

Joint Legislative Justice Oversight Committee

Committee Work for 2023 Interim

July 11, 2023

Benjamin Novogroski, Legislative Counsel

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

Committee Work and Reports due during 2023 Interim

- **Committee Work During 2023 Interim**
 - Act 22 (H.222) – Continuity of treatment upon re-entry recommendations
 - Act 28 (S.91) – Competency examination recommendations
 - Act 78 (H.494) – Home detention program review
- **Reports/Updates Due to Committee During 2023 Interim**
 - DOC/Stakeholder group update on replacement of Chittenden Regional Correctional Facility
 - Act 23 (S.4)
 - Community violence prevention program reports
 - Plan for secure placements report
 - Sentencing Commission report on expanding Big 12 offenses
 - Act 40 (S.14) – Criminal justice-related investments and expenditures report
 - Act 78 (H.494) – Qualified immunity Report

Summer Committee Work

2023 Interim Committee Reviews
and Reports to be Completed

Act 22 (H.222)
Continuity of
Treatment
upon Re-entry

Sec. 8. PRIOR AUTHORIZATION; MEDICATION FOR OPIOID USE DISORDER; COMMUNITY REENTRY

- On or before November 1, 2023, provide recommendations to House Human Services and Senate Health and Welfare regarding any legislative action needed to ensure continuity of treatment for individuals reentering the community discharge from a correctional setting, including prior authorization for medication for opioid use disorder.

Act 28 (S.91) Competency Examinations

Sec. 8. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE; REVIEW; COMPETENCY EXAMINATIONS

- Review whether Vermont law should permit competency examinations of defendants under 13 V.S.A. § 4814, in addition to psychiatrists and doctoral-level psychologists trained in forensic psychology, to be conducted by other doctoral-level mental health providers, psychiatric nurse practitioners, or any other professionals
 - Includes review of other states' laws and whether changes to § 4814 or any other Vermont laws are necessary to permit referral of the evaluation to a psychiatrist when appropriate
- Review is limited to four meetings
- Two members of the Senate Committee on Health and Welfare and two members of the House Committee on Health Care, appointed by their respective Chairs, shall be permitted to attend and participate. They are also authorized to participate in the development of the Committee's recommendations.
- **On or before November 15, 2023**, the Committee shall recommend any changes it deems advisable to 13 V.S.A. § 4814(d) (permitting competency examinations by doctoral-level psychologists trained in forensic psychology) to the Senate and House Committees on Judiciary, the Senate Committee on Health and Welfare, the House Committee on Health Care, and the House Committee on Human Services.

Act 78 (H.494)

Home Detention

Sec. E.338.2 HOME DETENTION PROGRAM; REVIEW; REPORT

- Review the Home Detention Program under 13 V.S.A. § 7554b, including its historical and current use, defendant eligibility criteria, and any potential changes to the types of crimes for which it can be used.
- **On or before November 15, 2023**, the Committee shall submit any findings resulting from its review in the form of proposed legislation to the General Assembly.

Session Work Due to Committee

2023 Session Mandates for Reports
and Updates to the Committee

Chittenden Regional Correctional Facility

DOC/Stakeholder group update on replacement

- House Corrections and Institutions sent a letter to DOC requesting that it collaborate with various stakeholder to develop a plan to replace Chittenden Regional Correctional Facility with trauma-informed and gender-responsive facilities and programming to promote the successful rehabilitation and re-entry of justice-involved women
- By January 15, 2024, and annually thereafter, DOC/Stakeholder group is due to report to the House Committees on Corrections and Institutions and on Judiciary and the Senate Committees on Institutions and on Judiciary
- An update on the group's progress is requested for August 2023

