

Changes to 4821 to substitute for the panel:

(b)(1) Once a report concerning competency or sanity is completed or disclosed to the opposing party, the relevant potential custodial commissioner shall determine whether placement of the person who is the subject of the report is appropriate in a forensic facility.

(2)(A) A party to the hearing has the right to ask the Agency of Human Services if placement at a forensic facility is being considered. If it is not, a party to a hearing under section 4820 of this chapter may file a written motion to the court requesting that the relevant potential custodial commissioner consider placement at a forensic facility.

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

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

(c) In conducting a review as to whether to seek placement of a person in a forensic facility, the relevant potential custodial commissioner shall consider the following criteria:

(1) clinical factors, including:

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

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

(2) dangerousness factors, including:

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

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

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

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

(E) any other factors the potential custodial commissioner determines to be relevant to the assessment of risk.

(d) The relevant potential custodial commissioner shall consult with the Secretary of the Agency of Human Services and all other relevant commissioners as necessary to make a determination.

(e) Should the determination be that placement at a forensic facility is appropriate, the relevant potential custodial commissioner shall notify the Mental Health Care Ombudsman or _____ to that they may consult with the individual's attorney.

(e) As used in this chapter, "forensic facility" has the same meaning as in 18 V.S.A. § 7101.