



Vermont Psychiatric
ASSOCIATION

Memo Re: S.3, Forensic Mental Health
House Judiciary Committee

March 31, 2021

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On behalf of the 2,400 members of the **Vermont Medical Society** and the **Vermont Psychiatric Association**, we are writing to express our support for **S.3**, as strengthening the forensic mental health infrastructure in Vermont will lead to improved systems of care for individuals with mental illness and criminal justice involvement, while serving to increase public safety for all Vermonters.

Along with Dr. Simha Ravven, M.D., the President of the Vermont Medical Society and the Chief Medical Officer of the Howard Center, and Assistant Clinical Professor in Law & Psychiatry, Yale University School of Medicine, the VMS and VPA have concerns with the Senate-passed version of S.3 and would like to offer some suggestions to strengthen the bill.

Sec. 6 - The Forensic Care Working Group Should Be Adequately Funded

The VMS strongly supports Section 6, which establishes a forensic care working group and **requests that the Vermont Medical Society be included as an interested stakeholder**, in order to help provide clinical expertise on the current status of forensic mental health in Vermont and beyond. **We also urge you to allocate adequate funding and resources in order to support the Working Group's independent evaluation of:**

- Vermont's current treatment and oversight of individuals with mental illness in the criminal justice system;
- How states have created a successful forensic system of care, i.e. reviewing the Connecticut Psychiatric Security Review Board (PSRB);
- The creation of a formal competency to stand trial restoration program in community, and hospital settings;
- How states use the dual status of "Guilty but Mentally Ill" (GBMI) and Not Guilty by Reason of Insanity (NGRI); and
- How states have best provided victim notification and met HIPAA compliance requirements.

Allocating resources to the Working Group will allow the contribution of those with specific expertise and experience in systems of forensic mental health care and oversight. We also suggest that if you provide adequate funding for a robust, in-depth study that you also **extend the turn-around time, as currently the Working Group only has three months before the report with legislative recommendations is due.**

Sec. 3 – The Notification Requirements Puts Undue Burden on Community Providers

The VMS and the VPA have considerable concern with Sec. 3. We feel the reporting requirements are extremely broad and put unrealistic burdens on the community mental health providers and Designated Agencies (DAs), diminish the role of the clinician seeking the best treatment for our patients and could require significant resources for community providers to comply with the notification of those found incompetent to stand trial and NGRI on a nonhospitalization order. In particular, the requirement under:

(C) When a person has been committed under this section and is subject to a nonhospitalization order (ONH) as a result of that commitment under 18 V.S.A. § 7618, the Commissioner shall provide notice to the committing court and 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, if the Commissioner becomes aware that:

- (i) **the person is not complying with the order; or***
- (ii) **the alternative treatment has not been adequate to meet the person's treatment needs.***

It would be important for the community providers to understand, practically how this should be enforced. It would be necessary for the DAs to be given very clear information about which clients this applies to, and precisely whom to contact. Practically speaking, would this require notification of each instance of non-compliance (missed medication, appointment, labs?) or certain kinds of non-compliance? Resources for the DA's (DMH) to do this effectively would be needed.

We support Senator Sears' amendment in Sec. 6 subsection 3, that would require the Working Group to provide recommendations on how best to implement the notification requirements. We respectfully suggest that thorough analysis of this process be done **before** Sec. 3 goes into effect. **Therefore, we suggest that the effective date for Sec. 3, the notification requirement, be set at least 6 months after the establishment of the Forensic Care Working Group to allow for thorough consideration of the impact of the notification requirements on all stakeholders.**

Thank you for your consideration.

Please contact Jill Sudhoff-Guerin at jsudhoffguerin@vtmd.org if you have any questions.