

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred Senate Bill  
3 No. 192 entitled “An act relating to forensic facility admissions criteria and  
4 processes” respectfully reports that it has considered the same and  
5 recommends that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

7 \* \* \* Purpose and Legislative Intent \* \* \*

8 Sec. 1. PURPOSE AND LEGISLATIVE INTENT

9 It is the purpose of this act to enable the Commissioners of Mental Health  
10 and of Disabilities, Aging, and Independent Living to seek treatment and  
11 programming for certain individuals in a forensic facility as anticipated by the  
12 passage of 2023 Acts and Resolves No. 27. It is the intent of the General  
13 Assembly that an initial forensic facility be authorized and operational  
14 beginning on July 1, 2025.

15 \* \* \* Human Services Community Safety Panel \* \* \*

16 Sec. 2. 3 V.S.A. § 3098 is added to read:

17 § 3098. HUMAN SERVICES COMMUNITY SAFETY PANEL

18 (a) There is hereby created the Human Services Community Safety Panel  
19 within the Agency of Human Services. The Panel shall be designated as the  
20 entity responsible for assessing the potential placement of individuals at a  
21 forensic facility pursuant to 13 V.S.A. § 4821 for individuals who:

1           (1) present a significant risk of danger to self or others if not held in a  
2           secure setting; and

3           (2)(A) are charged with a crime for which there is no right to bail  
4           pursuant to 13 V.S.A. §§ 7553 and 7553a and found not competent to stand  
5           trial due to mental illness or intellectual disability; or

6           (B) were charged with a crime for which bail is not available and  
7           adjudicated not guilty by reason of insanity.

8           (b)(1) The Panel shall comprise the following members:

9                   (A) the Secretary of Human Services;

10                   (B) the Commissioner of Mental Health;

11                   (C) the Commissioner of Disabilities, Aging, and Independent  
12           Living; and

13                   (D) the Commissioner of Corrections.

14           (2) The Panel shall have the technical, legal, fiscal, and administrative  
15           support of the Agency of Human Services and the Departments of Mental  
16           Health; of Disabilities, Aging, and Independent Living; and of Corrections.

17           (c) As used in this section, “forensic facility” has the same meaning as in  
18           18 V.S.A. § 7101.

19           Sec. 3. 13 V.S.A. § 4821 is amended to read:

20           § 4821. NOTICE OF HEARING; PROCEDURES

1        (a) The person who is the subject of the proceedings, ~~his or her~~, the  
2        person's attorney; the **person's** legal guardian, if any; the Commissioner of  
3        Mental Health or the Commissioner of Disabilities, Aging, and Independent  
4        Living; and the State's Attorney or other prosecuting officer representing the  
5        State in the case shall be given notice of the time and place of a hearing under  
6        section 4820 of this title. Procedures for hearings for persons with a mental  
7        illness shall be as provided in 18 V.S.A. chapter 181. Procedures for hearings  
8        for persons with an intellectual disability shall be as provided in 18 V.S.A.  
9        chapter 206, subchapter 3.

10       (b)(1) Once a report concerning competency or sanity is completed or  
11       disclosed to the opposing party, the Human Services Community Safety Panel  
12       established in 3 V.S.A. § 3098 may conduct a review on its own initiative  
13       regarding whether placement of the person who is the subject of the report is  
14       appropriate in a forensic facility. The review shall inform either the  
15       Commissioner of Mental Health's or Commissioner of Disabilities, Aging, and  
16       Independent Living's decision as to whether to seek placement of the person in  
17       a forensic facility.

18       (2)(A) If the Panel does not initiate its own review, a party to a hearing  
19       under section 4820 of this chapter may file a written motion to the court  
20       requesting that the Panel conduct a review within seven days after receiving a

1 report under section 4816 of this chapter or within seven days after being  
2 adjudicated not guilty by reason of insanity.

3 (B) A motion filed pursuant to this subdivision (2) shall specify that  
4 the person who is the subject of the proceedings is charged with a crime for  
5 which there is no right to bail pursuant to sections 7553 and 7553a of this title,  
6 and may include a person adjudicated not guilty by reason of insanity, and that  
7 the person presents a significant risk of danger to themselves or the public if  
8 not held in a secure setting.

9 (C) The court shall rule on a motion filed pursuant to this subdivision  
10 (2) within five days. A Panel review ordered pursuant to this subdivision (2)  
11 shall be completed and submitted to the court at least three days prior to a  
12 hearing under section 4820 of this title.

