting in lieu thereof the following:

Sec. 8. 16 V.S.A. § 559 is amended to read:

§ 559. PUBLIC BIDS

(a) Cost threshold. When the cost exceeds ~~\$15,000.00~~ \$40,000.00, a school board or supervisory union board shall publicly advertise or invite three or more bids from persons deemed capable of providing items or services if costs are in excess of ~~\$15,000.00~~ \$40,000.00 for any of the following:

(1) the construction, purchase, lease, or improvement of any school building;

(2) the purchase or lease of any item or items required for supply, equipment, maintenance, repair, or transportation of students; or

(3) a contract for transportation, maintenance, or repair services.

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Sec. 9. SCHOOL FACILITIES; HEALTH AND SAFETY PROJECTS;  
COVID-19

(a) On or before September 30, 2023, the Agency of Education shall contract with an independent third party to assist any school district using funds allocated to it from the Elementary and Secondary School Emergency Relief Fund pursuant to Section 2001(d) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 and any other federal sources, to improve the overall health and safety of any of the district's school facilities as a result of the COVID-19 pandemic. The contractor's responsibilities shall include:

(1) project coordination;

(2) serving as a liaison:

(A) between the school district, the Agency of Education, the Department of Health, and any other relevant entities in the State that may be leveraged to support the work, including to coordinate the use of federal funding programs and maximize funding, labor, and equipment resources;

(B) between the school district and the Agency of Education to:

(i) facilitate the district prioritization of school safety and health issues;

(ii) support a school district, in coordination with the Agency of Education, in defining their investment strategies for the improvement of school facilities in a manner consistent with the intent and purpose of any funding source; and

(iii) develop communications to support the prioritization of projects; and

(iv) provide status updates and a final report on project work to the school district and the Agency of Education, including recommendations on how to maintain the facility after the performance period of the grant funds.

(b)(1) The Agency of Education is authorized to allocate not more than \$500,000.00 of the amount allocated to the Agency of Education from the Elementary and Secondary School Emergency Relief Fund pursuant to Section 2001(c) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 for the purpose described in subsection (a) of this section.

(2) The Agency of Education shall reserve not more than \$1,000,000.00 from the amount allocated to the Agency of Education from the Elementary and Secondary School Emergency Relief Fund pursuant to Section 2001(c) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 if a school district has used all of the funds allocated to it from the Elementary and Secondary

School Emergency Relief Fund pursuant to Section 2001(d) of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 and needs additional funding to plan and implement improvements to its facilities pursuant to this section.

Sec. 10. STATE ENERGY MANAGEMENT PROGRAM; FINANCING FOR SCHOOLS

On or before January 15, 2023, the Agency of Education, in coordination with the Department of Buildings and General Services, shall submit a report to the House Committees on Corrections and Institutions and on Education and the Senate Committees on Education and on Institutions to determine how the State Energy Management Program, established in 29 V.S.A. § 168, shall support schools to implement needed energy efficiency and conservation measures, including those identified in the inventory and assessment required by Sec. 3 of this act.

Sec. 11. RENEWABLE AND EFFICIENT HEATING SYSTEMS IN SCHOOLS; GRANT PROGRAM; EFFICIENCY VERMONT

(a) Program established. In fiscal year 2022, there is established the Renewable and Efficiency Heating Systems Grant Program (Program) to award grants for renewable and efficient heating systems in schools. Renewable and efficient heating systems grants shall be used to make necessary improvements to address building systems in covered schools to improve health, safety, and efficiency in response to the COVID-19 emergency.

(b) Definition. As used in this section, “covered school” means public schools and approved independent schools as defined under 16 V.S.A. § 11.

(c) Administration; implementation.

(1) Efficiency Vermont shall administer the Program, which shall:

(A) provide consulting services to covered schools;

(B) award grant funds to covered schools of not more than 50 percent of the total cost for the improvement or repair of existing heating systems, with a focus on renewable energy systems, energy efficiency, and providing appropriate space conditioning; and

(C) award grant funds to covered schools for the installation of renewable or efficiency electric space heating and conditioning systems.

(2) Grant program design. Efficiency Vermont, in consultation with the Agency of Education; the Vermont Superintendents Association; and experts in the field of thermal enclosure, energy efficiency, and renewable building space systems, shall design the Program. The Program design shall establish:

(A) an outreach and education plan, including specific tactics to reach and support all covered schools;

(B) an equitable system for distributing grants statewide based on geographic location, school size, grant dollar amount, and assessed need, with an emphasis on schools that may not have administrative support to apply for grants; and

(C) guidelines for thermal enclosure and renewable and energy efficiency buildings systems resilience, durability, health, and efficiency measures and costs that will be eligible for grant funding.

(d) Costs and fees.

