

1 S.3

2 Senator Sears moves that Senate concur with the House proposal of
3 amendment with further amendment as follows:

4 First: By striking out Sec. 6, forensic care working group, in its entirety and
5 inserting in lieu thereof a new Sec. 6 to read as follows:

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

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

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

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

15 (3) a representative from the Department of Buildings and General
16 Services;

17 (4) the Chief Superior Judge;

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

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

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

1 (8) the Director of Health Care Reform or designee;

2 (9) a representative, appointed by Vermont Care Partners;

3 (10) a representative, appointed by Vermont Legal Aid’s Mental Health
4 Project;

5 (11) a representative, appointed by the Vermont Medical Society;

6 (12) three crime victims representatives, appointed by the Vermont
7 Center for Crime Victim Services;

8 (13) the Mental Health Care Ombudsman established pursuant to
9 18 V.S.A. § 7259 or designee;

10 (14) a representative of the designated hospitals, appointed by the
11 Vermont Association of Hospitals and Health Care Systems;

12 (15) three individuals with lived experience of mental illness, at least
13 one of whom has lived experience of the criminal justice system or the civil
14 commitment system, or both, appointed by Vermont Psychiatric Survivors;

15 (16) a representative appointed by the Vermont Developmental
16 Disabilities Council; and

17 (17) any other interested party permitted by the Commissioner of
18 Mental Health.

19 (b)(1) On or before August 1, 2022, the Department of Mental Health shall
20 submit a final report to the Joint Legislative Justice Oversight Committee and
21 the chairs of the House Committees on Corrections and Institutions, on Health

1 Care, and on Judiciary and of the Senate Committees on Health and Welfare

2 and on Judiciary addressing:

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

6 (B) opportunities to:

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

10 (ii) consider the importance of victims' rights in the forensic care
11 process;

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

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

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

20 (F) models for forensic treatment, including the size, scope, and
21 fiscal impact of any forensic treatment facility; and

1 (G) any additional recommendations.

2 (2) On or before January 15, 2022, the Department shall submit a
3 preliminary report to the House Committees on Corrections and Institutions,
4 on Health Care, and on Judiciary and to the Senate Committees on Health and
5 Welfare and on Judiciary summarizing the work completed pursuant to
6 subdivision (1) of this subsection to date.

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

15 (1) necessary to clarify the process;

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

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

20 (d) On or before January 15, 2023, the Department of Mental Health shall
21 submit a report to the House Committees on Corrections and Institutions, on

1 Health Care, and on Judiciary and to the Senate Committees on Health and
2 Welfare and on Judiciary comparing competency restoration models and
3 addressing how cases where competency is not restored are addressed.

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

7 (A) that social and racial equity issues are considered, including
8 issues related to transgender and gender nonconforming persons; and

9 (B) consistency with the General Assembly’s policy in 18 V.S.A.
10 § 7629(c) of working “toward a mental health system that does not require
11 coercion or the use of involuntary medication.”

12 (2) These considerations shall be reflected in the final report submitted
13 pursuant to subdivision (b)(1) of this section and the reports submitted
14 pursuant to subsections (c) and (d) of this section.

15 (f) 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 (g) The final report submitted pursuant to subdivision (b)(1) of this section
19 and the reports submitted pursuant to subsections (c) and (d) of this section
20 shall include proposed draft legislation addressing any identified needed
21 changes to statute.

1 (h) Members of the working group who are neither State employees nor
2 otherwise paid to participate in the working group in their professional
3 capacity shall be entitled to per diem compensation and reimbursement of
4 expenses for attending meetings as permitted under 32 V.S.A. § 1010.

5 Second: By striking out Sec. 7, creation of Committee, and its reader
6 assistance heading in their entirety and inserting in lieu thereof:

7 Sec. 7 [Deleted.]