

1 S.193

2 Introduced by Senator Lyons

3 Referred to Committee on Judiciary

4 Date: January 6, 2026

5 Subject: Criminal procedure; public safety; mental health; forensic facility;
6 competency restoration

7 Statement of purpose of bill as introduced: This bill proposes to establish a
8 forensic facility for certain criminal justice-involved persons; to require the
9 court, unless contrary to the interests of justice, to dismiss misdemeanor
10 charges against a person who has been found incompetent to stand trial if, after
11 the finding of incompetence, the case remains inactive for a continuous period
12 of time equal to or greater than the maximum sentence for the offense; and to
13 limit the applicability of the Vermont Rules of Evidence in proceedings
14 involving competency restoration and granting or revoking conditional release
15 from a forensic facility.

16 An act relating to establishing a forensic facility for certain criminal justice-
17 involved persons

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

2 ~~Sec. 1. 13 V.S.A. § 4815a is added to read:~~

3 § 4815a. COMPETENCY RESTORATION SERVICES WITHIN
4 FORENSIC FACILITY

5 (a) A person shall be transferred to the forensic facility established in
6 section 4826 of this title if the person has been charged with an offense
7 punishable by a life sentence, the person is not deemed a “person in need of
8 treatment” pursuant to 18 V.S.A. § 7101, and the person has been found not
9 competent to stand trial.

10 (b) Upon admission, the forensic facility shall cause the person to be
11 evaluated for competency to stand trial not less often than the shorter of either
12 every six months or upon the determination by the forensic facility’s clinical
13 services director that the person is likely competent to stand trial. The results
14 of all evaluations shall be supplied to the court and the parties to the
15 underlying criminal action.

16 (c) A person shall remain at the forensic facility until the person receives a
17 verdict in the person’s underlying criminal case or until the charges against the
18 person have been dismissed.

19 (d) The person shall receive competency restoration services while at the
20 forensic facility according to a plan approved by the forensic facility’s clinical
21 services director. Such services may include any appropriate combination of

1 ~~medication, education, accommodations, habilitation, or other services~~
2 identified as necessary or proper to achieve and maintain competency to stand
3 trial. The person's refusal to receive competency restoration services shall not
4 be grounds for release or dismissal from the forensic facility.

5 (e) Competency restoration services shall be maintained until the person
6 receives a verdict in the person's underlying criminal case.

7 (f) The Commissioner shall receive prior approval of the Criminal Division
8 of the Superior Court where the person's underlying criminal charge is
9 pending for any competency restoration plan involving involuntary
10 medication. The court shall not approve involuntary medication unless the
11 court finds that the involuntary medication is clinically appropriate and is
12 likely to aid in the restoration of the person's competency to stand trial.

13 Sec. 2. 13 V.S.A. § 4817 is amended to read:

14 § 4817. COMPETENCY TO STAND TRIAL; DETERMINATION;

15 DISMISSAL

16 * * *

17 (e) When a person has been found incompetent to stand trial for an alleged
18 misdemeanor offense, the charges against the person shall be dismissed with
19 prejudice if, after the finding of incompetence, the case remains inactive for a
20 ~~continuous period of time equal to or greater than the maximum sentence for~~

1 ~~the offense. Dismissal under this section shall not be required if the court~~
2 ~~finds that dismissing the case would be contrary to the interest of justice.~~

3 Sec. 3. 13 V.S.A § 4819a is added to read:

4 § 4819a. FORENSIC FACILITY PLACEMENT FOR PERSONS

5 ACQUITTED OF CERTAIN CRIMES

6 (a) A person shall be transferred to the forensic facility established in
7 section 4826 of this title if the person has been acquitted of an offense
8 punishable by a life sentence pursuant to section 4819 of this chapter and the
9 person is not deemed a “person in need of treatment” pursuant to 18 V.S.A.
10 § 7101.

11 (b)(1) A hearing shall be held by the Criminal Division of the Superior
12 Court within 40 days following admission to the forensic facility, unless that
13 period is extended by the court.

14 (2) At the hearing, the court shall order the person committed to the
15 forensic facility, unless the person establishes by clear and convincing
16 evidence that the person is no longer suffering from a mental disease or defect,
17 that upon the person’s release, would create a substantial risk of bodily injury
18 to another person or serious damage to the property of another person. If the
19 court finds that the person has established the person’s burden under this
20 subdivision, the court may enter an order consistent with subdivision (d)(2) of
21 this section.

1 ~~(2) Prior to the date of the hearing, the court shall order that a~~
2 ~~psychiatric or psychological examination of the person be conducted and that a~~
3 ~~psychiatric or psychological report be filed with the court addressing the~~
4 ~~person's history and present symptoms; a description of the psychiatric,~~
5 ~~psychological, and medical tests that were employed and their results; the~~
6 ~~examiner's findings, and the examiner's opinions as to diagnosis, prognosis;~~
7 ~~and whether the person is suffering from a mental disease or defect that, upon~~
8 ~~the person's release, would create a substantial risk of bodily injury to another~~
9 ~~person or serious damage to the property of another person.~~

10 (c) ~~A placement of a person at the forensic facility shall be for an~~
11 ~~indeterminate period and shall not have a specified end date. The person shall~~
12 ~~not be released until the person establishes by clear and convincing evidence~~
13 ~~the person is no longer suffering from a mental disease or defect that, upon the~~
14 ~~person's release, would create a substantial risk of bodily injury to another~~
15 ~~person or serious damage to the property of another person.~~

16 (d)(1) ~~The Commissioner of Corrections shall petition the unit of the~~
17 ~~Criminal Division of the Superior Court in which the acquittal was returned~~
18 ~~not less frequently than the shorter of every five years or upon certification by~~
19 ~~the clinical services director that the person is no longer suffering from a~~
20 ~~mental disease or defect that, upon the person's release, would create a~~

1 ~~substantial risk of bodily injury to another person or serious damage to the~~
2 ~~property of another person.~~

3 ~~(2) If the reviewing court finds by clear and convincing evidence that~~
4 ~~person is no longer suffering from a mental disease or defect that, upon the~~
5 ~~person's release, would create a substantial risk of bodily injury to another~~
6 ~~person or serious damage to the property of another person, the court shall:~~

7 ~~(A) order the release of the person under a prescribed regimen of~~
8 ~~medical, psychiatric, or psychological care or treatment that the forensic~~
9 ~~facility's clinical services director has certified as appropriate and that has~~
10 ~~been found by the court to be appropriate; and~~

11 ~~(B) order, as an explicit condition of release, that the person comply~~
12 ~~with the prescribed regimen of medical, psychiatric, or psychological care or~~
13 ~~treatment together with any other conditions appropriate to protect the public.~~

14 ~~(e) The Commissioner of Corrections shall actively monitor compliance~~
15 ~~with orders issued under subdivision (d)(2) of this section and shall~~
16 ~~immediately return the person to the forensic facility if the Commissioner or~~
17 ~~the Commissioner's designees determine that the person is non-compliant with~~
18 ~~the order and that the noncompliance may create a risk of bodily injury to~~
19 ~~another person or serious damage to the property of another. The~~
20 ~~Commissioner shall notify the Criminal Division of the Superior Court in the~~
21 ~~county where the person was acquitted upon return of the person to the~~

1 ~~forensic facility. Upon readmission, the court shall hold a hearing where the~~
2 Commissioner shall have the burden of establishing by a preponderance of the
3 evidence that the person was noncompliant with the court's order for
4 conditional release and that the noncompliance creates a risk of bodily injury
5 to another person or serious damage to the property of another.

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

7 § 4826. FORENSIC FACILITY

8 (a) The Commissioner of Corrections shall establish and operate a locked
9 secure forensic facility for the assessment and safe housing of persons who are
10 subject to any stage of proceedings under this chapter or who have been
11 acquitted pursuant to section 4819 of this chapter. The forensic facility shall
12 not refuse any persons it is ordered to admit, nor shall it require any clinical or
13 diagnostic prerequisites for admission. All forensic, clinical, and competency
14 restoration services provided at the forensic facility shall be overseen by a
15 clinical services director.

