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S.192

An act relating to forensic facility admissions criteria and processes

The Senate concurs in the House proposal of amendment with the following proposals of amendment thereto:

First: By striking out Sec. 1, purpose, in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. PURPOSE

It is the purpose of this act to:

(1) enable the Commissioner of Mental Health to seek treatment for individuals at a secure residential recovery facility, regardless of a previous order of hospitalization, and at a psychiatric residential treatment facility for youth, without precluding the future development of a forensic facility;

(2) update the civil commitment procedures for individuals with intellectual disabilities; and

(3) authorize the Department of Disabilities, Aging, and Independent Living to propose alternative options for a secure community-based residence or residences to treat individuals who have been charged with a crime and found incompetent to stand trial or adjudicated not guilty by reason of insanity, who are in the Commissioner's custody, and who require a more secure level

1 of care than is currently available, without precluding the future development
2 of a forensic facility.

3 Second: By striking out Sec. 27, individuals with intellectual disabilities;
4 enhanced services, in its entirety and inserting in lieu thereof a new Sec. 27 to
5 read as follows:

6 Sec. 27. INDIVIDUALS WITH INTELLECTUAL DISABILITIES;

7 SECURE, COMMUNITY-BASED RESIDENCES

8 (a) The Department of Disabilities, Aging, and Independent Living shall
9 propose alternative options, including building and staffing cost estimates, for
10 a secure community-based residence or residences to treat individuals who
11 have been charged with a crime and found incompetent to stand trial or
12 adjudicated not guilty by reason of insanity, who are in the Commissioner's
13 custody, and who require a more secure level of care than is currently
14 available. The Commissioner shall ensure that a secure community-based
15 residence proposed under this section would provide appropriate custody, care,
16 and habilitation in a designated program that provides appropriate staffing and
17 services levels in the least restrictive setting. The alternative options shall be
18 developed in consultation with interested parties, including Disability Rights
19 Vermont, Vermont Legal Aid, Developmental Services State Program
20 Standing Committee, Vermont Care Partners, and Green Mountain Self

1 Advocates with final placement determinations made by the Commissioner.
2 The alternative options may be eligible for funding through the Global
3 Commitment Home- and Community-Based Services Waiver. Prior to seeking
4 funding for constructing, purchasing, or contracting for a secure community-
5 based residence for individuals in the Commissioner’s custody, the Department
6 shall propose to the House Committees on Human Services and on Judiciary
7 and the Senate Committees on Health and Welfare and on Judiciary any
8 necessary statutory modifications to uphold due process requirements.

9 (b) As used in this section:

10 (1) “Designated program” has the same meaning as in 18 V.S.A. § 8839.

11 (2) “Secure” means that residents may be physically prevented from
12 leaving the residence by means of locking devices or other mechanical or
13 physical mechanisms.