(1) Efficiency Vermont is authorized to use up to \$150,000.00 of the amounts appropriated to the Program for direct labor costs.

(2) As the entity appointed to serve as Efficiency Vermont, the Vermont Energy Investment Corp. (VEIC) is also authorized to collect their federal-approved indirect rate of 9.3 percent on the funds expended in this section.

(3) Nothing shall prohibit Efficiency Vermont from supplementing total project costs completed under this section with a portion of its Public Utility Commission-approved budget for the purpose of achieving higher levels of efficiency and claiming efficiency savings toward the completing of performance targets pursuant to 30 V.S.A. § 209(d).

(e) Coordination. Efficiency Vermont shall coordinate with the Agency of Education and any other State entities and agencies working with covered schools to provide grants for the Program.

(f) Disclosures. Efficiency Vermont shall require that any school that receives a grant through the Program shall authorize Efficiency Vermont to release the school name and grant amount in any report requested by the General Assembly.

(g) Funding. During the 2022 legislative session, the General Assembly shall determine the source of funding for the Program and the necessary reporting requirements.

## Sec. 12. RADON TESTING; SCHOOL FACILITIES; DEPARTMENT OF HEALTH

(a) On or before January 15, 2023, each public school, as defined in 16 V.S.A. § 11, shall perform a radon measurement in accordance with the ANSI/AARST protocol for conducting Radon and Radon Decay Products in Schools and Large Buildings (MALB-2014) on any facility that has not had a test completed in five or more years.

(b) Each public school shall make available the results of the radon measurement described in subsection (a) of this section to each employee and student at the school.

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

Pending the question, Shall the House concur in the Senate proposal of amendment?, **Reps. Webb of Shelburne, Arrison of Weathersfield, Austin of Colchester, Brady of Williston, Brown of Richmond, Conlon of Cornwall, Cupoli of Rutland City, Hooper of Randolph, James of Manchester, Toof of St. Albans Town, and Williams of Granby** moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

First: In Sec. 3, school facilities inventory and conditions assessment; Agency of Education; Department of Buildings and General Services; report, in subsection (a), by striking out “coordination” and inserting in lieu thereof “consultation”

Second: In Sec. 10, State Energy Management Program; financing for schools, by striking out “coordination” and inserting in lieu thereof “consultation”

Third: In Sec. 12, radon testing; school facilities; Department of Health, in the title, by striking out “; Department of Health”; by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) On or before June 30, 2023, each public school and approved independent school, as defined in 16 V.S.A. § 11, shall perform a radon measurement in accordance with the ANSI/AARST protocol for conducting Radon and Radon Decay Products in Schools and Large Buildings (MALB-2014) on any facility that has not had a test completed in five or more years; provided, however, that any public school or approved independent school that is engaged in implementing an indoor air quality improvement project prior to June 30, 2023 shall perform a radon measurement on or before June 30, 2024.

and in subsection (b), by inserting “and approved independent school” after “public school”

Which was agreed to.



**Third Reading; Bill Passed in Concurrence with Proposal of Amendment****S. 47**

Senate bill, entitled

An act relating to motor vehicle manufacturers, dealers, and warranty or service facilities

Was taken up, read the third time, and passed in concurrence with proposal of amendment.

**Second Reading; Proposal of Amendment Agreed to;  
Third Reading Ordered****S. 48**

**Rep. Mrowicki of Putney**, for the Committee on Government Operations, to which had been referred Senate bill, entitled

An act relating to Vermont's adoption of the interstate Nurse Licensure Compact

Reported in favor of its passage in concurrence with proposal of amendment by adding a new section to be Sec. 1a to read as follows:

Sec. 1a. SECRETARY OF STATE; OFFICE OF PROFESSIONAL  
REGULATION; REPORT

On or before January 15, 2024, the Office of Professional Regulation shall report to the House Committees on Health Care and on Government Operations and to the Senate Committees on Health and Welfare and on Government Operations concerning the implementation of 26 V.S.A. chapter 28, subchapter 5, including:

(1) the number of compact licensees and single state licenses issued annually following the adoption of the Nurse Licensure Compact;

(2) the resources necessary to implement the Nurse Licensure Compact;

(3) the fiscal impact on the Vermont State Board of Nursing's special fund; and

(4) any recommendations related to the nurse licensure fees prescribed in 26 V.S.A. § 1577, including:

(A) the policy implications of adjusting fees for all nursing licenses or only the Compact multistate license fees; and

(B) potential alternatives for financial support of the Vermont State Board of Nursing if there is a recommendation to increase nursing license fees.