16 (b) Any records related to a person placed at the forensic facility shall be
17 exempt from public inspection and copying under the Public Records Act and
18 shall be kept confidential, except that records shall be made available to the
19 parties in the underlying criminal case upon request.

20 (c) Persons shall be admitted to and maintained at the forensic facility

21 ~~pursuant to sections 4815a and 4819a of this title.~~

1 ~~(d) The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 to~~
2 ~~implement this section.~~

3 Sec. 5. RULEMAKING; FORENSIC FACILITY

4 ~~Pending the adoption of permanent rules pursuant to 3 V.S.A. chapter 25 to~~
5 ~~implement the provisions of Secs. 1–4 of this act, the Commissioner of~~
6 ~~Corrections shall adopt emergency rules pursuant to 3 V.S.A. § 844 not later~~
7 ~~than January 1, 2027, which shall be deemed to meet the emergency~~
8 ~~rulemaking standard in 3 V.S.A. § 844(a).~~

9 Sec. 6. Rule 1101 of the Vermont Rules of Evidence is amended to read:

10 RULE 1101. APPLICABILITY OF RULES

11 (a) Rules applicable. Except as otherwise provided in subdivision (b),
12 these rules apply to all actions and proceedings in the courts of this state.

13 (b) Rules inapplicable. The rules other than those with respect to
14 privileges do not apply in the following situations:

15 * * *

16 (3) Miscellaneous Proceedings. Proceedings for extradition or
17 rendition; inquest proceedings; except as otherwise provided by statute or rule
18 promulgated by the Supreme Court, sentencing or granting or revoking
19 probation; proceedings concerning competency restoration; granting or
20 ~~revoking conditional release from a forensic facility; finding probable cause~~

1 ~~for arrests without warrant and issuance of citations, warrants for arrest,~~
2 ~~criminal summonses, and search warrants.~~

3 ~~***~~

4 Sec. 7. EFFECTIVE DATE

5 ~~This act shall take effect on July 1, 2026.~~

~~Sec. 1. 18 V.S.A. § 4815a is added to read:~~

~~§ 4815a. COMPETENCY RESTORATION SERVICES WITHIN
FORENSIC FACILITY~~

~~(a) A person shall be transferred to the forensic facility established in
section 4826 of this title if the person:~~

~~(1) has been charged with an offense punishable by a life sentence;~~

~~(2)(A) has been held without bail pursuant to section 7553 of this title;~~

~~or~~

~~(B) if the person is not held without bail pursuant to section 7553 of
this title, the person's release would create a substantial risk of bodily injury to
another person;~~

~~(3) is not currently receiving treatment through an order of
hospitalization pursuant to 18 V.S.A. § 7619 or section 4822 of this title; and~~

~~(4) has been found not competent to stand trial.~~

~~(b)(1)(A) Upon admission, the forensic facility shall cause the person to be
evaluated for competency to stand trial not less often than the shorter of
either:~~

~~(i) every six months; or~~

~~(ii) upon the determination by the forensic facility's clinical
services director that the person is likely competent to stand trial.~~

~~(B) The results of all evaluations shall be supplied to the court and
the parties to the underlying criminal action.~~

~~(2)(A) At the request of a party, the court may order that a second or
subsequent evaluation include an opinion on whether the person's competency
can be restored. If the court finds that the person may be found likely
competent to stand trial, the court shall immediately notify the State's Attorney
and the person's counsel in the criminal case. If the court finds by clear and~~

convincing evidence that the person cannot be restored to competency, the court shall order continued commitment of the person, taking into account the least restrictive conditions applicable, unless subdivision (B) of this subdivision (2) applies.

(B) If the court finds that the release of a person who cannot be restored to competency would not create a substantial risk of bodily injury to another person, the court shall:

(i) order the release of the person under a prescribed regimen of medical, psychiatric, or psychological care or treatment that the forensic facility's clinical services director has certified as appropriate and that has been found by the court to be appropriate; and

(ii) order, as an explicit condition of release, that the person comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment together with any other conditions appropriate to protect the public.

(c) The person shall remain at the forensic facility until the person is restored to competency or until there is a final disposition of the charges against the person.

(d) The person shall receive competency restoration services while at the forensic facility according to a plan approved by the forensic facility's clinical services director. Such services shall include any appropriate combination of medication, education, accommodations, habilitation, or other services identified as necessary or proper to achieve and maintain competency to stand trial. The person's refusal to receive competency restoration services shall not be grounds for release or dismissal from the forensic facility.

(e) Competency restoration services shall be provided to the person at the forensic facility, or at another location as part of a discharge plan, until the person is restored to competency or until there is a final disposition of the charges against the person.

(f)(1) The Commissioner shall actively monitor compliance with orders issued pursuant to subdivision (2)(B) of subsection (b) and shall immediately return a person to the forensic facility if:

(A) the person was previously restored to competence pursuant to this section and released from the facility;

(B) the Commissioner has reason to believe that the person is again incompetent; and

(C) the person's continued release would create a substantial risk of bodily injury to another person.

(2) The Commissioner shall notify the court where the person was committed upon return of the person to the forensic facility. Upon readmission, the court shall hold a hearing at which the State's Attorney shall have the burden of establishing by clear and convincing evidence that the person is not competent. If the court finds that the person is not competent, the court shall order the person readmitted to the forensic facility for competency restoration treatment pursuant to this section. If the court finds that the person is competent, the court shall order the person restored to the status the person had when the person was returned to the facility.

(g) The Commissioner shall receive prior approval of the Criminal Division of the Superior Court where the person's underlying criminal charge is pending for any competency restoration plan involving involuntary medication. The court shall not approve involuntary medication unless the court finds that:

(1) the involuntary medication is medically appropriate;

(2) the involuntary medication serves the important governmental interests of bringing to trial an individual accused of a serious crime and ensuring a fair, timely prosecution;

(3) the involuntary medication significantly furthers these important governmental interests by making it substantially likely to render the defendant competent to stand trial; and

(4) any alternative, less intrusive treatments are unlikely to achieve the same results.

Sec. 2. 13 V.S.A. § 4817 is amended to read:

§ 4817. COMPETENCY TO STAND TRIAL; DETERMINATION;
DISMISSAL

* * *

(e) When a person has been found incompetent to stand trial for an alleged misdemeanor offense, the charges against the person shall be dismissed without prejudice if, after the finding of incompetence, the case remains inactive for a continuous period of time equal to or greater than the maximum sentence for the offense. Dismissal under this section shall not be required if the court finds that dismissing the case would be contrary to the interests of justice.

Sec. 3. 13 V.S.A § 4819a is added to read:

§ 4819a. FORENSIC FACILITY PLACEMENT FOR PERSONS
ACQUITTED OF CERTAIN CRIMES

~~(a) A person who is charged with an offense punishable by a life sentence and is found not guilty only by reason of insanity at the time of the offense charged shall be committed to a forensic facility pursuant to this section. This section shall not be construed to prohibit the temporary transfer of a person requiring inpatient treatment through an order of hospitalization pursuant to 18 V.S.A. § 7619 or section 4822 of this title.~~

~~(b)(1) A hearing shall be held by the court where the person was tried within 48 hours following admission to the forensic facility, unless that period is extended by the court.~~

~~(2) Prior to the date of the hearing, the court shall order that a forensic risk assessment of the person be conducted that includes:~~

~~(A) the person's history and present dangerousness;~~

~~(B) a description of any tests that were employed and the results of the tests;~~

~~(C) the examiner's findings; and~~

~~(D) the examiner's opinion as to whether the person's release would create a substantial risk of bodily injury to another person.~~

~~(3)(A) At the hearing, the court shall order the person committed to the forensic facility if the State's Attorney establishes by clear and convincing evidence that the person is suffering from a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person.~~

~~(B) If the court finds that the State's Attorney has not established by clear and convincing evidence that the person is suffering from a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person, the court shall enter an order releasing the person pursuant to subdivision (e)(2) of this section.~~