13 (c) In conducting a review as whether to seek placement of a person in a  
14 forensic facility, the Human Services Community Safety Panel shall consider  
15 the following criteria:

16 (1) clinical factors, including:

17 (A) that the person is served in the least restrictive setting necessary  
18 to meet the needs of the person; and

19 (B) that the person’s treatment and programming needs dictate that  
20 the treatment or programming be provided at an intensive residential level; and

21 (2) risk of harm factors, including:

1           (A) whether the person has inflicted or attempted to inflict serious  
2           bodily injury on another, attempted suicide or serious self-injury, or committed  
3           an act that would constitute sexual conduct with a child as defined in section  
4           2821 of this title or lewd and lascivious conduct with a child as provided in  
5           section 2602 of this title, and there is reasonable probability that the conduct  
6           will be repeated if admission to a forensic facility is not ordered;

7           (B) whether the person has threatened to inflict serious bodily injury  
8           to the person or others and there is reasonable probability that the conduct will  
9           occur if admission to a forensic facility is not ordered;

10           (C) whether the results of any applicable evidence-based violence  
11           risk assessment tool indicates that the person’s behavior is deemed a  
12           significant risk to others;

13           (D) the position of the parties to the criminal case as well as that of  
14           any victim as defined in subdivision 5301(4) of this title; and

15           (E) any other factors the Human Services Community Safety Panel  
16           determines to be relevant to the assessment of risk.

17           (d) As used in this chapter, “forensic facility” has the same meaning as in  
18           18 V.S.A. § 7101.





1                   (ii) 13 V.S.A. § 4823 who is in need of custody, care, and  
2 habilitation or continued custody, care, and habilitation pursuant to chapter 206  
3 of this title within a secure setting for an extended period of time.

4                   (B) A forensic facility shall not be used for any purpose other than  
5 the purposes permitted by this part or chapter 206 of this title. As used in this  
6 subdivision (31), “secure” has the same meaning as in section 7620 of this title.

7 Sec. 6. 18 V.S.A. § 7620 is amended to read:

8 § 7620. APPLICATION FOR CONTINUED TREATMENT

9           (a) If, prior to the expiration of any order issued in accordance with section  
10 7623 of this title, the Commissioner believes that the condition of the patient is  
11 such that the patient continues to require treatment, the Commissioner shall  
12 apply to the court for a determination that the patient is a patient in need of  
13 further treatment and for an order of continued treatment.

14           (b) An application for an order authorizing continuing treatment shall  
15 contain a statement setting forth the reasons for the Commissioner’s  
16 determination that the patient is a patient in need of further treatment, a  
17 statement describing the treatment program provided to the patient, and the  
18 results of that course of treatment.

19           (c) Any order of treatment issued in accordance with section 7623 of this  
20 title shall remain in force pending the court’s decision on the application.



1 (d) If the Commissioner seeks to have the patient receive the further  
2 treatment in a forensic facility or secure residential recovery facility, the  
3 application for an order authorizing continuing treatment shall expressly state  
4 that such treatment is being sought. The application shall contain, in addition  
5 to the statements required by subsection (b) of this section, a statement setting  
6 forth the reasons for the Commissioner’s determination that clinically  
7 appropriate treatment for the patient’s condition can be provided safely only in  
8 a secure residential recovery facility or forensic facility, as appropriate. An  
9 application for continued treatment in a forensic facility shall include the  
10 recommendation of the Human Services Community Safety Panel pursuant to  
11 13 V.S.A. § 4821.

12 (e) As used in this chapter:

13 (1) “Secure,” when describing a residential facility, means that the  
14 residents can be physically prevented from leaving the facility by means of  
15 locking devices or other mechanical or physical mechanisms.

16 (2) “Secure residential recovery facility” means a residential facility,  
17 licensed as a therapeutic community residence as defined in 33 V.S.A.  
18 § 7102(11), for an individual who no longer requires acute inpatient care but  
19 who does remain in need of treatment within a secure setting for an extended  
20 period of time. A secure residential recovery facility shall not be used for any  
21 purpose other than the purposes permitted by this section.

