

1 Sec. 5. CORRECTIONS; ASSESSMENT OF MENTAL HEALTH
2 SERVICES

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

9 (b) The evaluation shall include:

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

15 (2) a comparison as to how the type, frequency, and timeliness of mental
16 health services differ among Vermont correctional settings, including between
17 men and women's facilities, and from those mental health services provided to
18 Vermont residents in out-of-state correctional facilities;

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

22 (4) an assessment as to whether the Department of Mental Health should
23 provide oversight authority for mental health services provided by of the entity

1 with whom the Department of Corrections contracts for health care services;

2 and

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

9 Sec. 6. FORENSIC CARE WORKING GROUP

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

14 (1) a representative from the Department of Corrections;

15 (2) a representative from the Department of Disabilities, Aging, and
16 Independent Living;

17 (3) the Chief Superior Judge;

18 (4) a representative from the Department of State's Attorneys and
19 Sheriffs;

20 (5) a representative from the Office of the Attorney General;

21 (6) a representative from the Office of the Defender General;

22 (7) the Director of Health Care Reform or designee;

23 (8) a representative appointed by Vermont Care Partners;

1 (9) a representative appointed by Vermont Legal Aid’s Mental Health

2 Project;

3 (10) a representative appointed by the Vermont Medical Society;

4 (11) two crime victims representatives, appointed by the Vermont

5 Center for Crime Victim Services;

6 (12) the Mental Health Care Ombudsman established pursuant to 18

7 V.S.A. § 7259 or designee;

8 (13) a representative of the designated hospitals, appointed by the

9 Vermont Association of Hospitals and Health Care Systems;

10 (14) three individuals with lived experience of mental illness, at least

11 one of whom has lived experience of the criminal justice system or the civil

12 commitment system, or both; and

13 (15) any other interested party permitted by the Commissioner of

14 Mental Health.

15 (b)(1) On or before February 1, 2022, the Department of Mental Health

16 shall submit a preliminary report to the House Committees on Corrections and

17 Institutions, on Health Care, and on Judiciary and to the Senate Committees on

18 Health and Welfare and on Judiciary addressing:

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

20 structure;

21 (B) opportunities to:

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

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

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

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

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

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

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

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

19 (G) models for forensic treatment other than inpatient facilities,
20 including community-based treatment; and

21 (H) any additional recommendations to address the gaps in the
22 current mental health and criminal justice system structure and opportunities to
23 improve public safety and address the treatment needs for individuals

1 incompetent to stand trial or who are adjudicated not guilty by reason of
2 insanity.

3 (2) Based on the recommendations in the preliminary report submitted
4 to the General Assembly pursuant to subdivision (1) of this subsection, the
5 Department shall submit a second preliminary report to the Joint Legislative
6 Justice Oversight Committee on or before July 1, 2022 as to whether or not a
7 forensic treatment facility is needed in Vermont.

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

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

23 (1) necessary to clarify the process;

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

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

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

8 (A) that social and racial equity issues are considered; and

9 (B) consistency with the General Assembly’s policy of working
10 “toward a mental health system that does not require coercion or the use of
11 involuntary medication.”

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

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

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

21 (g) Members of the working group who are not State employees shall be
22 entitled to per diem compensation and reimbursement of expenses for
23 attending meetings as permitted under 32 V.S.A. § 1010.