~~(c) A person committed to the forensic facility pursuant to this section shall not be released until the court finds pursuant to subsection (e) of this section that the person is no longer suffering from a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person.~~

~~(d) The Commissioner of Corrections shall, taking into account the least restrictive conditions applicable, provide adequate care and individualized treatment at the forensic facility to persons ordered committed pursuant to this section. In order that the Commissioner may adequately determine the nature of the person's condition and needs, all persons committed pursuant to this~~

~~Section shall be promptly examined by qualified personnel in order to provide a proper evaluation, diagnosis, and treatment plan.~~

~~(e)(1)(A)(i) The State's Attorney shall petition the committing court for evaluation of the person not less often than the shorter of either:~~

~~(I) every six months after the date that the person is committed pursuant to subdivision (b)(3)(A) of this section; or~~

~~(II) certification to the Commissioner of Corrections by the forensic facility's clinical services director that the person is no longer suffering from a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person.~~

~~(ii) The Commissioner of Corrections shall provide all reports required under this section to the State's Attorney, who shall file them with the petition.~~

~~(B) A person committed pursuant to subdivision (b)(3)(A) of this section may petition the committing court for release on the grounds that the person is no longer suffering from a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person. A petition shall not be filed pursuant to this subdivision (B) until at least 90 days after the issuance of the commitment order.~~

~~(2) If the reviewing court finds by clear and convincing evidence that the person is no longer suffering from a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person, the court shall:~~

~~(A) order the release of the person under a prescribed regimen of medical, psychiatric, or psychological care or treatment that the forensic facility's clinical services director has certified as appropriate and that has been found by the court to be appropriate; and~~

~~(B) order, as an explicit condition of release, that the person comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment together with any other conditions appropriate to protect the public.~~

~~(3) If the court finds that the person is suffering from a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person, the court shall deny the petition and order the person committed to the forensic facility for continued treatment pursuant to this section.~~

~~(f) The Commissioner shall actively monitor compliance with orders issued pursuant to subdivision (e)(2) of this section and shall immediately return the person to the forensic facility if the Commissioner determines that the person is~~

~~noncompliant with the order and that the noncompliance may create a risk of bodily injury to another person. The Commissioner shall notify the court where the person was committed upon return of the person to the forensic facility. Upon readmission, the court shall hold a hearing at which the State's Attorney shall have the burden of establishing by a preponderance of the evidence that the person was noncompliant with the court's order for conditional release and that the noncompliance creates a risk of bodily injury to another person.~~

~~(g) At any hearing under this section, the victim may express the victim's views concerning the offense and preferences for the person's placement and care, and the court may consider the victim's testimony.~~

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

~~§ 4826. FORENSIC FACILITY; DEFINITIONS~~

~~(a)(1) As used in this chapter:~~

~~(A) "Forensic facility" means a locked facility or placement that:~~

~~(i) the Department of Corrections provides for the secure evaluation, treatment, and care of persons involved in the legal system who do not require a hospitalization level of care; and~~

~~(ii) is required for the custody, control, correctional treatment, and rehabilitation of persons transferred pursuant to subsections 4815a(a) and 4819a(a) of this title.~~

~~(B) "Qualifying condition" means any condition whether mental, congenital, or traumatic, however acquired or developed, or any other circumstance that resulted in the person being determined:~~

~~(i) incompetent to stand trial; or~~

~~(ii) not guilty by reason of insanity.~~

~~(2) The evaluations required by this chapter may be conducted pursuant to contracts entered into between the Commissioner of General Services Commissioner of Buildings and General Services and evaluation providers.~~

~~(3) The Commissioner of Corrections shall establish and operate a locked secure forensic facility for the secure evaluation, treatment, and care of persons who have been transferred pursuant to subsections 4815a(a) and 4819a(a) of this title. The forensic facility shall not refuse any persons it is ordered to admit, and it shall not require any clinical or diagnostic prerequisites for admission. All forensic, clinical, and competency restoration services provided at the forensic facility shall be overseen by a clinical services director.~~

(b) The Commissioner of Corrections shall establish and operate a locked secure forensic facility for the secure evaluation, treatment, and care of individuals who have been transferred pursuant to subsections 4815a(a) and 4819a(a) of this title. The forensic facility shall:

(1) be designed and operated in a manner that supports a therapeutic, recovery-oriented, and trauma-informed environment comparable to a community-based residential treatment setting, while maintaining appropriate levels of safety and security;

(2) not refuse any persons it is ordered to admit and shall not require any clinical or diagnostic prerequisites for admission;

(3) provide for the safe housing and management of persons, including the ability to separate the population by sex or gender and to otherwise address clinical, safety, or operational considerations as appropriate, including the possible operation of multiple facilities;

(4) employ a clinical services director to oversee all forensic, clinical, and competency restoration services provided to transferred persons;

(5) implement staff qualifications, licensure, training, and supervision requirements that are sufficient to ensure that persons transferred to the forensic facility have access to clinically appropriate care, treatment, services, and supports consistent with individual needs and with applicable professional standards;

(6) ensure that a registered nurse licensed pursuant to 26 V.S.A. chapter 28 or a physician licensed pursuant to 26 V.S.A. chapter 23 or 33 is available to provide care to transferred persons 24 hours a day, seven days a week; and

(7) ensure that persons receive clinically appropriate assessment and treatment planning, including the development of an initial person-specific treatment plan within 72 hours following transfer, which shall be reviewed periodically as clinically indicated.

(c) Any records related to a person placed at the forensic facility shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that:

(1) the records shall be made available to the parties in the underlying criminal case upon request; and

(2) the person's health care providers may, with the person's permission, view forensic facility records of the person's psychiatric assessments at the facility, including assessments of the person's competency to stand trial and criminal responsibility.

~~(d) Persons shall be admitted to and maintained at the forensic facility pursuant to sections 4815a and 4819a of this title, and in proceedings under those sections shall be entitled to have counsel appointed from Vermont Legal Aid to represent them.~~

~~(e) The Commissioner of Corrections shall regularly consult with the Commissioner of Mental Health when performing the duties required by this chapter for operating the forensic facility.~~

~~(f) The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 to implement this section.~~

Sec. 4a. 13 V.S.A. § 4826 is amended to read:

§ 4826. FORENSIC FACILITY; DEFINITIONS

* * *

~~(g) Annually, on or before January 15, the Department of Corrections, in consultation with the Departments of Health, of Mental Health, and of Disabilities, Aging, and Independent Living, shall submit a written report to the House Committees on Corrections and Institutions, on Human Services, and on Judiciary and to the Senate Committees on Institutions, on Health and Welfare, and on Judiciary addressing:~~

~~(1) the number of persons served at the forensic facility during the previous calendar year; and~~

~~(2) the types of clinical services and treatment provided during the previous calendar year.~~

~~Sec. 4. RULEMAKING; FORENSIC FACILITY~~

~~Pending the adoption of permanent rules pursuant to 3 V.S.A. chapter 25 to implement the provisions of Secs. 1-4 of this act, the Commissioner of Corrections shall adopt emergency rules pursuant to 3 V.S.A. § 844 on or before January 1, 2027, which shall be deemed to meet the emergency rulemaking standard in 3 V.S.A. § 844(c).~~

Sec. 5. RULEMAKING; FORENSIC FACILITY

The Commissioner of Corrections, in consultation with the Departments of Health, of Mental Health, and of Disabilities, Aging, and Independent Living, shall adopt rules pursuant to 3 V.S.A. chapter 25 to implement the provisions of Secs. 1, 3, and 4 of this act. Specifically, the rules shall establish:

~~(1) clinically appropriate standards governing the provision of services at the forensic facility, including requirements related to staffing patterns and~~

~~standards, staff qualifications, licensure and training, clinical supervision, and the delivery of safe, effective, evidence-informed care;~~

~~(2) standards for quality assurance and improvement; clinical oversight; documentation and reporting requirements; safety and risk management protocols; and mechanisms for monitoring compliance; and~~