1 Sec. 7. 18 V.S.A. § 7621 is amended to read:

2 § 7621. HEARING ON APPLICATION FOR CONTINUED TREATMENT;  
3 ORDERS

4 \* \* \*

5 (c) If the court finds that the patient is a patient in need of further treatment  
6 but does not require hospitalization, it shall order nonhospitalization for up to  
7 one year. If the treatment plan proposed by the Commissioner for a patient in  
8 need of further treatment includes admission to a secure residential recovery  
9 facility or a forensic facility, the court may at any time, on its own motion or  
10 on motion of an interested party, review the need for treatment at the secure  
11 residential recovery facility or forensic facility, as applicable.

12 \* \* \*

13 Sec. 8. 18 V.S.A. § 7624 is amended to read:

14 § 7624. APPLICATION FOR INVOLUNTARY MEDICATION

15 (a) The Commissioner may commence an action for the involuntary  
16 medication of a person who is refusing to accept psychiatric medication and  
17 meets any one of the following ~~six~~ conditions:

18 (1) has been placed in the Commissioner's care and custody pursuant to  
19 section 7619 of this title or subsection 7621(b) of this title;

20 (2) has previously received treatment under an order of hospitalization  
21 and is currently under an order of nonhospitalization, including a person on an

1 order of nonhospitalization who resides in a secure residential recovery  
2 facility;

3 (3) has been committed to the custody of the Commissioner of  
4 Corrections as a convicted felon and is being held in a correctional facility that  
5 is a designated facility pursuant to section 7628 of this title and for whom the  
6 Departments of Corrections and of Mental Health have determined jointly that  
7 involuntary medication would be appropriate pursuant to 28 V.S.A.  
8 § 907(4)(H);

9 (4) has an application for involuntary treatment pending for which the  
10 court has granted a motion to expedite pursuant to subdivision 7615(a)(2)(A)(i)  
11 of this title;

12 (5)(A) has an application for involuntary treatment pending;

13 (B) waives the right to a hearing on the application for involuntary  
14 treatment until a later date; and

15 (C) agrees to proceed with an involuntary medication hearing without  
16 a ruling on whether ~~he or she~~ the person is a person in need of treatment; ~~or~~

17 (6) has been placed under an order of nonhospitalization in a forensic  
18 facility; or

19 (7) has had an application for involuntary treatment pending pursuant to  
20 subdivision 7615(a)(1) of this title for more than 26 days without a hearing  
21 having occurred and the treating psychiatrist certifies, based on specific

1 behaviors and facts set forth in the certification, that in ~~his or her~~ the  
2 psychiatrist's professional judgment there is good cause to believe that:

3 (A) additional time will not result in the person establishing a  
4 therapeutic relationship with providers or regaining competence; and

5 (B) serious deterioration of the person's mental condition is  
6 occurring.

7 (b)(1) Except as provided in subdivisions (2), (3), and (4) of this  
8 subsection, an application for involuntary medication shall be filed in the  
9 Family Division of the Superior Court in the county in which the person is  
10 receiving treatment.

11 (2) If the application for involuntary medication is filed pursuant to  
12 subdivision (a)(4) or (a)(6) of this section:

13 (A) the application shall be filed in the county in which the  
14 application for involuntary treatment is pending; and

15 (B) the court shall consolidate the application for involuntary  
16 treatment with the application for involuntary medication and rule on the  
17 application for involuntary treatment before ruling on the application for  
18 involuntary medication.

19 (3) If the application for involuntary medication is filed pursuant to  
20 subdivision (a)(5) or ~~(a)(6)~~(7) of this section, the application shall be filed in  
21 the county in which the application for involuntary treatment is pending.



1 Independent Living for placement in a designated program in the least  
2 restrictive environment consistent with the person’s need for custody, care, and  
3 habilitation of such person for an ~~indefinite or limited period~~ in a designated  
4 program ~~up to one year~~.

5 (b) ~~Such order of commitment shall have the same force and effect as an~~  
6 ~~order issued under 18 V.S.A. § 8843 and persons committed under such an~~  
7 ~~order shall have the same status, and the same rights, including the right to~~  
8 ~~receive care and habilitation, to be examined and discharged, and to apply for~~  
9 ~~and obtain judicial review of their cases, as persons ordered committed under~~  
10 ~~18 V.S.A. § 8843~~ Commitment procedures for an order initially issued  
11 pursuant to subsection (a) of this section and for discharge from an order of  
12 commitment or continued commitment shall occur in accordance with  
13 18 V.S.A. §§ 8845–8847.