**Rep. Durfee of Shaftsbury**, for the Committee on Ways and Means, recommended that the House propose to the Senate to amend the bill as recommended by the Committee on Government Operations and when further amended as follows:

First: In Sec. 1, 26 V.S.A. chapter 28, subchapter 5, in section 1648, in subsection (a), in subdivision (2), following “taken against that nurse;” by inserting “and” and by striking out subdivision (a)(3) in its entirety and redesignating subdivision (a)(4) to be subdivision (a)(3)

Second: In Sec. 1a, Secretary of State; Office of Professional Regulation; report, in subdivision (1), following “Nurse Licensure Compact”, by inserting “and noting how many of those license fees were paid by a licensee and how many were paid by an employer or other entity on behalf of a licensee”

Third: In Sec. 1a, Secretary of State; Office of Professional Regulation; report, by striking out subdivision (4) in its entirety and inserting in lieu thereof the following:

(4) if the Office of Professional Regulation determines that implementation of the Nurse Licensure Compact has resulted in a reduction of revenue available to the Vermont Board of Nursing, the Office shall include in its report:

(A) a proposal to manage the reduction through administrative efficiencies; and

(B) if the Office is not able to manage the reduction in revenue through administrative efficiencies, a proposal to address the reduction through an increase in the license fee for a compact multistate license only.

**Rep. Townsend of South Burlington**, for the Committee on Appropriations, recommended that the House propose to the Senate to amend the bill as recommended by the Committees on Government Operations and on Ways and Means.

The bill having appeared on the Calendar one day for Notice was taken up, read the second time, and the report of the Committee on Government Operations was agreed to. Thereafter, the report of the Committee on Ways and Means to further amend the bill was agreed to. Thereupon, third reading was ordered.

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**Senate Proposal of Amendment Concurred in  
With a Further Amendment Thereto**

**J.R.H. 2**

The Senate proposed to the House to amend joint House resolution, entitled Joint resolution sincerely apologizing and expressing sorrow and regret to all individual Vermonters and their families and descendants who were harmed as a result of State-sanctioned eugenics policies and practices

The Senate proposed to the House to amend the joint resolution by striking out all the Whereas and Resolved clauses and inserting in lieu thereof the following:

Whereas, starting in the early 1900s, laws and associated policies were adopted to promote the eugenics movement, and the title of the book *Breeding Better Vermonters* by Nancy L. Gallagher accurately describes the movement's purported intent, and

Whereas, this movement targeted for elimination those it deemed currently or potentially delinquent, defective, and dependent persons through sterilizations, primarily of women, to prevent individuals from having children, and

Whereas, in 1912, the Vermont General Assembly passed S.79, "An act to authorize and provide for the sterilization of imbeciles, feeble-minded, and insane persons, rapists, confirmed criminals and other defectives," however, Governor Allen M. Fletcher vetoed the bill, citing constitutional concerns that Attorney General Rufus E. Brown had raised, and

Whereas, nevertheless, State agencies and institutions adopted policies and procedures to carry out the intent of the vetoed legislation and the beliefs of the eugenics movement, and

Whereas, in 1925, University of Vermont zoology professor Henry F. Perkins, who established the Eugenics Survey of Vermont and served as President of the American Eugenics Society, collaborated with leaders of Vermont State government to collect evidence of Vermonters' alleged delinquency, dependency, and deficiency, and

Whereas, these State-sanctioned policies targeted the poor and persons with mental and physical disabilities, and

Whereas, these same policies also targeted individuals, families, and communities whose heritage was documented as French Canadian, French-Indian, or of other mixed ethnic or racial composition and persons whose

extended families' successor generations now identify as Abenaki or as members of other indigenous bands or tribes, and

Whereas, in 1927, S.59, "An act relating to Voluntary Eugenic Sterilization" passed the Senate but was defeated in the House, and

Whereas, the General Assembly adopted 1931 Acts and Resolves No. 174 (Act 174), "An Act for Human Betterment by Voluntary Sterilization," for the purpose of eliminating from the future Vermont genetic pool persons deemed mentally unfit to procreate, and

Whereas, this State-sanctioned eugenics policy was not an isolated example of oppression but reflected the historic marginalization, discriminatory treatment, and displacement of these targeted groups in Vermont, and

Whereas, eugenics advocates promoted sterilization for the protection of Vermont's "old stock" and to preserve the physical and social environment of Vermont for their children, and

Whereas, the Eugenics Survey received assistance from State and municipal officials, individuals, and private organizations, and the resulting sterilization, institutionalization, and separation policies intruded on the lives of its victims and had devastating and irreversible impacts that still persist in the lives of the targeted groups and especially the descendants of those who were directly impacted, and

Whereas, in conducting the Eugenics Survey, the surveyors were granted access to case files from State agencies and institutions, and the files were made available to persons of authority, including police departments, social workers, educators, and town officials, and