~~(3) any other provisions necessary to ensure safe, effective, and clinically appropriate implementation of Secs. 1, 3, and 4 of this act, including potentially requiring the provision of forensic facility services in a unit that is separate from other correctional populations.~~

~~Sec. 6. Rule 1101 of the Vermont Rules of Evidence is amended to read:~~

~~RULE 1101. APPLICABILITY OF RULES~~

~~(a) Rules applicable. Except as otherwise provided in subdivision (b), these rules apply to all actions and proceedings in the courts of this state.~~

~~(b) Rules inapplicable. The rules other than those with respect to privileges do not apply in the following situations:~~

~~* * *~~

~~(3) Miscellaneous Proceedings. Proceedings for extradition or rendition; inquest proceedings; except as otherwise provided by statute or rule promulgated by the Supreme Court, sentencing or granting or revoking probation; proceedings concerning competency restoration; granting or revoking conditional release from a forensic facility; finding probable cause for arrests without warrant and issuance of citations, warrants for arrest, criminal summonses, and search warrants.~~

~~* * *~~

~~Sec. 7. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2026.~~

~~Sec. 7. INTERIM REPORT; FORENSIC FACILITY~~

~~On or before October 1, 2026, the Department of Corrections, in collaboration with the Departments of Health, of Mental Health, and of Disabilities, Aging, and Independent Living, shall submit a written interim report to the House Committees on Corrections and Institutions, on Human Services, and on Judiciary and to the Senate Committees on Institutions, on Health and Welfare, and on Judiciary containing draft rules required pursuant to Sec. 5 of this act. The interim report shall also address:~~

~~(1) the status of and anticipated timeline for the adoption of rules under this act.~~

~~(2) forensic facility planning, including the specific proposed location of the forensic facility, space considerations and design elements necessary to support the provision of therapeutic services and security at the proposed location, and the timeline for any necessary fit-up of the forensic facility;~~

~~(3) initial staffing considerations, including anticipated staffing levels, required qualifications, and potential contracting needs; and~~

~~(4) an anticipated timeline for the development of a forensic facility, including preliminary cost estimates and initial operations.~~

~~Sec. 8. EFFECTIVE DATES~~

~~(a) This section, Sec. 2 (13 V.S.A. § 4817), Sec. 5 (rulemaking; forensic facility), and Sec. 7 (interim report; forensic facility) shall take effect on July 1, 2026.~~

~~(b) Sec. 4a (13 V.S.A. § 4826) shall take effect on July 1, 2029.~~

~~(c) All remaining sections shall take effect on January 1, 2028.~~

~~Sec. 1. LEGISLATIVE INTENT~~

~~It is the intent of the General Assembly that the Secretary of Human Services shall establish and operate a locked secure forensic facility by July 1, 2029, for the competency restoration, evaluation, stabilization, treatment, and care of persons who have been found not competent to stand trial or not guilty by reason of insanity for serious criminal offenses. The Department of Corrections shall not operate or staff the forensic facility, with the exception that employees of the Department of Corrections may provide security services for the facility at the admitting area of and around the outside perimeter of a forensic facility if it is colocated on the grounds of a correctional facility.~~

~~Sec. 2. 13 V.S.A. § 4815a is added to read:~~

~~§ 4815a. COMPETENCY RESTORATION SERVICES WITHIN
FORENSIC FACILITY~~

~~(a) A person shall be placed at the forensic facility established in section 4826 of this title if the person:~~

~~(1) has been charged with an offense punishable by a life sentence;~~

~~(2)(A) has been held without bail pursuant to section 7553 of this title;~~

~~or~~

~~(B) if the person is not held without bail pursuant to section 7553 of this title, has a qualifying condition and it has been determined that the person's release would create a substantial risk of bodily injury to another person;~~

(3) is not currently:

(A) receiving treatment through an order of hospitalization pursuant to 18 V.S.A. § 7619 or section 4822 of this title; or

(B) subject to an order of commitment to the Commissioner of Disabilities, Aging, and Independent Living issued under 18 V.S.A. § 8845 or section 4823 of this title, unless the person is detained in a correctional facility pending trial; and

(4) has been found not competent to stand trial.

(b)(1) The forensic facility shall cause the person to be evaluated for competency to stand trial:

(A) six months from the date of admission, and thereafter every six months from the issuance of an order for continued competency restoration treatment under subdivision (3)(B) of this subsection (b); and

(B) at any time upon the determination by the Agency of Human Services Medical Director that the person is likely competent to stand trial or that it is unlikely that the person's competency can be restored.

(2) The court shall hold a hearing after the competency evaluation, and, prior to the hearing, the results of all evaluations shall be supplied to the court and the parties to the underlying criminal action.

(3)(A) If the court finds after the hearing that the person is competent to stand trial, the court shall immediately notify the State's Attorney and the person's counsel in the criminal case.

(B) If the court finds after the hearing that the person is not competent to stand trial, the court shall order continued competency restoration treatment at the facility pursuant to this section.

(4) Notwithstanding any other provision of law or rule, witnesses at hearings held pursuant to this section shall be permitted to provide testimony remotely.

(c)(1) At the request of a party or the Agency of Human Services Medical Director, the court may order that a competency evaluation conducted pursuant to subsection (b) of this section include an opinion on whether the person's competency can be restored. If a request is made pursuant to this subsection, the forensic facility shall cause the person to be evaluated for restorability to competence prior to the hearing.

(2) If the court finds that the person's competency can be restored, the court shall order continued competency restoration treatment at the facility pursuant to this section.

(3)(A) If the court finds that the person's competency cannot be restored, the court shall hold a hearing within 60 days unless that period is extended by the court for good cause.

(B) Prior to the date of the hearing, the court shall order that a forensic risk assessment of the person be conducted by an evaluator appropriately qualified for the qualifying condition of the person that includes:

(i) the person's history and present dangerousness;

(ii) a description of any tests that were employed and the results of the tests;

(iii) the examiner's findings;

(iv) the examiner's opinion as to whether the person's release would create a substantial risk of bodily injury to another person;

(v) recommendations for evidence-based treatment and supervision, including in a community-based placement, that would support the person's success and mitigate risk of aggression and violence;

(vi) the examiner's opinion as to whether the person is a person in need of custody, care, and habilitation as defined in 18 V.S.A. § 8839; and

(vii) the examiner's opinion as to whether the person is competent to stand trial.

(C) The results of all evaluations shall be supplied to the court and the parties to the underlying criminal action.

(4)(A) If the State's Attorney demonstrates by clear and convincing evidence at a hearing held pursuant to subdivision (3)(A) of this subsection (c) or (B) of this subdivision (4) that the person has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person, the court shall order continued commitment of the person consistent with the person's forensic risk assessment. The court shall order treatment of the person, which may include appropriate supervision and supervised housing, including a community-based placement, in the least restrictive setting consistent with the person's forensic risk assessment and treatment needs.

(B) If continued commitment is ordered pursuant to subdivision (A) of this subdivision (4), the person's commitment shall be reviewed by the court:

(i) every 12 months;

(ii) at any time upon the determination by the Agency of Human Services Medical Director that the person no longer has a qualifying condition and the person's release would not create a substantial risk of bodily injury to another person; and

(iii) upon petition of the person filed at any time after 90 days following an order of continued commitment issued pursuant to subdivision (A) of this subdivision (4), and thereafter not earlier than six months from the issuance of an order for continued commitment under subdivision (4)(A) of this subsection (c).

(5)(A) If the State's Attorney does not demonstrate by clear and convincing evidence at a hearing held pursuant to subdivision (3)(A) or (4)(B) of this subsection (c) that the person has a qualifying condition and the person's release would create a substantial risk of bodily injury to another person, the court shall:

(i) order the release of the person under a prescribed regimen of medical, psychiatric, or psychological care or treatment, housing, and supervision by the Commissioner of Mental Health; the Department of Disabilities, Aging, and Independent Living; or the Department of Health, that the Agency of Human Services Medical Director has certified as appropriate; and

(ii) order, as an explicit condition of supervision, that the person comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, housing, and supervision by the Commissioner of Mental Health; the Department of Disabilities, Aging, and Independent Living; or the Department of Health, together with any other conditions appropriate to protect the public.