14 (c) ~~Section 4822 of this title shall apply to persons proposed for discharge~~  
15 ~~under this section; however, judicial proceedings shall be conducted in the~~  
16 ~~Criminal Division of the Superior Court in which the person then resides,~~  
17 ~~unless the person resides out of State in which case the proceedings shall be~~  
18 ~~conducted in the original committing court~~ In accordance with 18 V.S.A.  
19 § 8845, if the Commissioner seeks to have a person committed pursuant to this  
20 section placed in a forensic facility, the Commissioner shall provide a  
21 statement setting forth the reasons for the Commissioner’s determination that

1 clinically appropriate treatment and programming can be provided safely only  
2 in a forensic facility, including the recommendation of the Human Services  
3 Community Safety Panel pursuant to section 4821 of this title.

4 Sec. 10. 18 V.S.A. chapter 206, subchapter 3 is amended to read:

5 Subchapter 3. Judicial Proceeding; Persons with an Intellectual Disability  
6 Who Present a Danger of Harm to Others

7 § 8839. DEFINITIONS

8 As used in this subchapter:

9 (1) ~~“Danger of harm to others” means the person has inflicted or~~  
10 ~~attempted to inflict serious bodily injury to another or has committed an act~~  
11 ~~that would constitute a sexual assault or lewd or lascivious conduct with a~~  
12 ~~child~~ “Commissioner” means the Commissioner of Disabilities, Aging, and  
13 Independent Living.

14 (2) “Designated program” means a program designated by the  
15 Commissioner as adequate to provide in an individual manner appropriate  
16 custody, care, and habilitation to persons with intellectual disabilities receiving  
17 services under this subchapter.

18 (3) “Forensic facility” has the same meaning as in section 7101 of this  
19 title.

20 (4) “Person in need of continued custody, care, and habilitation” means  
21 a person who was previously found to be a person in need of custody, care, and

1 habilitation who poses a danger of harm to others and for whom the  
2 Commissioner has, in the Commissioner’s discretion, consented to or approved  
3 the continuation of the designated program. A danger of harm to others shall  
4 be shown by establishing that, in the time since the last order of commitment  
5 was issued, the person:

6 (A) has inflicted or attempted to inflict physical or sexual harm to  
7 another;

8 (B) by the person’s threats or actions, has placed another person in  
9 reasonable fear of physical or sexual harm; or

10 (C) has exhibited behavior demonstrating that, absent treatment or  
11 programming provided by the Commissioner, there is a reasonable likelihood  
12 that the person would inflict or attempt to inflict physical or sexual harm to  
13 another.

14 (5) “Person in need of custody, care, and habilitation” means a person:

15 (A) ~~a person~~ with an intellectual disability, which means significantly  
16 subaverage intellectual functioning existing concurrently with deficits in  
17 adaptive behavior that were manifest before 18 years of age;

18 (B) ~~who presents a danger of harm to others~~ has inflicted or  
19 attempted to inflict serious bodily injury to another or who has committed an  
20 act that would constitute sexual conduct with a child as defined in section 2821



1 of this title or lewd and lascivious conduct with a child as provided in section  
2 2602 of this title; and

3 (C) for whom appropriate custody, care, and habilitation can be  
4 provided by the Commissioner in a designated program.

5 (6) “Victim” has the same meaning as in 13 V.S.A. § 5301(4).

6 § 8840. ~~JURISDICTION AND VENUE~~

7 ~~Proceedings brought under this subchapter for commitment to the~~  
8 ~~Commissioner for custody, care, and habilitation shall be commenced by~~  
9 ~~petition in the Family Division of the Superior Court for the unit in which the~~  
10 ~~respondent resides. [Repealed.]~~

11 § 8841. ~~PETITION; PROCEDURES~~

12 ~~The filing of the petition and procedures for initiating a hearing shall be as~~  
13 ~~provided in sections 8822-8826 of this title. [Repealed.]~~

14 § 8842. ~~HEARING~~

15 ~~Hearings under this subchapter for commitment shall be conducted in~~  
16 ~~accordance with section 8827 of this title. [Repealed.]~~

17 § 8843. ~~FINDINGS AND ORDER~~

18 (a) ~~In all cases, the court shall make specific findings of fact and state its~~  
19 ~~conclusions of law.~~

20 (b) ~~If the court finds that the respondent is not a person in need of custody,~~  
21 ~~care, and habilitation, it shall dismiss the petition.~~

1       ~~(e) If the court finds that the respondent is a person in need of custody,~~  
2       ~~care, and habilitation, it shall order the respondent committed to the custody of~~  
3       ~~the Commissioner for placement in a designated program in the least restrictive~~  
4       ~~environment consistent with the respondent's need for custody, care, and~~  
5       ~~habilitation for an indefinite or a limited period. [Repealed.]~~

6       § 8844. LEGAL COMPETENCE

7       No determination that a person is in need of custody, care, and habilitation  
8       or in need of continued custody, care, and habilitation and no order authorizing  
9       commitment shall lead to a presumption of legal incompetence.

