

Joint Legislative Justice Oversight Committee

Committee Work for 2022 Interim

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Justice Oversight Committee Charge

Established by 2015 Act No. 58, § E.335.1

2 V.S.A. chapter 23

- Committee Powers and Duties

- Oversee the Vermont Department of Corrections, including:

- Evaluating DOC strategic, operating, and capital plans;
 - Overseeing DOC policy development; and
 - Encouraging communication between DOC, the administrative branch, and the criminal justice system

- Assist with Vermont's juvenile and criminal justice systems, including:

- Evaluating the statewide system of pretrial services, court diversion programs, community justice center services, and other relevant programs and services to identify any variations throughout the State
 - Assessing the consistency and cost efficiency of the systems;
 - Ensuring that statutes reflect restorative justice principles; and
 - Reviewing timeliness of judicial proceedings

Overview of Committee Work for 2022

Interim

- Old Business – 2021 Mandates for Reports and Updates to the Committee
 - Act 24 (S.45) – Probation midpoint review report from DOC
 - Act 57 (S.3) – DMH submits report on competency to stand trial and insanity as a defense
 - Act 56 (H.435) – VCJC/DOC proposal on certification and de-certification standards for correctional officers
 - Act 74 (H.439) – DOC report on FY22 unexpended funds for out-of-state beds
- New Business – 2022 Committee Studies, Reports, and Budget Updates
 - S.224 – DCF report on secure placement, housing, and treatment of individuals subject to juvenile and youthful offender proceedings
 - S.250 – Study of deceptive and coercive methods of law enforcement interrogation
 - H.740 – Study on Restorative Justice programming and services in Vermont; JR11 budget line-item

Old Business

2021 Session Mandates for Reports
and Updates to the Committee

Act 24: An act relating to earned discharge from probation

Sec. 5. DEPARTMENT OF CORRECTIONS; PROBATION MIDPOINT REVIEW; REPORT

(a) Beginning on July 1, 2021, the Department of Corrections shall collect the following data regarding the probation midpoint review process:

(1) the number of probation discharge or probation term reduction motions filed by the Department;

(2) the number of probation terms that were reduced or terminated pursuant to this Act; and

(3) the amount of time reduced from probation terms as a result of probation term reduction motions granted by the court.

(b) On or before August 1, 2022 and August 1, 2023, the Department shall report to the Joint Legislative Justice Oversight Committee with the data collected pursuant to this section and any recommendations for further legislative action to improve the probation midpoint review process.

- **Note:** Act 94 (S.183) of the 2022 session retroactively applied midpoint probation review to current probationers. It also made it mandatory for the Commissioner to file a motion to dismiss the probationer from probation if pending criminal charges and probation violations are resolved.

Act 57: An act relating to competency to stand trial and insanity as a defense

Sec. 6. REPORTS; FORENSIC CARE WORKING GROUP; PROSECUTOR NOTIFICATION; COMPETENCY RESTORATION MODELS

(a) On or before July 15, 2021, the Department of Mental Health shall convene working groups of interested stakeholders to provide recommendations necessary to carry out the provisions in subsections (b) and (c) of this section, including as appropriate:

(b)(1) On or before August 1, 2022, the Department of Mental Health shall submit a final report to the Joint Legislative Justice Oversight Committee and the Chairs of the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and of the Senate Committees on Health and Welfare and on Judiciary addressing:

(A) any gaps in the current mental health and criminal justice system structure related to individuals incompetent to stand trial or who are adjudicated not guilty by reason of insanity;

(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 models that do not rely on involuntary medication to restore competency and 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 the size, scope, and fiscal impact of any forensic treatment facility; and

(H) any additional recommendations.

(2) On or before January 15, 2022, the Department 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 summarizing the work completed pursuant to subdivision (1) of this subsection to date, except with regard to the work completed pursuant to subdivision (1)(G).

Act 56: An act relating to miscellaneous Department of Corrections-related amendments

Sec. 7. CRIMINAL JUSTICE COUNCIL; DEPARTMENT OF CORRECTIONS; CERTIFICATION PROCESS

During the 2021 legislative interim, the Criminal Justice Council and the Department of Corrections shall develop a proposal governing minimum training standards, complaint investigations, and a process for certification and decertification of correctional officers as defined in 28 V.S.A. §3. The proposal shall address the relationship between the Council's and the Corrections Investigative Unit's scope of investigative authority. On or before December 1, 2021, the Council and the Department shall report the proposal to the Joint Legislative Justice Oversight Committee, including any fiscal and programmatic impact of the proposal.

- **Note: The Committee agreed to the Council/DOC request to report this proposal in or about October 2022**

Act 74: An act relating to making appropriations for the support of government

Sec. E.335 CORRECTIONS APPROPRIATIONS; UNEXPENDED FUNDS TRANSFER; JUSTICE REINVESTMENT; REPORT

(a) In fiscal year 2022, the Secretary of Administration may, upon recommendation of the Secretary of Human Services, transfer unexpended funds between the respective appropriations for correctional services; provided, however, that no transfer shall be made from correctional services out-of-state beds. At least three days prior to any such transfer being made, the Secretary of Administration shall report the intended transfer to the Joint Fiscal Office and shall report any completed transfers to the Joint Fiscal Committee at its next scheduled meeting.

(b) In fiscal year 2022, any unexpended funds for correctional services out-of-state beds shall be carried forward to fiscal year 2023, and the amount reported to the Joint Legislative Justice Oversight Committee in September 2022, to support community-based service programs. Funds may only be expended on community-based service programs upon approval of the Joint Legislative Justice Oversight Committee. Prior to approval, the House Committees on Appropriations and on Corrections and Institutions and the Senate Committees on Appropriations and on Judiciary shall be notified of any proposed expenditures on community based service programs.