(B) A person's release pursuant to this subdivision (5) shall be reviewed by the court every 12 months. The person shall be released from the supervision of the Commissioner of Mental Health; the Department of Disabilities, Aging, and Independent Living; or the Department of Health unless the State's Attorney demonstrates by clear and convincing evidence at the hearing that continued treatment and supervision is necessary to prevent the person from becoming a substantial risk of bodily injury to another person.

(C)(i) The State's Attorney shall make a reasonable effort to provide the victim with prior notice of any hearing held pursuant to this subdivision (5). The court may continue the hearing if the victim has not been provided with the notice required by this subdivision (C)(i).

(ii) At any hearing under this subdivision (5), the court shall ask if the victim is present and, if so, shall offer the victim the opportunity to be

heard. The court may consider any views offered at the hearing by the victim, including the victim's views concerning the offense and preferences for the person's placement and care. If the victim is not present at the hearing, the court shall ask whether the victim has expressed oral or written views concerning the offense and preferences for the person's placement and care, and, if so, the court may consider those views.

(6)(A) If the court finds that the person's competency cannot be restored, and finds by clear and convincing evidence that the person is a person in need of custody, care, and habilitation as defined in 18 V.S.A. § 8839, the court shall issue an order of commitment for up to one year directed to the Commissioner of Disabilities, Aging, and Independent Living for placement in a designated program in the least restrictive environment consistent with the person's need for custody, care, and habilitation. The order of commitment shall have the same force and effect as an order issued under 18 V.S.A. chapter 206, subchapter 3 and persons committed under the order shall have the same status, and the same rights, including the right to receive care and habilitation, to be examined and discharged, and to apply for and obtain judicial review of their cases, as persons ordered committed under 18 V.S.A. chapter 206, subchapter 3.

(B)(i) The Commissioner shall provide appropriate custody, care, and habilitation in a designated program to a person committed under subdivision (A) of this subdivision (6).

(ii) The court may order continued treatment at the forensic facility for a period not to exceed one year if the court finds that the Commissioner is not currently able to provide appropriate custody, care, and habilitation in a designated program. For good cause shown, the court may extend the one-year period by an additional period not to exceed six months.

(C)(i) The court shall review an order of continued treatment issued pursuant to subdivision (B)(ii) of this subdivision (6) every 90 days.

(ii) If the court finds at the review that appropriate custody, care, and habilitation can be provided to the person in a designated program, the court shall vacate the order for continued treatment and order the person committed to the custody of the Commissioner pursuant to subdivision (A) of this subdivision (6).

(iii) If the court finds at the review that appropriate custody, care, and habilitation cannot be provided to the person in a designated program, the court shall order continued treatment at the forensic facility pursuant to subdivision (B)(ii) of this subdivision (6).

(D) The Commissioner may at any time certify to the court that appropriate custody, care, and habilitation can be provided to the person in a designated program, and after such a certification the court shall vacate the order for continued treatment and order the person committed to the custody of the Commissioner pursuant to subdivision (A) of this subdivision (6).

(E) As used in this subdivision (6), "Commissioner" means the Commissioner of Disabilities, Aging, and Independent Living.

(d) Except as provided in subdivisions (c)(4)(A), (c)(5), and (c)(6)(A) of this section, the person shall remain at the forensic facility until the person is restored to competency or until there is a final disposition of the charges against the person.

(e) The person shall receive competency restoration services while at the forensic facility according to a plan approved by the Agency of Human Services Medical Director. Such services shall include any appropriate combination of medication, education, accommodations, habilitation, or other services identified as necessary or proper to achieve and maintain competency to stand trial. The person's refusal to receive competency restoration services shall not be grounds for release or dismissal from the forensic facility.

(f) Competency restoration services shall be provided to the person at the forensic facility, or at another location as part of a discharge plan, until the person is restored to competency or until there is a final disposition of the charges against the person.

(g)(1) As appropriate for the needs of the person, the Commissioner of Mental Health; of Health; or of Disabilities, Aging, and Independent Living shall actively monitor compliance with orders issued pursuant to subdivision (c)(5) of this section. Upon request from the commissioner monitoring the person, the court shall immediately order return of a person to the forensic facility if:

(A) the person was released from the facility pursuant to subdivision (c)(5) of this section; and

(B) the Agency of Human Services Medical Director has reason to believe that the person continues to have a qualifying condition and that the person's continued release would create a substantial risk of bodily injury to another person.

(2) The commissioner monitoring the person shall notify the court where the person was committed upon return of the person to the forensic facility. Upon readmission, the court shall hold a hearing at which the State's Attorney shall have the burden of establishing by clear and convincing evidence that the person has a qualifying condition and that the person's continued release

would create a substantial risk of bodily injury to another person. If the State's Attorney meets its burden, the court shall order the person readmitted to the forensic facility for treatment pursuant to this section. If the State's Attorney does not meet its burden, the court shall order the person restored to the status the person had when the person was returned to the facility.

(h) The Agency of Human Services Medical Director shall receive prior approval of the Criminal Division of the Superior Court where the person's underlying criminal charge is pending for any competency restoration plan involving involuntary medication. The court shall not approve involuntary medication unless the State's Attorney establishes by clear and convincing evidence that:

(1) the involuntary medication is medically appropriate;

(2) the involuntary medication serves the important governmental interests of bringing to trial an individual accused of a serious crime and ensuring a fair, timely prosecution;

(3) the involuntary medication significantly furthers these important governmental interests by making it substantially likely to render the defendant competent to stand trial; and

(4) any alternative, less intrusive treatments are unlikely to achieve the same results.

(i) When an evaluation is required of the person's competency or restorability under this section, the defense shall be entitled to conduct an independent evaluation and introduce the results at the hearing.

Sec. 3. 13 V.S.A. § 4817 is amended to read:

§ 4817. COMPETENCY TO STAND TRIAL; DETERMINATION;
DISMISSAL

* * *

(e)(1) When a person has been found incompetent to stand trial for an alleged misdemeanor offense, the charges against the person shall be dismissed without prejudice if, after the finding of incompetence, the case remains inactive for a continuous period of time equal to or greater than the maximum sentence for the offense. Dismissal under this section shall not be required if the court finds that dismissing the case would be contrary to the interests of justice.

(2)(A) If the offense is not a qualifying crime under subdivision 7601(4) of this title, the court shall hold a hearing prior to dismissing a case under this subsection (e). The State's Attorney shall make a reasonable effort to provide

the victim with prior notice of the hearing, and the court may continue the hearing if the victim has not been provided with the notice required by this subdivision (2)(A).

(B) At the hearing, the court shall ask if the victim is present and, if so, shall offer the victim the opportunity to be heard. The court may consider any views offered at the hearing by the victim, including the victim's views concerning the offense and the interests of justice. If the victim is not present at the hearing, the court shall ask whether the victim has expressed oral or written views concerning the offense and the interests of justice, and, if so, the court may consider those views.

Sec. 4. 13 V.S.A § 4819a is added to read:

§ 4819a. FORENSIC FACILITY PLACEMENT FOR PERSONS
NOT GUILTY BY REASON OF INSANITY FOR CERTAIN
CRIMES

(a)(1) A person who is charged with an offense punishable by a life sentence and is found not guilty only by reason of insanity at the time of the offense charged shall be committed to a forensic facility pursuant to this section. This section shall not be construed to prohibit the temporary transfer of a person requiring inpatient treatment through an order of hospitalization pursuant to 18 V.S.A. § 7619 or section 4822 of this title.

(2) The committing court shall retain jurisdiction over the person for all proceedings under this section.

(b)(1) A hearing shall be held by the court where the person was tried within 60 days following admission to the forensic facility, unless that period is extended by the court.