Whereas, as a result of the opening of these files, children and adults were removed from families, individuals were institutionalized or incarcerated, family connections were severed, and the sense of kinship, continuity and community was lost, and

Whereas, the legacy of the eugenics movement continues to influence some of Vermont's current policies and legislation, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly sincerely apologizes and expresses sorrow and regret to all individual Vermonters and their families and descendants who were harmed as a result of State-sanctioned eugenics policies and practices, and be it further

Resolved: That the General Assembly continues to work to eradicate the lasting legacy of its prior actions by listening to and working with the affected individuals and communities, and be it further

Resolved: That the General Assembly recognizes that further legislative action should be taken to address the continuing impact of State-sanctioned eugenics polices and related practices of disenfranchisement, ethnocide, and genocide.

Pending the question, Shall the House concur in the Senate proposal of amendment?, **Rep. Stevens of Waterbury** moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

In the first Whereas clause, by striking out the phrase “and the title of the book *Breeding Better Vermonters* by Nancy L. Gallagher accurately describes the movement’s purported intent,”

Which was agreed to.

**Rules Suspended; Second Reading; Favorable Report;  
Third Reading Ordered**

**S. 22**

On motion of **Rep. McCoy of Poultney**, the rules were suspended and Senate bill, entitled

An act relating to health care practitioners administering stem cell products not approved by the U.S. Food and Drug Administration

Appearing on the Calendar for Notice, was taken up for immediate consideration.

**Rep. Goldman of Rockingham**, for the Committee on Health Care, to which had been referred the Senate bill, reported in favor of its passage in concurrence.

Thereupon, the bill was read the second time and third reading was ordered.

**Recess**

At ten o'clock and forty-seven minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At eleven o'clock and twenty-one minutes in the forenoon, the Speaker called the House to order.

**Second Reading; Proposal of Amendment Agreed to;  
Third Reading Ordered; Rules Suspended; Third Reading;  
Bill Passed in Concurrence with Proposal of Amendment;  
Rules Suspended; Bill Messaged to Senate Forthwith**

**S. 3**

**Rep. LaLonde of South Burlington**, for the Committee on Judiciary, to which had been referred Senate bill, entitled

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

Reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

\*\*\* Competency to Stand Trial and Sanity at the Time of the Offense \*\*\*

Sec. 1. 13 V.S.A. § 4816 is amended to read:

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

(a) Examinations provided for in section 4815 of this title shall have reference to one or both of the following:

(1) ~~mental~~ Mental competency of the person examined to stand trial for the alleged offense; ~~and~~.

(2) ~~sanity~~ Sanity of the person examined at the time of the alleged offense.

(b) A competency evaluation for an individual thought to have a developmental disability shall include a current evaluation by a psychologist skilled in assessing individuals with developmental disabilities.

(c)(1) As soon as practicable after the examination has been completed, the examining psychiatrist or, if applicable under subsection 4816(b) of this title, the psychiatrist and the psychologist, if applicable, shall prepare a report containing findings in regard to each of the matters listed in applicable provisions of subsection (a) of this section. The report shall be transmitted to the court issuing the order for examination, and copies of the report sent to the State's Attorney, and, to the respondent, to the respondent's attorney if the respondent is represented by counsel, to the Commissioner of Mental Health, and, if applicable, to the Department of Disabilities, Aging, and Independent Living.

(2) If the court orders examination of both the person's competency to stand trial and the person's sanity at the time of the alleged offense, those opinions shall be presented in separate reports and addressed separately by the

court. In such cases, the examination of the person's sanity shall only be undertaken if the psychiatrist or, if applicable under subsection 4816(b) of this title, the psychiatrist and the psychologist are able to form the opinion that the person is competent to stand trial, unless the defendant requests that the examinations occur concurrently. If the evaluation of the defendant's sanity at the time of the alleged offense does not occur until the defendant is deemed competent to stand trial, the psychiatrist or, if applicable under subsection 4816(b) of this title, the psychiatrist and the psychologist shall make a reasonable effort to collect and preserve any evidence necessary to form an opinion as to sanity if the person regains competence.

\* \* \*

Sec. 2. 13 V.S.A. § 4820 is amended to read:

§ 4820. HEARING REGARDING COMMITMENT

(a) When a person charged on information, complaint, or indictment with a criminal offense:

(1) Is reported by the examining psychiatrist following examination pursuant to sections 4814–4816 of this title to have been insane at the time of the alleged offense.

(2) Is found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to a mental disease or mental defect.

(3) Is not indicted upon hearing by grand jury by reason of insanity at the time of the alleged offense, duly certified to the court.

