

H.627

Introduced by Representatives Rachelson of Burlington and Arsenault of
Williston

Referred to Committee on

Date:

Subject: Criminal procedures; proceedings in forensic cases; rights of victim

Statement of purpose of bill as introduced: This bill proposes to expand the
rights of crime victims in forensic proceedings involving a criminal
defendant's sanity or competency to stand trial.

An act relating to crime victims' rights in forensic cases

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 13 V.S.A. § 4821 is amended to read:

§ 4821. NOTICE OF HEARING; PROCEDURES

(a) The person who is the subject of the proceedings, ~~his or her~~ the person's
attorney, the legal guardian, if any, the Commissioner of Mental Health or the
Commissioner of Disabilities, Aging, and Independent Living, and the State's
Attorney or other prosecuting officer representing the State in the case shall be
given notice of the time and place of a hearing under 4820 of this title. The
notice shall be provided by the State's Attorney or other prosecuting officer
representing the State in the case to any victim of the offense for which the

1 person has been charged who has not opted out of receiving the notice.

2 Procedures for hearings for persons with a mental illness shall be as provided
3 in 18 V.S.A. chapter 181. Procedures for hearings for persons with an
4 intellectual disability shall be as provided in 18 V.S.A. chapter 206, subchapter
5 3.

6 (b) The court shall maintain a system for a person to file notice that the
7 person is a victim in a proceeding under this chapter.

8 (c) The State's Attorney or other prosecuting officer representing the State
9 in the case shall ensure that all victims of record are notified of their rights
10 under this chapter and made aware of the option to receive notifications from
11 the court pursuant to this section.

12 (d) As used in this chapter, "victim" has the same meaning as in section
13 5301 of this title.

14 Sec. 2. 13 V.S.A. § 4822 is amended to read:

15 § 4822. FINDINGS AND ORDER; PERSONS WITH A MENTAL ILLNESS

16 (a) If the court finds that the person is a person in need of treatment or a
17 patient in need of further treatment as defined in 18 V.S.A. § 7101, the court
18 shall issue an order of commitment directed to the Commissioner of Mental
19 Health that shall admit the person to the care and custody of the Department of
20 Mental Health for a period of 90 days. In any case involving personal injury or
21 threat of personal injury, the committing court may issue an order requiring a

1 court hearing before a person committed under this section may be discharged
2 from custody.

3 * * *

4 (c)(1) Notwithstanding the provisions of subsection (b) of this section, at
5 least ~~40~~ 30 days prior to the proposed discharge of any person committed
6 under this section, the Commissioner of Mental Health shall give notice of the
7 discharge to the committing court, to any victim of the offense for which the
8 person has been charged who has not opted out of receiving the notice, and to
9 the State's Attorney of the county where the prosecution originated. In all
10 cases requiring a hearing prior to discharge of a person found incompetent to
11 stand trial under section 4817 of this title, the hearing shall be conducted by the
12 committing court issuing the order under that section. In all other cases, when
13 the committing court orders a hearing under subsection (a) of this section or
14 when, in the discretion of the Commissioner of Mental Health, a hearing
15 should be held prior to the discharge, the hearing shall be held in the Family
16 Division of the Superior Court to determine if the committed person is no
17 longer a person in need of treatment or a patient in need of further treatment as
18 set forth in subsection (a) of this section. Notice of the hearing shall be given
19 to the Commissioner, the State's Attorney of the county where the prosecution
20 originated, the committed person, and the person's attorney. The State's
21 Attorney of the county where the prosecution originated shall provide notice of

1 the hearing to any victim of the offense for which the person has been charged
2 who has not opted out of receiving the notice. Prior to the hearing, the State's
3 Attorney may enter an appearance in the proceedings and may request
4 examination of the patient by an independent psychiatrist, who may testify at
5 the hearing.

6 (2)(A) This subdivision (2) shall apply when a person is committed to
7 the care and custody of the Commissioner of Mental Health under this section
8 after having been found:

9 (i) not guilty by reason of insanity; or

10 (ii) incompetent to stand trial, provided that the person's criminal
11 case has not been dismissed.

12 (B)(i) When a person has been committed under this section, the
13 Commissioner shall provide notice to the State's Attorney of the county where
14 the prosecution originated or to the Office of the Attorney General if that office
15 prosecuted the case and to any victim of the offense for which the person has
16 been charged who has not opted out of receiving the notice:

17 (I) at least ~~40~~ 30 days prior to discharging the person from:

18 (aa) the care and custody of the Commissioner; or

19 (bb) a hospital or a secure residential recovery facility to the
20 community on an order of nonhospitalization pursuant to 18 V.S.A. § 7618;

1 (II) at least ~~40~~ 30 days prior to the expiration of a commitment
2 order issued under this section if the Commissioner does not seek continued
3 treatment; or

4 (III) any time that the person elopes from the custody of the
5 Commissioner.

6 (ii) When the State's Attorney or Attorney General receives notice
7 under subdivision (i) of this subdivision (B), the Office shall provide notice of
8 the action to any victim of the offense for which the person has been charged
9 who has not opted out of receiving notice. A victim receiving notice pursuant
10 to this subdivision (ii) has the right to be heard by the court or to submit a
11 victim impact statement to the Family Division of the Superior Court in
12 writing or through the State's Attorney or Attorney General's office. The
13 victim may express views concerning the offense and preferences for the
14 person's placement and care, and the court shall consider the victim's
15 testimony in its decision.