10       § 8845. ~~JUDICIAL REVIEW~~ INITIAL ORDER FOR CUSTODY,  
11       CARE, AND HABILITATION

12       ~~(a)(1) A person committed under this subchapter may be discharged from~~  
13       ~~custody by a Superior judge after judicial review as provided herein or by~~  
14       ~~administrative order of the Commissioner~~ If a person is found incompetent to  
15       stand trial pursuant to 13 V.S.A. § 4820, the Criminal Division of the Superior  
16       Court shall automatically schedule a hearing to determine whether the person  
17       is a person in need of custody, care, and habilitation and requiring  
18       commitment.

19       (2) The Commissioner's recommendation that a person be placed in a  
20       forensic facility, if applicable, shall be filed with the court in advance of the  
21       commitment hearing and shall:

1           (A) expressly state the reasons for the Commissioner’s determination  
2           that clinically appropriate treatment and programming can be provided safely  
3           only in a forensic facility; and

4           (B) include the recommendation of the Human Services Community  
5           Safety Panel pursuant to 13 V.S.A. § 4821.

6           ~~(b) Procedures for judicial review of persons committed under this~~  
7           ~~subchapter shall be as provided in section 8834 of this title, except that~~  
8           ~~proceedings shall be brought in the Criminal Division of the Superior Court in~~  
9           ~~the unit in which the person resides or, if the person resides out of state, in the~~  
10           ~~unit that issued the original commitment order~~ The Commissioner or designee  
11           shall attend a commitment hearing for custody, care, and habilitation and be  
12           available to testify. All persons to whom notice is given may attend the  
13           commitment hearing and testify, except that the court may exclude those  
14           persons not necessary for the conduct of the hearing.

15           ~~(c) A person committed under this subchapter shall be entitled to a judicial~~  
16           ~~review annually. If no such review is requested by the person, it shall be~~  
17           ~~initiated by the Commissioner. However, such person may initiate a judicial~~  
18           ~~review under this subsection after 90 days after initial commitment but before~~  
19           ~~the end of the first year of the commitment~~ The Vermont rules of evidence  
20           shall apply in all judicial proceedings brought under this subchapter.

1       (d)(1) ~~If at the completion of the hearing and consideration of the record,~~  
2       ~~the court finds at the time of the hearing that the person is still in need of~~  
3       ~~custody, care, and habilitation, commitment shall continue for an indefinite or~~  
4       ~~limited period. If the court finds at the time of the hearing that the person is no~~  
5       ~~longer in need of custody, care, and habilitation, it shall discharge the person~~  
6       ~~from the custody of the Commissioner. An order of discharge may be~~  
7       ~~conditional or absolute and may have immediate or delayed effect. If the court~~  
8       finds by clear and convincing evidence that the person is a person in need of  
9       custody, care, and habilitation, the court shall order that the person be  
10       committed to the Commissioner and receive appropriate treatment and  
11       programming in a designated program that provides the least restrictive  
12       environment consistent with the person’s need for custody, care, and  
13       habilitation for up to one year.

14       (2) Notwithstanding subdivision (1) of this subsection, a person may  
15       initiate a judicial review under this subchapter at any time after 90 days  
16       following a current order of commitment.

17       (e) If the Commissioner has recommended to the court that a person be  
18       placed in a forensic facility, the court, after determining that the person is a  
19       person in need of custody, care, and habilitation, shall determine whether  
20       placement at a forensic facility is both appropriate and the least restrictive  
21       setting adequate to meet the person’s needs. If so determined, the court shall

1 order the person placed in a forensic facility for a term not to exceed the  
2 duration of the initial commitment order.