(4) Upon trial by court or jury is acquitted by reason of insanity at the time of the alleged offense; the court before which such person is tried or is to be tried for such offense, shall hold a hearing for the purpose of determining whether such person should be committed to the custody of the Commissioner of Mental Health. Such person may be confined in jail or some other suitable place by order of the court pending hearing for a period not exceeding 15 days.

(b) When a person is found to be incompetent to stand trial, has not been indicted by reason of insanity for the alleged offense, or has been acquitted by reason of insanity at the time of the alleged offense, the person shall be entitled to have counsel appointed from Vermont Legal Aid to represent the person. The Department of Mental Health and, if applicable, the Department of Disabilities, Aging, and Independent Living shall be entitled to appear and call witnesses at the proceeding.

Sec. 3. 13 V.S.A. § 4822 is amended to read:

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

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

(b) An order of commitment issued pursuant to this section shall have the same force and effect as an order issued under 18 V.S.A. §§ 7611–7622, and a person committed under this order shall have the same status and the same rights, including the right to receive care and treatment, to be examined and discharged, and to apply for and obtain judicial review of his or her case, as a person ordered committed under 18 V.S.A. §§ 7611–7622.

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

(2)(A) This subdivision (2) shall apply when a person is committed to the care and custody of the Commissioner of Mental Health under this section after having been found:

(i) not guilty by reason of insanity; or

(ii) incompetent to stand trial, provided that the person’s criminal case has not been dismissed.



(B)(i) When a person has been committed under this section, the Commissioner shall provide notice to the State's Attorney of the county where the prosecution originated or to the Office of the Attorney General if that office prosecuted the case:

(I) at least 10 days prior to discharging the person from:

(aa) the care and custody of the Commissioner; or

(bb) a hospital or a secure residential recovery facility to the community on an order of nonhospitalization pursuant to 18 V.S.A. § 7618;

(II) at least 10 days prior to the expiration of a commitment order issued under this section if the Commissioner does not seek continued treatment; or

(III) any time that the person elopes from the custody of the Commissioner.

(ii) When the State's Attorney or Attorney General receives notice under subdivision (i) of this subdivision (B), the Office shall provide notice of the action to any victim of the offense for which the person has been charged who has not opted out of receiving notice.

(iii) As used in this subdivision (B), "victim" has the same meaning as in section 5301 of this title.

\* \* \*

Sec. 4. Vermont Rule of Criminal Procedure 16.1 is amended to read:

RULE 16.1. DISCLOSURE TO THE PROSECUTION

(a) The Person of the Defendant.

(1) Notwithstanding the initiation of judicial proceedings, and subject to constitutional limitations, upon motion and notice a judicial officer may require the defendant to:

\* \* \*

(H) provide specimens of ~~his~~ the defendant's handwriting; ~~and~~

(I) submit to a reasonable physical or medical inspection of ~~his~~ the defendant's body or, if notice is given by the defendant that sanity is in issue or that expert testimony will be offered as provided in Rule 12.1, to a reasonable mental examination by a psychiatrist or other expert; ~~and~~

(J) submit to a reasonable mental examination by a psychiatrist or other expert when a court ordered examiner pursuant to 13 V.S.A. § 4814(a)(2) or (4) reports that a defendant is not competent to stand trial.

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## \*\*\* Reports and Studies \*\*\*

Sec. 5. CORRECTIONS; ASSESSMENT OF MENTAL HEALTH  
SERVICES

(a) On or before January 1, 2022, the Departments of Corrections and of Mental Health shall jointly submit an inventory and evaluation of the mental health services provided by the entity with whom the Department of Corrections contracts for health care services to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary.

(b) The evaluation shall include:

(1) a comparison as to how the type, frequency, and timeliness of mental health services provided in a correctional setting differ from those services available in the community, recognizing that comparison to currently available community services does not necessarily establish the standard of care for best practices;

(2) a comparison as to how the type, frequency, and timeliness of mental health services differ among Vermont correctional settings, including between men's and women's facilities, and from those mental health services provided to individuals under the care and custody of the Department of Corrections incarcerated in an out-of-state correctional facility;

(3) an assessment as to how the use of a for-profit entity with whom the Department of Corrections contracts for health care services affects costs or quality of care in correctional settings;

(4) an assessment as to whether the Department of Mental Health should provide oversight authority for mental health services provided by the entity with whom the Department of Corrections contracts for health care services; and

(5) information as to how the memorandum of understanding executed by the Departments of Corrections and of Mental Health impacts the mental health services provided by the entity with whom the Department of Corrections contracts for health care services and whether it is adequately addressing needs of those individuals with severe illness or in need of inpatient care.

(c) In conducting the work required by this section, the Departments of Corrections and of Mental Health shall ensure that social and racial equity

issues are considered, including issues related to transgender and gender nonconforming persons.