(2) Prior to the date of the hearing, the court shall order that a forensic risk assessment of the person be conducted that includes:

(A) the person's history and present dangerousness;

(B) a description of any tests that were employed and the results of the tests;

(C) the examiner's findings;

(D) the examiner's opinion as to whether the person's release would create a substantial risk of bodily injury to another person; and

(E) recommendations for evidence-based treatment and supervision that would support the individual's success and mitigate risk of aggression and violence.

(3) The results of all evaluations shall be supplied to the court and the parties to the underlying criminal action.

(4)(A) At the hearing, the court shall order the person committed to the forensic facility if the State's Attorney establishes by clear and convincing evidence that the person has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person.

(B) If the State's Attorney does not establish by clear and convincing evidence that the person has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person, the court shall enter an order releasing the person pursuant to subdivisions (e)(3)(A) and (B) of this section.

(C) Notwithstanding any other provision of law or rule, witnesses at the hearing shall be permitted to provide testimony remotely.

(c) A person committed to the forensic facility pursuant to this section shall not be released until the court finds pursuant to subsection (e) of this section that the person no longer has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person.

(d) The Agency of Human Services Medical Director shall, taking into account public safety and the least restrictive conditions applicable, provide adequate care and individualized treatment at the forensic facility to persons ordered committed pursuant to this section. In order that the Medical Director may adequately determine the nature of the person's condition and needs, all persons committed pursuant to this section shall be promptly examined by qualified personnel in order to provide a proper evaluation, diagnosis, and treatment plan.

(e)(1)(A)(i) The State's Attorney shall petition the committing court for review of the person's commitment:

(I) six months after the date that the person is committed pursuant to subdivision (b)(4)(A) of this section;

(II) three years after a commitment order issued following a review under subdivision (I) of this subdivision (i);

(III) every fifth year after a commitment order issued following a review under subdivision (II) of this subdivision (i); and

(IV) at any time upon certification at any time to the Secretary of Human Services by the Agency of Human Services Medical Director that the person no longer has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person.

(ii) The Secretary of Human Services shall provide all reports required under this section to the State's Attorney, who shall file them with the petition.

(B)(i) A person committed pursuant to subdivision (b)(4)(A) of this section may petition the committing court for release on the grounds that the person no longer has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person.

(ii) A petition shall not be filed pursuant to this subdivision (B):

(I) until at least 90 days after the issuance of the commitment order pursuant to subdivision (b)(4)(A) of this section; and

(II) more frequently than once during each applicable period set forth in subdivision (A)(i) of this subdivision (e)(1).

(2) If the State's Attorney establishes by clear and convincing evidence that the person has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person, the court shall deny the petition and order the person committed to the forensic facility for continued treatment pursuant to this section.

(3) If the State's Attorney does not establish by clear and convincing evidence that the person has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person, the court shall:

(A) order the release of the person under a prescribed regimen of medical, psychiatric, or psychological care or treatment, including supervision and housing, that the Agency of Human Services Medical Director has certified as appropriate; and

(B) order, as an explicit condition of supervision, that the person comply with the prescribed regimen of evidence-informed medical, psychiatric, or psychological care or treatment, including supervision and housing, together with any other conditions appropriate to protect the public.

(f) As appropriate for the needs of the person, the Commissioner of Mental Health; of Health; or of Disabilities, Aging, and Independent Living shall actively monitor compliance with orders issued pursuant to subdivision (e)(2) of this section. Upon request from the commissioner monitoring the person, the court shall immediately order return of the person to the forensic facility if the Agency of Human Services Medical Director determines that the person is noncompliant with the order and that the noncompliance may create a risk of bodily injury to another person. The commissioner monitoring the person shall notify the court where the person was committed upon return of the

person to the forensic facility. Upon readmission, the court shall hold a hearing at which the State's Attorney shall have the burden of establishing by clear and convincing evidence that the person was noncompliant with the court's order for conditional release and that the noncompliance creates a risk of bodily injury to another person.

(g)(1) The State's Attorney shall provide the victim with prior notice of any hearing held pursuant to this section. The court may continue the hearing if the victim has not been provided with the notice required by this subdivision.

(2) At any hearing under this section, the court shall ask if the victim is present and, if so, shall offer the victim the opportunity to be heard. The court may consider any views offered at the hearing by the victim, including the victim's views concerning the offense and preferences for the person's placement and care. If the victim is not present at the hearing, the court shall ask whether the victim has expressed oral or written views concerning the offense and preferences for the person's placement and care, and, if so, the court may consider those views.

Sec. 5. 13 V.S.A. § 4826 is added to read:

§ 4826. FORENSIC FACILITY; DEFINITIONS

(a)(1) As used in this chapter:

(A) "Competency can be restored" means a substantial probability that in the foreseeable future the person will attain the capacity to permit the proceedings to go forward.

(B) "Forensic facility" means a locked secure facility that provides a suitable clinical setting and is licensed as a therapeutic community residence as defined in 33 V.S.A. § 7102(11) where:

(i) the Agency of Human Services provides for the secure competency restoration, evaluation, stabilization, treatment, and care of persons with a qualifying condition who are involved in the legal system and who do not require a hospitalization level of care; and

(ii) a person is transferred pursuant to subsections 4815a(a) and 4819a(a) of this title.

(C) "Qualifying condition" means any condition whether mental, congenital, or traumatic, however acquired or developed, or any other circumstance that resulted in the person being determined:

(i) incompetent to stand trial; or

(ii) not guilty by reason of insanity.

(2) The evaluations required by this chapter may be conducted pursuant to contracts entered into between the Commissioner of Buildings and General Services and evaluation providers.

(3) Prior to any hearing under section 4815a or 4819a of this title, the person shall be required, at the request of a party, to permit an expert assessment of the person's competency, forensic risk, or restorability to competency.

(b) The Secretary of Human Services shall establish and operate a locked secure forensic facility for the competency restoration, evaluation, stabilization, treatment, and care of persons who have been transferred pursuant to subsections 4815a(a) and 4819a(a) of this title. The forensic facility's clinical, forensic, and competency restoration services shall be overseen by the Agency of Human Services Medical Director. The Department of Corrections shall not play a role in the forensic facility's operation, the provision of services, or internal security, except to provide security services for the facility at the admitting area and around the outside perimeter if the facility is colocated on the grounds of a correctional facility. The forensic facility shall:

(1) be designed and operated in a manner that supports therapeutic, recovery-oriented, and trauma-informed programming in a therapeutic community residence, while maintaining appropriate levels of safety and security;

(2) not refuse any persons it is ordered to admit and shall not require any clinical or diagnostic prerequisites for admission;

(3) provide for the safe competency restoration, evaluation, treatment, stabilization, and care of persons, including the ability to separate the population by sex or gender and to otherwise address clinical, safety, or operational considerations as appropriate, including the possible operation of multiple facilities;

(4) follow the direction of the Agency of Human Services Medical Director, who shall oversee all forensic, clinical, and competency restoration services provided to transferred persons;

(5) implement staff qualifications, licensure, training, and supervision requirements that are sufficient to ensure that persons transferred to the forensic facility have access to clinically appropriate care, treatment, services, and supports consistent with individual needs and with applicable professional standards;

(6) ensure that a registered nurse licensed pursuant to 26 V.S.A. chapter 28 or a physician licensed pursuant to 26 V.S.A. chapter 23 or 33 is available to provide care to transferred persons as clinically necessary;

(7) ensure that persons receive clinically appropriate assessment and treatment planning and competency restoration plans, as appropriate, including the development of an initial person-specific treatment plan within 72 hours following transfer, which shall be reviewed periodically as clinically indicated;

(8) ensure that clinical services and programming include psychiatric care, management of medications, education about court procedures, habilitation, and trauma-informed care, as appropriate;

(9) continue to provide evaluation, treatment, stabilization, and care of a resident who has regained competency while the resident awaits and participates in the resident's trial;

(10) provide residents with interpreters, as appropriate;

(11) implement grievance and appeals procedures; and

(12) implement a process for reporting instances of death or serious bodily injury to residents of the forensic facility to the Agency of Human Services Medical Director.