16 (iii) As used in this subdivision (B), "victim" has the same
17 meaning as in section 5301 of this title.

18 (d) The court may continue the hearing provided in subsection (c) of this
19 section for a period of 15 additional days upon a showing of good cause. The
20 court shall continue the hearing if the victim has not been provided with the
21 notice required by this section.

1 (e) If the court determines that commitment shall no longer be necessary, it
2 shall issue an order discharging the patient from the custody of the Department
3 of Mental Health.

4 (f) The court shall issue its findings and order not later than 15 days from
5 the date of hearing.

6 Sec. 3. 13 V.S.A. § 5305 is amended to read:

7 § 5305. INFORMATION CONCERNING RELEASE FROM CUSTODY

8 (a) Victims and affected persons shall have the right to request timely
9 notification by the agency having custody of the defendant before the
10 defendant is released, including a release on bail or conditions of release,
11 furlough, or other community program; upon termination or discharge from
12 probation; ~~or~~ whenever the defendant escapes, is recaptured, dies, or receives a
13 pardon or commutation of sentence; or when the defendant is transferred from
14 a secure or staff-secure setting to a community-based setting in any case
15 involving personal injury or threat of personal injury. Notice shall be given to
16 the victim or affected person as expeditiously as possible at the address or
17 telephone number provided to the agency having custody of the defendant by
18 the person requesting notice. Any address or telephone number so provided
19 shall be kept confidential. The prosecutor's office shall ensure that victims are
20 made aware of their right to notification of an offender's scheduled release
21 date pursuant to this section. Notwithstanding this subsection, the right to

1 information for victims of delinquent acts is governed by 33 V.S.A. chapters
2 52 and 52A.

3 (b) If the defendant is released on conditions at arraignment, the
4 prosecutor's office shall inform the victim of a listed crime of the conditions of
5 release in a timely manner.

6 (c) If requested by a victim of a listed crime, the Department of Corrections
7 shall:

8 (1) at least 30 days before a parole board hearing concerning the
9 defendant, inform the victim of the hearing and of the victim's right to testify
10 before the parole board or to submit a written statement for the parole board to
11 consider; and

12 (2) promptly inform the victim of the decision of the parole board,
13 including providing to the victim any conditions attached to the defendant's
14 release on parole.

15 Sec. 4. 13 V.S.A. § 4826 is added to read:

16 § 4826. VICTIM LIAISON

17 (a) There is created the position of Victim Liaison for Forensic Cases in the
18 Department of Mental Health.

19 (b) The Victim Liaison shall:

20 (1) assist victims by providing information and guidance on Department
21 of Mental Health policies and procedures related to forensic cases;

1 (2) coordinate with the Attorney General's office and the Department of
2 State's Attorneys and Sheriffs regarding forensic cases; and
3 (3) assist victims in navigating court systems and law enforcement
4 agencies in forensic cases.

5 Sec. 5. VICTIM LIAISON FOR FORENSIC CASES; POSITION
6 CREATED; APPROPRIATION

7 (a) One full-time, classified permanent Victim Liaison for Forensic Cases
8 position is created in the Department of Mental Health.

9 (b) There is appropriated to the Department of Health from the General
10 Fund in fiscal year 2027 the sum of \$115,000.00 for one Victim Liaison for
11 Forensic Cases.

12 Sec. 6. REPORT; DEPARTMENT OF MENTAL HEALTH; VICTIMS'
13 RIGHTS IN FORENSIC CASES

14 (a)(1) On or before November 1, 2026, the Department of Mental Health
15 shall report to the House Committees on Judiciary, on Health Care, and on
16 Human Services and the Senate Committees on Judiciary and on Health and
17 Welfare on improving victims' rights and experiences in forensic cases in
18 Vermont.

19 (2) For purposes of the report required by this section, the Department
20 shall consult with:

1 (A) the Chief Superior Judge or designee;

2 (B) the Attorney General or designee;

3 (C) the Executive Director of the Department of State's Attorneys
4 and Sheriffs or designee;

5 (D) the Executive Director of the Vermont Center for Crime Victim
6 Services or designee;

7 (E) the Executive Director of Vermont Legal Aid or designee;

8 (F) the Defender General or designee;

9 (G) the Executive Director of the Vermont Network Against
10 Domestic and Sexual Violence or designee; and

11 (H) victims with lived experience in forensic cases.

12 (b) The report required by this section shall include:

13 (1) recommendations to improve victim access to and participation in
14 court proceedings involving forensic cases;

15 (2) recommendations to improve victim access to information in
16 forensic cases, including the development of a court release form allowing
17 persons who are found not guilty by reason of insanity or incompetent to stand
18 trial to provide victims with access to basic information about the person's
19 location and reasonable notice of the person's court proceedings; and

1 (3) an assessment of any discrepancies between statutory requirements
2 and current practices as they relate to victims' rights and notification in
3 forensic cases.

4 Sec. 7. EFFECTIVE DATE

5 This act shall take effect on passage.