Sec. 6. FORENSIC CARE WORKING GROUP

(a) On or before August 1, 2021, the Department of Mental Health shall convene a working group of interested stakeholders to provide recommendations necessary to carry out the provisions in subsections (b) and (c) of this section, including as appropriate:

- (1) a representative from the Department of Corrections;
- (2) a representative from the Department of Disabilities, Aging, and Independent Living;
- (3) the Chief Superior Judge;
- (4) a representative from the Department of State's Attorneys and Sheriffs;
- (5) a representative from the Office of the Attorney General;
- (6) a representative from the Office of the Defender General;
- (7) the Director of Health Care Reform or designee;
- (8) a representative appointed by Vermont Care Partners;
- (9) a representative appointed by Vermont Legal Aid's Mental Health Project;
- (10) a representative appointed by the Vermont Medical Society;
- (11) three crime victims representatives, appointed by the Vermont Center for Crime Victim Services;
- (12) the Mental Health Care Ombudsman established pursuant to 18 V.S.A. § 7259 or designee;
- (13) a representative of the designated hospitals, appointed by the Vermont Association of Hospitals and Health Care Systems;
- (14) three individuals with lived experience of mental illness, at least one of whom has lived experience of the criminal justice system or the civil commitment system, or both, appointed by Vermont Psychiatric Survivors;
- (15) a representative appointed by the Vermont Developmental Disabilities Council; and
- (16) any other interested party permitted by the Commissioner of Mental Health.

(b)(1) On or before February 1, 2022, the Department of Mental Health shall submit a preliminary report to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary addressing:

(A) any gaps in the current mental health and criminal justice system structure;

(B) opportunities to:

(i) improve public safety and address the treatment needs for individuals incompetent to stand trial or who are adjudicated not guilty by reason of insanity; and

(ii) consider the importance of victims' rights in the forensic care process;

(C) competency restoration models used in other states, including both:

(i) models that do not rely on involuntary medication to restore competency; and

(ii) how cases where competency is not restored are addressed;

(D) models used in other states to determine public safety risks and the means used to address such risks, including guilty but mentally ill verdicts in criminal cases;

(E) due process requirements for defendants held without adjudication of a crime and presumed innocent;

(F) processes regarding other mental conditions affecting competence or sanity, including intellectual disabilities, traumatic brain injury, and dementia;

(G) models for forensic treatment, including inpatient treatment, community-based treatment, or other treatment models; and

(H) any additional recommendations to address the gaps in the current mental health and criminal justice system structures and opportunities to improve public safety and address the treatment needs for individuals incompetent to stand trial or who are adjudicated not guilty by reason of insanity.

(2) Based on the recommendations in the preliminary report submitted to the General Assembly pursuant to subdivision (1) of this subsection, the Department shall submit a second preliminary report to the Joint Legislative

Justice Oversight Committee on or before July 1, 2022 as to whether or not a forensic treatment facility is needed in Vermont.

(3) On or before January 1, 2023, the Department shall submit a final report to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary that refines and finalizes the recommendations made pursuant to subdivisions (1) and (2) of this subsection, including addressing the size, scope, and fiscal impact of any forensic treatment facility if one is recommended in subdivision (2).

(c) On or before February 1, 2022, the Department of Mental Health shall submit a report to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary that assesses the necessity of notification to the prosecutor upon becoming aware that individuals on orders of nonhospitalization pursuant to 18 V.S.A. § 7618 are not complying with the order or that the alternative treatment is not adequate to meet the individual's treatment needs, including any recommendations:

(1) necessary to clarify the process;

(2) addressing what facts and circumstances should trigger the Commissioner's duty to notify the prosecutor; and

(3) addressing steps that the prosecutor should take after receiving the notification.

(d)(1) In conducting the work required by this section, including evaluations for forensic treatment facility models pursuant to subdivision (b)(2) of this section, the working group shall ensure:

(A) that social and racial equity issues are considered, including issues related to transgender and gender nonconforming persons; and

(B) consistency with the General Assembly's policy in 18 V.S.A. § 7629(c) of working "toward a mental health system that does not require coercion or the use of involuntary medication."

(2) These considerations shall be reflected in the final report submitted pursuant to subdivision (b)(3) of this section and the report submitted pursuant to subsection (c) of this section.

(e) The Department shall access regional or national expertise to present models to the working group for review, including any model recommended by members of the working group.

(f) The final report submitted pursuant to subdivision (b)(3) of this section and the report submitted pursuant to subsection (c) of this section shall include proposed draft legislation addressing any identified needed changes to statute.

(g) Members of the working group who are neither State employees nor otherwise paid to participate in the working group in their professional capacity shall be entitled to per diem compensation and reimbursement of expenses for attending meetings as permitted under 32 V.S.A. § 1010.