3 § 8846. PETITION AND ORDER FOR CONTINUED CUSTODY, CARE,  
4 AND HABILITATION

5 (a)(1) If, prior to the expiration of any previous commitment order issued  
6 in accordance with 13 V.S.A. § 4823 or this subchapter, the Commissioner  
7 believes that the person is a person in need of continued custody, care, and  
8 habilitation, the Commissioner shall initiate a judicial review in the Family  
9 Division of the Superior Court. The Commissioner shall, by filing a written  
10 petition, commence proceedings for the continued custody, care, and  
11 habilitation of a person. The petition shall include:

12 (A) the name and address of the person alleged to need continued  
13 custody, care, and habilitation; and

14 (B) a statement of the current and relevant facts upon which the  
15 person's alleged need for continued custody, care, and habilitation is  
16 predicated.

17 (2) Any commitment order for custody, care, and habilitation or  
18 continued custody, care, and habilitation issued in accordance with 13 V.S.A.  
19 § 4823 or this subchapter shall remain in force pending the court's decision on  
20 the petition.

1           (3) If the Commissioner seeks placement for the person alleged to need  
2           continued custody, care, and habilitation at a forensic facility, the petition for  
3           continued custody, care, and habilitation shall:

4                   (A) expressly state the reasons for the Commissioner’s determination  
5                   that clinically appropriate treatment and programming can be provided safely  
6                   only in a forensic facility; and

7                   (B) include a renewed recommendation of the Human Services  
8                   Community Safety Panel pursuant to 13 V.S.A. § 4821.

9                   (b) Upon receipt of the petition, the court shall set a date for the hearing  
10                   within 10 days from the date of filing, which shall be held in accordance with  
11                   subsections 8845(b) and (c) of this subchapter.

12                   (c)(1) If at the completion of the hearing and consideration of the record,  
13                   the court finds by clear and convincing evidence at the time of the hearing that  
14                   the person is still in need of continued custody, care, and habilitation, it shall  
15                   issue an order of commitment for up to one year in a designated program in the  
16                   least restrictive environment consistent with the person’s need for continued  
17                   custody, care, and habilitation. If the court finds at the time of the hearing that  
18                   the person is no longer in need of continued custody, care, and habilitation, it  
19                   shall discharge the person from the custody of the Commissioner in accordance  
20                   with section 8847 of this subchapter. In determining whether a person is a  
21                   person in need of continued custody, care, and habilitation, the court shall

1 consider the degree to which the person has previously engaged in or complied  
2 with the treatment and programming provided by the Commissioner. Nothing  
3 in this section shall prohibit the Commissioner from seeking, nor the court  
4 from ordering, consecutive commitment orders when the criteria for  
5 commitment are otherwise met.

6 (2) In a petition in which placement at a forensic facility is sought, a  
7 court shall first determine whether an order for continued custody, care, and  
8 habilitation is appropriate. If the court grants the petition for continued  
9 custody, care, and habilitation, it shall then determine whether placement at a  
10 forensic facility is appropriate and the least restrictive setting adequate to meet  
11 the person's needs. If so determined, the court shall order the person placed in  
12 a forensic facility for a term not exceed the duration of the order for continued  
13 custody, care, and habilitation.

14 (d) Notwithstanding subdivision (1) of subsection (a), a person may initiate  
15 a judicial review under this subchapter at any time after 90 days following a  
16 current order of continued commitment.

17 § 8847. DISCHARGE FROM COMMITMENT OR PLACEMENT IN A

18 FORENSIC FACILITY

19 (a) A person committed under 13 V.S.A. § 4823 or this subchapter may be  
20 discharged from an order of custody, care, and habilitation; an order of  
21 continued custody, care, and habilitation; or placement at a forensic facility by:

1           (1) a Family Division Superior judge after judicial review pursuant to  
2           subsection (b) of this section; or

3           (2) administrative order of the Commissioner pursuant to subsection (c)  
4           of this section.

5           (b)(1) A person under a commitment order for custody, care, and  
6           habilitation under 13 V.S.A. § 4823 or a commitment order for continued  
7           custody, care, and habilitation under this subchapter shall be entitled to a  
8           judicial review of the person’s need for continued custody, care, and  
9           habilitation pursuant to sections 8845(d)(2) and 8846(d) of this subchapter. If  
10           the court finds that the person is not a person in need of custody, care, and  
11           habilitation or continued custody, care, and habilitation, the person shall be  
12           discharged from the custody of the Commissioner. A judicial order of  
13           discharge may be conditional or absolute and may have immediate or delayed  
14           effect.