New Business

2022 Session Committee Studies,
Reports, and Budget Updates

S.224: An act relating to juvenile proceedings

Sec. 18. PLAN FOR SECURE PLACEMENTS

(a)(1) On or before December 1, 2022, the Department for Children and Families and the Department of Corrections shall propose a plan to the Senate Committees on Judiciary, on Health and Welfare, and on Institutions and the House Committees on Judiciary, on Corrections and Institutions, and on Human Services to ensure the availability of secure placements, treatment, and transitional housing for persons 18 years of age and older who are subject to juvenile and youthful offender proceedings. The plan shall include:

(A) data on the number and location of current secure placements and a plan for how current and future secure placements will be accomplished;

(B) provisions ensuring that placements are available for youth going forward;

(C) a description of the services to be provided; and

(D) a recommendation as to whether dual custody with the Department of Corrections should be considered.

(2) The plan required by this section shall include a progress report on the requirement of Secs. 1 and 2 of this act that the Raise the Age initiative take effect on July 1, 2023.

(b) On or before July 1, 2022, the Department for Children and Families shall file a preliminary report to the Joint Legislative Justice Oversight Committee describing the progress made toward completion of the plans required by subsections (a) and (c) of this section.

(c) The Department for Children and Families shall, on or before December 1, 2022, propose a plan to the Senate Committees on Judiciary, on Health and Welfare, and on Institutions and the House Committees on Judiciary, on Corrections and Institutions, and on Human Services to ensure the availability of secure treatment placements and aftercare planning for 12–17-year-olds who are subject to juvenile and youthful offender proceedings.

(d) The plans required by subsections (a) and (c) of this section shall be based on research-informed, evidence-based best practices in support of children and families that are trauma-responsive, culturally informed, and consider alternatives to incarceration.

S.250: An act relating to law enforcement data collection and interrogation

Sec. 4. STUDY ON DECEPTIVE AND COERCIVE METHODS OF LAW ENFORCEMENT INTERROGATION; REPORT

- (a) The Joint Legislative Justice Oversight Committee shall study the use of deceptive and coercive interrogation tactics employed by law enforcement in the State of Vermont. In particular, the study shall consider:
- (1) when providing false facts about evidence to a suspect during an interview conducted after the commission of a crime results in an involuntary confession or admission to the crime;
 - (2) when confessions or admissions to crimes procured by providing a defendant with false facts should be inadmissible;
 - (3) the appropriate age and circumstances to prohibit coercive techniques in cases involving juveniles;
 - (4) the use of interrogation and interviewing techniques, including the Reid Technique of Investigative Interviews and Advanced Interrogation Techniques by law enforcement; and
 - (5) legislation, initiatives, or programs for the General Assembly and law enforcement to consider to improve current practices.
- (b) The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Counsel. The Committee may have the assistance of the Vermont Criminal Justice Council in drafting the report, along with any other stakeholders interested in assisting. On or before December 1, 2022, the Committee shall submit a report in the form of proposed legislation, if any.

H.740: An act relating to making appropriations for the support of government

Sec. B.338.1 Corrections – Justice Reinvestment II

Source of funds

General fund*	7,290,879
Federal funds**	13,147
Global Commitment fund***	2,564,541

Total (in) **9,868,567**

Grants 9,868,567

Total (out) **9,868,567**

*Shifts funding from DOC correctional services to new JRII appropriation in B.338.1. This includes \$2.94M for community justice grants, \$200k for domestic violence accountability programs, \$3,790,739 for transitional housing, and \$360,140 for out-of-state beds savings shifted to CS in FY22 base.

**Shifts funding to new JRII appropriation in B.338.1 for community justice.

*** Shifts funding to new JRII appropriation in B.338.1 for transitional housing.

H.740: An act relating to making appropriations for the support of government

Sec. E.126.1 RESTORATIVE JUSTICE; STUDY

- (a) The Joint Legislative Justice Oversight Committee shall study Vermont's restorative justice programming and services, including the administration and funding of pretrial services, court diversion programs, balanced and restorative justice initiatives, and community justice center services with the purpose to develop recommendation for a comprehensive and efficient statutory framework for programming and services that further restorative justice principles. In conducting the study, the Committee shall:
 - (1) consider strategies for ensuring geographic consistency and equity for restorative justice programming and services, including equal access for all Vermonters and adequate resources for all providers; and
 - (2) Recommend any changes to streamline restorative justice programming and services that coordinate the roles, responsibilities, and funding of the Department of Corrections, the Office of the Attorney General, the Department of Children and Families, and any other entity that administers restorative justice programming and services in the State.
- (b) On or before December 15, 2022, the Committee shall submit any proposed legislation resulting from its study to the House committees on Corrections and Institutions, on Judiciary, and on Appropriations, and the Senate Committees on Institutions, on Judiciary, and on Appropriations.

Committee Schedule for 2022 Interim

- **July 1:** DCF report on secure placement, housing, and treatment of individuals subject to juvenile and youthful offender proceedings
- **August 1:**
 - DOC report on midpoint probation review;
 - DMH report on competency to stand trial and insanity as a defense
- **September:** DOC report on FY22 unexpended funds for out-of-state beds
- **October:** VCJC/DOC proposal on certification and de-certification standards for correctional officers
- **December 1:** deadline for proposed legislation relating to deceptive and coercive methods of law enforcement interrogation, if any
- **December 15:** deadline for any proposed legislation relating to restorative justice programming and services