

November 15, 2023

Dear Act 27 Legislative Working Group and Commissioner Monica White,

DAIL Commissioner White convened the first Act 27 Working Group meeting with this overview: “The ultimate intent of the working group is to assess whether a forensic level of care is needed for individuals with intellectual disabilities who are charged with a crime of violence against another person, have been determined incompetent to stand trial, or adjudicated not guilty by reason of insanity, and are committed to the custody of the Commissioner of Disabilities, Aging, and Independent Living. If it is determined that a forensic level of care is needed for such individuals, the Working Group shall propose legislation to establish a process and criteria for the placement of those individuals in a forensic facility. Multiple committees in both the House and Senate heard a significant amount of testimony on the bill.”

The Vermont Care Partners Board of Directors and Developmental Services Directors have held in-depth discussions about the use of a forensic facility for people with I/DD. In the end, 12 agencies came to consensus in support of Act 27, an act relating to establishing a forensic facility, because we recognize that there are people that cannot be safely served in the community, but for whom a correctional facility is not appropriate. **However, we must conclude that there are a very small number of people for whom a forensic facility setting would be needed, and only with a strict set of parameters:**

1. A forensic facility should be used only for short-term stabilization and treatment.
2. Robust oversight and procedures are in place to ensure no one stays in an institutional setting for longer than clinically and ethically necessary.
3. Home and Community Based Services are consistently and adequately resourced for return to the community.
4. Specific oversight mechanisms that include a Developmental Services-dedicated Ombudsperson and oversight board.
5. The state of Vermont ensures less utilization of restrictive settings by investing in therapeutic resources and a range of step-down or interim services so that people are not forced into an institutional environment for lack of less restrictive community-based settings.
6. Ensure that forensic facility staff and administrators understand that people with IDD also live with mental health issues and that treatment is designed as such, with awareness of accommodations, communication barriers, and other vulnerabilities.

VCP is a statewide network of community-based agencies providing mental health, substance use, and intellectual and developmental disability services and supports.

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7. Further review and update of Act 248 while ensuring due process rights for those under its jurisdiction.

While it is our understanding that the Act 27 Legislative Working Group has heard from advocates, providers, the public, the Developmental Services State Program Standing Committee, victims' advocates and more, and are carefully considering their concerns, we would like to recognize and support these points. The community-based service system for people with I/DD is under enormous stress. People using developmental services have greater acuity and complexity of needs than in the past. DAs and SSAs have been continually under-resourced and are dealing with significant staff vacancies and turnover which negatively impacts both access and quality of services and support. As pointed out by Max Barrows, Outreach Director of GMSA, it is unfair to direct resources to an institutional setting while simultaneously underfunding the community-based system, which puts people at risk of losing their rights when their support needs are not being met. We agree with Barbara Prine, Staff Attorney, Disability Law Project, that developing meaningful relationships in a community setting can more effectively support a person to make the necessary progress to move on to less restrictive services and supports than is likely to occur in a forensic facility.

Thank you for considering our perspective,

Champlain Community Services
Counseling Services of Addison County*
Families First in Southern Vermont
Green Mountain Support Services
Health Care and Rehabilitation Services
Howard Center
Lamoille County Mental Health Services
Northeast Kingdom Human Services
Northwestern Counseling & Support Services
Rutland Mental Health Services
United Counseling Service of Bennington County
Upper Valley Services
Washington County Mental Health Services

*added 1/5/24

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