15           (2)(A) In reviewing the placement of a person receiving treatment and  
16           programming at a forensic facility, the court may determine that while the  
17           placement at a forensic facility is no longer appropriate or that the setting is no  
18           longer the least restrictive setting adequate to meet the person’s needs, the  
19           person is still a person in need of continued custody, care, and habilitation. In  
20           this instance, the court shall discharge the person from placement at the



1 forensic facility while maintaining the person’s order of commitment or  
2 continued commitment.

3 (B) When a person subject to judicial review pursuant to this  
4 subsection (b) is receiving treatment or programming at a forensic facility,  
5 either the State’s Attorney of the county where the person’s prosecution  
6 originated, or the Office of the Attorney General if that office prosecuted the  
7 person’s case, or the victim, or both, may file a position with the court as an  
8 interested person concerning whether the person’s discharge from placement at  
9 the forensic facility is appropriate.

10 (c)(1)(A) If the Commissioner determines that a person is no longer a  
11 person in need of custody, care, and habilitation; of continued custody, care,  
12 and habilitation; or of placement at a forensic facility, the Commissioner shall  
13 issue an administrative discharge from commitment or from placement at a  
14 forensic facility, or both. An administrative discharge from commitment or  
15 from placement at a forensic facility may be conditional or absolute and may  
16 have immediate or delayed effect. At least 10 days prior to the effective date  
17 of any administrative discharge by the Commissioner from commitment or  
18 placement at a forensic facility, or 10 days prior to the expiration of a current  
19 commitment order for which the Commissioner has decided not to not seek  
20 continued commitment, the Commissioner shall give notice of the pending  
21 discharge to the committing court and to either the State’s Attorney of the

1 county where the prosecution originated or to the Office of the Attorney  
2 General if that Office prosecuted the case.

3 (B) In reviewing the placement of a person receiving treatment and  
4 programming at a forensic facility, the Commissioner may determine that  
5 while the placement at a forensic facility is no longer appropriate or that the  
6 setting is no longer the least restrictive setting adequate to meet the person’s  
7 needs, the person is still a person in need of continued custody, care, and  
8 habilitation. In this instance, the Commissioner shall discharge the person  
9 from placement at the forensic facility while maintaining the person’s order of  
10 commitment or continued commitment.

11 (2)(A) When a person subject to administrative discharge pursuant to  
12 this subsection (c) is receiving treatment and programming at a forensic  
13 facility, the State’s Attorney or Office of the Attorney General shall provide  
14 notice of the pending administrative discharge from placement at a forensic  
15 facility and from commitment, if applicable, to any victim of the offense for  
16 which the person has been charged who has not opted out of receiving notice.

17 (B) During the period in which the Commissioner gives notice of the  
18 pending administrative discharge pursuant to subdivision (1)(A) of this  
19 subsection (c) and the anticipated date of administrative discharge, which shall  
20 not be less than 10 days, the State’s Attorney or the Office of the Attorney  
21 General or the victim, or both, may request a hearing in the Family Division of

1 the Superior Court on whether the person’s pending administrative discharge  
2 from placement at a forensic facility is appropriate, which shall be held within  
3 10 days after the request. The pending administrative discharge from  
4 placement at the forensic facility shall be stayed until the hearing has  
5 concluded and any subsequent orders are issued, but in no event shall a  
6 subsequent order be issued more than 5 days after the hearing.

7 (d) Whenever a person is subject to a judicial or administrative discharge  
8 from commitment, the Criminal Division of the Superior Court shall retain  
9 jurisdiction over the person’s underlying charge and any orders holding the  
10 person without bail or concerning bail, and conditions of release shall remain  
11 in place. Those orders shall be placed on hold while a person is in the custody,  
12 care, and habilitation of the Commissioner. When a person is discharged from  
13 the Commissioner’s custody, care, and habilitation to a correctional facility,  
14 the custody of the Commissioner shall cease when the person enters the  
15 correctional facility.

16 § 8846 8848. RIGHT TO COUNSEL

17 Persons subject to commitment or ~~judicial review~~ continued commitment  
18 under this subchapter shall have a right to counsel as provided in section 7111  
19 of this title.





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\* \* \* Effective Dates \* \* \*

Sec. 14. EFFECTIVE DATES

This section, Sec. 12 (report; competency restoration program; fiscal estimate), and Sec. 13 (rulemaking; conforming amendments) shall take effect on passage. All remaining sections shall take effect on July 1, 2025.

(Committee vote: \_\_\_\_\_)

\_\_\_\_\_

Senator \_\_\_\_\_

FOR THE COMMITTEE