(c) Any records related to a person placed at the forensic facility shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that:

(1) the records shall be made available to the parties in the underlying criminal case upon request; and

(2) the person's health care providers may, with the person's permission, view forensic facility records of the person's psychiatric assessments at the facility, including assessments of the person's competency to stand trial and criminal responsibility.

(d) Persons shall be admitted to and maintained at the forensic facility pursuant to sections 4815a and 4819a of this title, and in proceedings under those sections shall be entitled to have counsel appointed from Vermont Legal Aid to represent them.

(e) The Secretary of Human Services shall regularly consult with the Commissioners of Corrections; of Mental Health; of Health; and of Disabilities, Aging, and Independent Living when performing the duties required by this chapter for operating the forensic facility.

(f) The Agency of Human Services Medical Director and an evaluator submitting a report pursuant to sections 4815a and 4819a of this title shall testify at any hearing under those sections if requested by the court or a party.

(g) The Secretary of Human Services shall adopt rules pursuant to 3 V.S.A. chapter 25 to implement this section.

Sec. 6. 18 V.S.A. § 7257 is amended to read:

§ 7257. REPORTABLE ADVERSE EVENTS

(a) An acute inpatient hospital, an intensive residential recovery facility, a designated agency, a psychiatric residential treatment facility for youth, a forensic facility, or a secure residential recovery facility shall report to the Department of Mental Health instances of death or serious bodily injury to individuals with a mental condition or psychiatric disability in the custody or temporary custody of the Commissioner.

* * *

Sec. 7. FEASIBILITY PLAN; FORENSIC FACILITY

(a) On or before January 15, 2027, the Secretary of Human Services, in consultation with the Department of Buildings and General Services, shall submit a feasibility plan for the development and operation of a forensic facility to the House Committees on Appropriations, on Corrections and Institutions, on Health Care, on Human Services, and on Judiciary and to the Senate Committees on Appropriations, on Health and Welfare, on Institutions, and on Judiciary. The feasibility plan shall assume that operation, staffing, and programming at the forensic facility shall be provided by the Agency of Human Services or its departments, with the exception that the Department of Corrections shall not play a role in its operation, the provision of services, or internal security, other than the provision of security services for the facility at the admitting area and around the outside perimeter if the facility is colocated on the grounds of a correctional facility. The feasibility plan shall address the following:

(1) the proposed location of a forensic facility, which shall be independent from a correctional facility, and, if on the same grounds as a correctional facility, shall be separated by sight and sound;

(2) the proposed design plans for a forensic facility that allows for the ability to separate residents by sex or gender and clinical need;

(3) the number of beds within a forensic facility;

(4) the entity or entities responsible for operating and providing services in a forensic facility;

(5) the timeline for constructing a stand-alone forensic facility or fitting up an existing stand-alone facility to operate as a forensic facility;

(6) the estimated cost of constructing or fitting up and operating a forensic facility;

(7) which aspects of the therapeutic community residence rule would need to be modified to operate the forensic facility as a therapeutic community residence;

(8) the clinical services available at a forensic facility, including on-site competency restoration services;

(9) the proposed staffing levels, staff qualifications, and potential contracting needs necessary to establish a multidisciplinary clinical team at the forensic facility that reflects best practices, including required evidence-based, trauma-informed staff training and multiple potential staffing strategies;

(10) the physical and staff security plan within and around the perimeter of a forensic facility, including therapeutic design and clinical supervision that reflect best practices, which shall not involve the Department of Corrections, with the exception that employees of the Department of Corrections may provide security services for the facility at the admitting area and around the outside perimeter of the facility if it is colocated on the grounds of a correctional facility;

(11) a resident discharge and community monitoring plan from each department with custody of individuals in the forensic facility, developed in consultation with the Department of Corrections, that prioritizes community safety and provides residential, clinical, and case management services;

(12) opportunities and cost estimates for persons who would be eligible for placement at the forensic facility to receive, while the development of a forensic facility in Vermont is pending, placement in an out-of-state residence where clinically appropriate programming can be provided;

(13) a plan for the expansion of 1988 Acts and Resolves No. 248 to include individuals with a cognitive disability;

(14) annual reporting metrics on the demographics, outcomes, and staffing at the forensic facility; and

(15) any recommendations for legislative action to effectuate the development of a therapeutic, trauma-informed forensic facility.

(b) At the August and November 2026 meetings of the Joint Legislative Justice Oversight Committee, the Secretary of Human Services or designee

shall provide an interim status update on the development of the feasibility plan required pursuant to subsection (a) of this section and on the emergency rulemaking required by Sec. 12 of this act.

(c)(1) Funds appropriated to the Agency of Human Services and its departments in fiscal year 2027 shall be used to complete the feasibility plan required by this section and any other planning activities necessary to implement this act, but absent further legislative enactment by the General Assembly, the Agency and its departments shall not expend funds in fiscal year 2027 for the construction or fit-up of a forensic facility.

(2) No further legislative enactment by the General Assembly shall be required to implement the interim forensic and competency restoration program established by emergency rules adopted pursuant to Sec. 12 of this act. The interim forensic and competency restoration program is contingent on the availability of sufficient resources, including appropriate staffing levels.

Sec. 8. Rule 1101 of the Vermont Rules of Evidence is amended to read:

RULE 1101. APPLICABILITY OF RULES

(a) Rules applicable. Except as otherwise provided in subdivision (b), these rules apply to all actions and proceedings in the courts of this state.

(b) Rules inapplicable. The rules other than those with respect to privileges do not apply in the following situations:

* * *

(3) Miscellaneous Proceedings. Proceedings for extradition or rendition; inquest proceedings; except as otherwise provided by statute or rule promulgated by the Supreme Court, sentencing or granting or revoking probation; proceedings concerning competency restoration; granting or revoking conditional release from a forensic facility; finding probable cause for arrests without warrant and issuance of citations, warrants for arrest, criminal summonses, and search warrants.

* * *

Sec. 9. 13 V.S.A. § 4815a is added to read:

§ 4815a. COMPETENCY RESTORATION SERVICES WITHIN FORENSIC FACILITY

(a) A person shall be placed at the forensic facility established in section 4826 of this title if the person:

(1) has been charged with an offense punishable by a life sentence;

(2)(A) has been held without bail pursuant to section 7553 of this title;
or

(B) if the person is not held without bail pursuant to section 7553 of this title, has a qualifying condition and it has been determined that the person's release would create a substantial risk of bodily injury to another person;

(3) is not currently:

(A) receiving treatment through an order of hospitalization pursuant to 18 V.S.A. § 7619 or section 4822 of this title; or

(B) subject to an order of commitment to the Commissioner of Disabilities, Aging, and Independent Living issued under 18 V.S.A. § 8845 or section 4823 of this title, unless the person is detained in a correctional facility pending trial; and

(4) has been found not competent to stand trial.

(b)(1) The forensic facility shall cause the person to be evaluated for competency to stand trial:

(A) six months from the date of admission, and thereafter every six months from the issuance of an order for continued competency restoration treatment under subdivision (3)(B) of this subsection (b); and

(B) at any time upon the determination by the Agency of Human Services Medical Director that the person is likely competent to stand trial or that it is unlikely that the person's competency can be restored.

(2) The court shall hold a hearing after the competency evaluation, and, prior to the hearing, the results of all evaluations shall be supplied to the court and the parties to the underlying criminal action.

(3)(A) If the court finds after the hearing that the person is competent to stand trial, the court shall immediately notify the State's Attorney and the person's counsel in the criminal case.

(B) If the court finds after the hearing that the person is not competent to stand trial, the court shall order continued competency restoration treatment at the facility pursuant to this section.

(4) Notwithstanding any other provision of law or rule, witnesses at hearings held pursuant to this section shall be permitted to provide testimony remotely.

(c)(1) At the request of a party or the Agency of Human Services Medical Director, the court may order that a competency evaluation conducted

pursuant to subsection (b) of this section include an opinion on whether the person's competency can be restored. If a request is made pursuant to this subsection, the forensic facility shall cause the person to be evaluated for restorability to competence prior to the hearing.