Act 23 (S.4)
Community
Violence
Prevention
Program
Report

Sec. 10. COMMUNITY VIOLENCE PREVENTION PROGRAM

- Pursuant to 18 V.S.A. § 13, the program is administered by DOH to work with communities to implement innovative, evidence-based, and evidence-informed programs addressing causes of youth and community violence
- Commissioner of Health, in consultation and collaboration with the Chief Prevention Officer, the Department of Public Safety, the Director of Violence Prevention, the Executive Director of Racial Equity, and the Council for Equitable Youth Justice, shall report to the Committee on or before September 1, 2023 and December 1, 2023

Act 23 (S.4)
Plan for
Secure
Placements
Report

Sec. 14. PLAN FOR SECURE PLACEMENTS

- On or before September 1, 2023 and December 1, 2023, DCF shall file a status report to this Committee and others describing the progress made towards implementing the Raise the Age initiative that take effect on July 1, 2024
- The Raise the Age Initiative would apply the provisions of 33 V.S.A. §§ 5103(c) and 5206 to individuals under 20 years of age by July 1, 2024

Act 23 (S.4) Sentencing Commission Report

Sec. 15. SENTENCING COMMISSION REPORT

- On or before December 15, 2023, the Vermont Sentencing Commission shall report to this Committee, among others, on whether the Big 12 offenses for which transfer from the Family Division to the Criminal Division is permitted under 33 V.S.A. § 5204(a) should be expanded. Some of the offenses considered include:
 - First- or second-degree arson
 - Stalking or aggravated stalking
 - Domestic assault, including first- or second-degree aggravated domestic assault
 - Selling/dispensing regulated drug with death resulting
 - Using a firearm while selling/dispensing a drug
 - Carrying a dangerous/deadly weapon while committing felony
 - Lewd or lascivious conduct, or lewd or lascivious conduct with child
 - Eluding a police officer with serious bodily injury/death resulting
 - Grand larceny
 - Hate-motivated crime
 - Drug or human trafficking
 - Violation of an abuse prevention order

Act 40 (S.14)
Report on
Criminal Justice-
Related
Investments and
Expenditures

Sec. 2. COORDINATED JUSTICE REFORM ADVISORY COUNCIL

- The purpose of the Council is to establish a unified and collaborative State approach to support State and local community-based programs and services consistent with the State's restorative justice policy
- On or before November 15, 2023 and annually thereafter, the Council shall submit to the Committee:
 - Considerations and recommendations to establish a sustainable planning and funding structure to administer State and local community-based programs and services and modern data collection systems
 - Submit the recommendations made to the Commissioner of Corrections for the appropriate allocation of not more than \$900,000.00 from the Justice Reinvestment II line item of the DOC budget for the upcoming fiscal year to support community-based programs and services, related data collection and analysis capacity, and other initiatives consistent with the purpose of the Council
 - Note: this recommendation is due to the Commissioner on or before September 1, 2023

Act 78 (H.494)

Qualified Immunity Report

- Sec. 125 amends 2022 Acts and Resolves No. 126, Sec. 2 (report on access to civil justice remedies and law enforcement qualified immunity in Vermont) by changing the due date of the report to November 15, 2023.
- The report will be submitted to this Committee, along with the Senate and House Committees on Judiciary

Committee Schedule for 2023 Interim

- **August:**
 - DOC/Stakeholder group update on Chittenden Regional Correctional Facility replacement
- **September 1:**
 - First DOH report on Community Violence Prevention Program due to Committee
 - First DCF report on plan for secure placements due to Committee
- **November 1:**
 - Committee submits recommendations for any legislative action needed to ensure continuity of treatment for individuals upon re-entry from a correctional setting
- **November 15:**
 - Committee submits recommendations related to competency examinations
 - Committee submits any findings related to its review of the Home Detention Program
 - Coordinated Justice Reform Advisory Council report due to Committee
 - LC qualified immunity report due to Committee
- **December 1:**
 - Second DOH report on Community Violence Prevention Program due to Committee
 - Second DCF report on plan for secure placements due to Committee
- **December 15:**
 - Sentencing Commission report on expanding the Big 12 offenses due to Committee