(h) In fiscal year 2022, \$25,000.00 is appropriated to the Department from the General Fund to complete the work described in this section.

\* \* \* Amendment of the Joint Legislative Justice Oversight Committee \* \* \*

Sec. 7. 2 V.S.A. § 801 is amended to read:

§ 801. CREATION OF COMMITTEE

\* \* \*

(b) The Committee shall be composed of ~~10~~ 12 members: ~~five~~ six members of the House of Representatives, who shall not all be from the same party, appointed by the Speaker of the House; and ~~five~~ six members of the Senate, who shall not all be from the same party, appointed by the Committee on Committees. In addition to one ~~member-at-large~~ member at large appointed ~~from each chamber, by the House and two members at large appointed by the Senate,~~ one appointment shall be made from each of the House and Senate Committees on Appropriations and on Judiciary, the Senate Committees on Health and Welfare and on Institutions, and the House Committees on Corrections and Institutions, on Health Care, and on Human Services.

\* \* \*

\* \* \* Effective Date \* \* \*

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

**Rep. Yacovone of Morristown**, for the Committee on Appropriations, recommended that the House propose to the Senate to amend the bill as recommended by the Committee on Judiciary and when amended as follows:

First: In Sec. 6, Forensic Care Working Group, by striking out subsection (h) in its entirety.

Second: Before the reader assistance heading, by inserting a new Sec. 8 and its reader assistance heading to read as follows:

\* \* \* Appropriations \* \* \*

Sec. 8. APPROPRIATIONS

The sum of \$530,000.00 is appropriated from the General Fund to the Department of Mental Health to be allocated as follows:

(1) \$250,000.00 to contract with Vermont Legal Aid for the purpose of providing legal representation in commitment proceedings pursuant to 13 V.S.A. § 4820.

(2) \$250,000.00 to provide legal representation and independent psychiatric evaluations in connection with commitment proceedings pursuant to 13 V.S.A. § 4820.

(3) \$25,000.00 to support the work of the Forensic Care Working Group established by Sec. 6 of this act.

(4) \$5,000.00 for per diem compensation and reimbursement of expenses as permitted by 32 V.S.A. § 1010 to members of the Forensic Care Working Group established by Sec. 6 of this act.

and by renumbering the remaining section to be numerically correct.

The bill having appeared on the Calendar one day for Notice was taken up, read the second time, and the report of the Committee on Judiciary was amended as recommended by the Committee on Appropriations.

Thereupon, **Rep. LaLonde of South Burlington** moved to further amend the report of the Committee on Judiciary, as amended, as follows:

First: In Sec. 6, forensic care working group, in subsection (a), by striking out "August 1, 2021" and inserting in lieu thereof "July 15, 2021"

Second: In Sec. 6, forensic care working group, in subsection (b), in subdivision (1), by striking out "February 1, 2022" and inserting in lieu thereof "January 15, 2022"

Third: In Sec. 6, forensic care working group, in subsection (b), in subdivision (2), by striking out "July 1, 2022" and inserting in lieu thereof "April 15, 2022" and by striking out "Joint Legislative Justice Oversight Committee" and inserting in lieu thereof "House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary"

Fourth: In Sec. 6, forensic care working group, in subsection (b), in subdivision (3), by striking out "January 1, 2023" and inserting in lieu thereof "September 15, 2022" and by striking out "House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate

Committees on Health and Welfare and on Judiciary” and inserting in lieu thereof “Joint Legislative Justice Oversight Committee”

Which was agreed to. Thereupon, the report of the Committee on Judiciary, as amended, was agreed to and third reading was ordered.

Thereafter, on motion of **Rep. McCoy of Poultney**, the rules were suspended and the bill placed in all remaining stages of passage. Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass in concurrence with proposal of amendment?, **Rep. Morrissey of Bennington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass in concurrence with proposal of amendment?, was decided in the affirmative. Yeas, 143. Nays, 0.

Those who voted in the affirmative are:

Achey of Middletown Springs	Goslant of Northfield	Noyes of Wolcott
Ancel of Calais	Grad of Moretown	O'Brien of Tunbridge
Anthony of Barre City	Graham of Williamstown	Ode of Burlington
Arrison of Weathersfield	Gregoire of Fairfield	Page of Newport City
Austin of Colchester	Hango of Berkshire	Pajala of Londonderry
Bartholomew of Hartland	Harrison of Chittenden	Palasik of Milton
Batchelor of Derby	Helm of Fair Haven	Parsons of Newbury
Beck of St. Johnsbury	Higley of Lowell	Partridge of Windham
Birong of Vergennes	Hooper of Randolph	Patt of Worcester
Black of Essex	Hooper of Burlington	Peterson of Clarendon
Bluemle of Burlington	Houghton of Essex	Pugh of South Burlington
Bock of Chester	Howard of Rutland City	Rachelson of Burlington
Bongartz of Manchester	James of Manchester	Redmond of Essex
Bos-Lun of Westminster	Jerome of Brandon	Rogers of Waterville
Brady of Williston	Jessup of Middlesex	Rosenquist of Georgia
Briglin of Thetford	Killacky of South Burlington	Satcowitz of Randolph
Brown of Richmond	Kitzmiller of Montpelier	Savage of Swanton
Brownell of Pownal	Kornheiser of Brattleboro	Scheu of Middlebury
Brumsted of Shelburne	LaClair of Barre Town	Scheuermann of Stowe
Burditt of West Rutland	LaLonde of South Burlington	Shaw of Pittsford
Burke of Brattleboro	Lanpher of Vergennes	Sheldon of Middlebury
Burrows of West Windsor	Lefebvre of Newark	Sibilia of Dover
Campbell of St. Johnsbury	Lefebvre of Orange	Sims of Craftsbury
Canfield of Fair Haven	Leffler of Enosburgh	Small of Winooski
Chase of Colchester	Lippert of Hinesburg	Smith of New Haven
Christie of Hartford	Long of Newfane	Squirrell of Underhill
Cina of Burlington	Marcotte of Coventry	Stebbins of Burlington
Coffey of Guilford	Martel of Waterford	Stevens of Waterbury
Colburn of Burlington	Martin of Franklin	Strong of Albany
		Sullivan of Dorset



Colston of Winooski	Masland of Thetford	Surprenant of Barnard
Conlon of Cornwall	Mattos of Milton	Taylor of Colchester
Copeland Hanzas of Bradford	McCarthy of St. Albans City	Terenzini of Rutland Town
Corcoran of Bennington	McCormack of Burlington	Till of Jericho
Cordes of Lincoln	McCoy of Poultney	Toleno of Brattleboro
Cupoli of Rutland City	McCullough of Williston	Toof of St. Albans Town
Dickinson of St. Albans Town	McFaun of Barre Town	Townsend of South Burlington
Dolan of Essex	Morgan, L. of Milton	Troiano of Stannard
Dolan of Waitsfield	Morgan, M. of Milton	Vyhovsky of Essex
Donahue of Northfield	Morris of Springfield	Walz of Barre City
Donnally of Hyde Park	Morrissey of Bennington	Webb of Shelburne
Durfee of Shaftsbury	Mrowicki of Putney	White of Bethel
Elder of Starksboro	Mulvaney-Stanak of Burlington	White of Hartford
Emmons of Springfield	Murphy of Fairfax	Whitman of Bennington
Fagan of Rutland City	Nicoll of Ludlow	Williams of Granby
Feltus of Lyndon	Nigro of Bennington	Wood of Waterbury
Gannon of Wilmington	Norris of Sheldon	Yacovone of Morristown
Goldman of Rockingham	Norris of Shoreham	Yantachka of Charlotte
	Notte of Rutland City	

Those who voted in the negative are: none

Those members absent with leave of the House and not voting are:

Brennan of Colchester	Kimbell of Woodstock	Seymour of Sutton
Hooper of Montpelier	Pearl of Danville	Smith of Derby

Thereupon, on motion of **Rep. McCoy of Poultney**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

### **Rules Suspended; Bill Referred to Committee on Appropriations**

#### **S. 62**

On motion of **Rep. McCoy of Poultney**, the rules were suspended to take up for immediate consideration, pending entry on the Calendar for Notice, House bill, entitled

An act relating to An act relating to creating incentives for new remote and relocation workers;

For the purpose of referral to the Committee on Appropriations.

Thereupon, the bill, carrying an appropriation, was referred to the Committee on Appropriations pursuant to Rule 35(a).

**Adjournment**

At twelve o'clock and thirty-two minutes in the afternoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until Monday, May 17, 2021, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 28.

**Concurrent Resolutions Adopted**

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted on the part of the House:

**H.C.R. 64**

House concurrent resolution honoring former Counseling Service of Addison County Medical Director Dr. Robert C. Jimerson

**H.C.R. 65**

House concurrent resolution honoring Anne Severy for her exemplary career as a public-school music educator

**H.C.R. 66**

House concurrent resolution honoring the memory of Vermont African American pioneer Lucy Terry Prince on the bicentennial of her death

**H.C.R. 67**

House concurrent resolution commemorating the 250th anniversary of the Breakenridge Stand-off in North Bennington

**H.C.R. 68**

House concurrent resolution in memory of Edwin Ora Brehaut of Georgia

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2021, seventy-sixth Biennial session.]