

S. 3, Sec. 6: Forensic Care Working Group

	As Passed Senate	As Proposed by House (not yet passed)
Working Group Membership	<ul style="list-style-type: none"> • Requires DMH to convene a working group of interested stakeholders, including as appropriate, the Department of Corrections, the Department of State’s Attorneys and Sheriffs, the Office of the AG, the Office of the Defender General, the Director of Health Care Reform, the Department of BGS, a representative appointed by Vermont Care Partners, a representative appointed by Vermont Legal Aid’s Mental Health Project, two crime victims representatives appointed by the Vermont Center for Crime Victim Services, the Mental Health Care Ombudsman, a representative of the designated hospitals appointed by the VAHHS, a person with lived experience of mental illness, and any other interested party permitted by the Commissioner of Mental Health.... 	<ul style="list-style-type: none"> • House version adds the following members: <ul style="list-style-type: none"> ○ Representative of DAIL; ○ Chief Superior Judge; ○ Representative appointed by VMS; ○ Representative appointed by VT Developmental Disabilities Council ○ Three (versus two) crime victim representatives; and ○ Three (versus one) individuals w/ lived experience of mental illness, at least one of whom has lived experience of the criminal justice or civil commitment systems, or both, appointed by VT Psychiatric Survivors • House version deletes the following member: <ul style="list-style-type: none"> ○ Representative of BGS
Examining the Overlap in the MH and CJ Systems	<ul style="list-style-type: none"> • Due by 11/1/21: <ul style="list-style-type: none"> ○ Identify any gaps in the current mental health and criminal justice system structure and opportunities to improve public safety and the coordination of treatment for individuals incompetent to stand trial or who are adjudicated not guilty by reason of insanity; ○ Review competency restoration models used in other states and explore models used in other states that balance the treatment and public safety risks posed by individuals found not guilty by reason of insanity, such as Psychiatric Security Review Boards, including the Connecticut Psychiatric Security Review Board, and guilty but mentally ill verdicts in criminal cases 	<ul style="list-style-type: none"> • First preliminary report due 2/1/22 and final report due 1/1/23 to address <i>(italics indicate language added by House)</i>: <ul style="list-style-type: none"> ○ any gaps in the current mental health and criminal justice system structure; ○ opportunities improve public safety, address treatment needs of individuals in CJ system, <i>and consideration of victims’ rights in forensic care process</i>; ○ competency restoration models used in other states, <i>including models that do not rely on involuntary medication and how cases where competency is not restored are addressed</i>; ○ models used in other states to asses public safety risks, including guilty but mentally ill verdicts in criminal cases; ○ <i>due process requirements for defendants held without adjudication of a crime</i>; ○ <i>processes regarding other mental conditions affecting competence or sanity (e.g. intellectual disabilities; TBI, and dementia)</i>; ○ models for forensic treatment, <i>including inpatient, community-based, or other treatment models</i>; ○ <i>any additional recommendations</i>

Forensic Treatment Facility	<ul style="list-style-type: none"> • Due by 11/1/21: <ul style="list-style-type: none"> ○ Evaluate various models for the establishment of a State-funded forensic treatment facility, including: <ul style="list-style-type: none"> ▪ Need for facility; ▪ Appropriate entities to operate facility; ▪ Feasibility/appropriateness of repurposing existing facility; ▪ Number of beds needed in facility and impact of repurposing existing MH treatment facility on availability of beds in the civil commitment system; and ▪ Fiscal impact re: capital and operational costs. 	<ul style="list-style-type: none"> • Second preliminary report due 7/1/22 and final report due 1/1/23: <ul style="list-style-type: none"> ○ Based on recommendations in first preliminary report (described above), DMH shall submit a report to JLJOC as to whether a forensic treatment facility is needed. • If the second preliminary report determines that a forensic treatment facility is needed, the final report shall provide recommendation as to the size, scope, and fiscal impact of the facility.
Notice to Prosecutor; Noncompliance with or Inadequacy of ONH	<ul style="list-style-type: none"> • Due by 11/1/21: <ul style="list-style-type: none"> • Consider notification process established in S.3, as passed Senate, by which the Commissioner of MH is required to provide notification to the prosecutor upon becoming aware that persons on orders of non-hospitalization are not complying with the order or that the alternative treatment is not adequate to meet the person’s treatment needs • Provide recommendations to clarify process, including circumstances that trigger the Commissioner’s duty to notify the prosecutor, and steps the prosecutor should take after receiving notice 	<ul style="list-style-type: none"> • Due by 2/1/22 (<i>italics indicate language added by House</i>): <ul style="list-style-type: none"> ○ <i>Assess the necessity of notification</i> to the prosecutor upon becoming aware that individuals are not complying with ONH or alternative treatment, including recommendations to clarify process, including circumstances that trigger the Commissioner’s duty to notify the prosecutor, and steps the prosecutor should take after receiving notice
Guiding Principles	<p>[Not in Senate version]</p>	<ul style="list-style-type: none"> • The working group shall ensure: <ul style="list-style-type: none"> ○ Social and racial equity issues are considered, including issues related to transgender and gender nonconforming persons; and ○ Consistency with GA’s policy to work “towards a [MH] system that does not require coercion or the use of involuntary medication.”
Experts	<p>[Not in Senate version]</p>	<ul style="list-style-type: none"> • DMH shall access regional or national expertise to present models to working group for review, including a model recommended by the working group.
Draft Legislation	<ul style="list-style-type: none"> • Report shall include proposed draft legislation 	<ul style="list-style-type: none"> • ONH report and final MH/CJ system overlap report shall include proposed draft legislation
Appropriation	<p>[Not in Senate version]</p>	<ul style="list-style-type: none"> • In FY22, \$25k to DMH from GF to complete reports