

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 current community  
13 services does not necessarily establish the standard of care for best practices;

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

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

21 (4) an assessment as to whether the Department of Mental Health should  
22 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 expertise and  
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) a representative from the Department of State's Attorneys and  
18 Sheriffs;

19 (4) a representative from the Office of the Attorney General;

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

21 (6) the Director of Health Care Reform or designee;

22 (7) a representative appointed by Vermont Care Partners;

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

2 Project;

3 (9) two crime victims representatives, appointed by the Vermont Center

4 for Crime Victim Services;

5 (10) the Mental Health Care Ombudsman established pursuant to 18

6 V.S.A. § 7259 or designee;

7 (11) a representative of the designated hospitals, appointed by the

8 Vermont Association of Hospitals and Health Care Systems;

9 (12) two individuals with lived experience of mental illness; and

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

11 Mental Health.

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

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

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

15 Health and Welfare and on Judiciary identifying any gaps in the current mental

16 health and criminal justice system structure and opportunities to improve

17 public safety and address the treatment needs for individuals incompetent to

18 stand trial or who are adjudicated not guilty by reason of insanity. The

19 working group shall:

20 (A) review competency restoration models used in other states,

21 including how cases where competency is not restored are addressed;

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

4           (C) consider due process criteria for defendants held without  
5 adjudication of a crime; and

6           (D) recommend processes regarding other mental conditions  
7 affecting competence or sanity, including intellectual disabilities, traumatic  
8 brain injury, and dementia.

9           (2) Based on the recommendations in the preliminary report submitted  
10 to the General Assembly pursuant to subdivision (1) of this subsection, the  
11 Department shall submit a second preliminary report to the Joint Legislative  
12 Justice Oversight Committee on or before July 1, 2022 as to whether a forensic  
13 treatment facility is needed in Vermont.

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

21           (c) On or before February 1, 2022, the Department of Mental Health shall  
22 submit a report to the House Committees on Corrections and Institutions, on  
23 Health Care, and on Judiciary and to the Senate Committees on Health and

1 Welfare and on Judiciary that assesses the necessity of notification to the  
2 prosecutor upon becoming aware that individuals on orders of  
3 nonhospitalization pursuant to 18 V.S.A. § 7618 are not complying with the  
4 order or that the alternative treatment is not adequate to meet the individual's  
5 treatment needs, including any recommendations:

6 (1) necessary to clarify the process;

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

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

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

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

17 (f) In fiscal year 2022, \$X is appropriated to the Department from the  
18 General Fund to complete the work described in this section.