(2) If the court finds that the person's competency can be restored, the court shall order continued competency restoration treatment at the facility pursuant to this section.

(3)(A) If the court finds that the person's competency cannot be restored, the court shall hold a hearing within 60 days unless that period is extended by the court for good cause.

(B) Prior to the date of the hearing, the court shall order that a forensic risk assessment of the person be conducted by an evaluator appropriately qualified for the qualifying condition of the person that includes:

(i) the person's history and present dangerousness;

(ii) a description of any tests that were employed and the results of the tests;

(iii) the examiner's findings;

(iv) the examiner's opinion as to whether the person's release would create a substantial risk of bodily injury to another person;

(v) recommendations for evidence-based treatment and supervision, including in a community-based placement, that would support the person's success and mitigate risk of aggression and violence; and

(vi) the examiner's opinion as to whether the person is a person in need of custody, care, and habilitation as defined in 18 V.S.A. § 8839.

(C) The results of all evaluations shall be supplied to the court and the parties to the underlying criminal action.

(4)(A) If the State's Attorney demonstrates by clear and convincing evidence at a hearing held pursuant to subdivision (3)(A) of this subsection (c) or subdivision (B) of this subdivision (4) that the person has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person, the court shall order continued commitment of the person consistent with the person's forensic risk assessment. The court shall order treatment of the person, which may include appropriate supervision and supervised housing, including in a community-based placement, in the least restrictive setting consistent with the person's forensic risk assessment and treatment needs.

(B) If continued commitment is ordered pursuant to subdivision (A) of this subdivision (4), the person's commitment shall be reviewed by the court:

(i) every 12 months;

(ii) at any time upon the determination by the Agency of Human Services Medical Director that the person no longer has a qualifying condition and the person's release would not create a substantial risk of bodily injury to another person; and

(iii) upon petition of the person filed at any time after 90 days following an order of continued commitment issued pursuant to subdivision (A) of this subdivision (4), and thereafter not earlier than six months from the issuance of an order for continued commitment under subdivision (4)(A) of this subsection (c).

(5)(A) If the State's Attorney does not demonstrate by clear and convincing evidence at a hearing held pursuant to subdivision (3)(A) or (4)(B) of this subsection (c) that the person has a qualifying condition and the person's release would create a substantial risk of bodily injury to another person, the court shall:

(i) order the release of the person under a prescribed regimen of medical, psychiatric, or psychological care or treatment, housing, and supervision by the Department of Corrections in collaboration with the Commissioner of Mental Health; the Department of Disabilities, Aging, and Independent Living; or the Department of Health that the Agency of Human Services Medical Director has certified as appropriate; and

(ii) order, as an explicit condition of supervision, that the person comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, housing, and supervision by the Department of Corrections in collaboration with the Commissioner of Mental Health; the Department of Disabilities, Aging, and Independent Living; or the Department of Health, together with any other conditions appropriate to protect the public.

(B) A person's release pursuant to this subdivision (5) shall be reviewed by the court every 12 months. The person shall be released from the supervision of the Commissioner of Corrections unless the State's Attorney demonstrates by clear and convincing evidence at the hearing that continued treatment and supervision is necessary to prevent the person from becoming a substantial risk of bodily injury to another person.

(C)(i) The State's Attorney shall make a reasonable effort to provide the victim with prior notice of any hearing held pursuant to this subdivision

(5). The court may continue the hearing if the victim has not been provided with the notice required by this subdivision (C)(i).

(ii) At any hearing under this subdivision (5), the court shall ask if the victim is present and, if so, shall offer the victim the opportunity to be heard. The court may consider any views offered at the hearing by the victim, including the victim's views concerning the offense and preferences for the person's placement and care. If the victim is not present at the hearing, the court shall ask whether the victim has expressed oral or written views concerning the offense and preferences for the person's placement and care, and, if so, the court may consider those views.

(6)(A) If the court finds that the person's competency cannot be restored, and finds by clear and convincing evidence that the person is a person in need of custody, care, and habilitation as defined in 18 V.S.A. § 8839, the court shall issue an order of commitment for up to one year directed to the Commissioner of Disabilities, Aging, and Independent Living for placement in a designated program in the least restrictive environment consistent with the person's need for custody, care, and habilitation. The order of commitment shall have the same force and effect as an order issued under 18 V.S.A. chapter 206, subchapter 3 and persons committed under the order shall have the same status, and the same rights, including the right to receive care and habilitation, to be examined and discharged, and to apply for and obtain judicial review of their cases, as persons ordered committed under 18 V.S.A. chapter 206, subchapter 3.

(B)(i) The Commissioner shall provide appropriate custody, care, and habilitation in a designated program to a person committed under subdivision (A) of this subdivision (6).

(ii) The court may order continued treatment at the forensic facility for a period not to exceed one year if the court finds that the Commissioner is not currently able to provide appropriate custody, care, and habilitation in a designated program. For good cause shown, the court may extend the one-year period by an additional period not to exceed six months.

(C)(i) The court shall review an order of continued treatment issued pursuant to subdivision (B)(ii) of this subdivision (6) every 90 days.

(ii) If the court finds at the review that appropriate custody, care, and habilitation can be provided to the person in a designated program, the court shall vacate the order for continued treatment and order the person committed to the custody of the Commissioner pursuant to subdivision (A) of this subdivision (6).

(iii) If the court finds at the review that appropriate custody, care, and habilitation cannot be provided to the person in a designated program, the court shall order continued treatment at the forensic facility pursuant to subdivision (B)(ii) of this subdivision (6).

(D) The Commissioner may at any time certify to the court that appropriate custody, care, and habilitation can be provided to the person in a designated program, and after such a certification the court shall vacate the order for continued treatment and order the person committed to the custody of the Commissioner pursuant to subdivision (A) of this subdivision (6).

(E) As used in this subdivision (6), "Commissioner" means the Commissioner of Disabilities, Aging, and Independent Living.

(d) Except as provided in subdivisions (c)(4)(A), (c)(5), and (c)(6)(A) of this section, the person shall remain at the forensic facility until the person is restored to competency or until there is a final disposition of the charges against the person.

(e) The person shall receive competency restoration services while at the forensic facility according to a plan approved by the Agency of Human Services Medical Director. Such services shall include any appropriate combination of medication, education, accommodations, habilitation, or other services identified as necessary or proper to achieve and maintain competency to stand trial. The person's refusal to receive competency restoration services shall not be grounds for release or dismissal from the forensic facility.

(f) Competency restoration services shall be provided to the person at the forensic facility, or at another location as part of a discharge plan, until the person is restored to competency or until there is a final disposition of the charges against the person.

(g)(1) As appropriate for the needs of the person, the Agency of Human Services Medical Director, in consultation with the Commissioner of Mental Health; of Health; or of Disabilities, Aging, and Independent Living, shall actively monitor compliance with orders issued pursuant to subdivision (c)(5) of this section. Upon request from the Agency of Human Services Medical Director, the court shall immediately order the return of a person to the forensic facility if:

(A) the person was released from the facility pursuant to subdivision (c)(5) of this section; and

(B) the Agency of Human Services Medical Director has reason to believe that the person has a qualifying condition and that the person's continued release would create a substantial risk of bodily injury to another person.

(2) The Agency of Human Services Medical Director shall notify the court where the person was committed upon return of the person to the forensic facility. Upon readmission, the court shall hold a hearing at which the State's Attorney shall have the burden of establishing by clear and convincing evidence that the person has a qualifying condition and that the person's continued release would create a substantial risk of bodily injury to another person. If the State's Attorney meets its burden, the court shall order the person readmitted to the forensic facility for treatment pursuant to this section. If the State's Attorney does not meet its burden, the court shall order the person restored to the status the person had when the person was returned to the facility.

(h) The Agency of Human Services Medical Director shall receive prior approval of the Criminal Division of the Superior Court where the person's underlying criminal charge is pending for any competency restoration plan involving involuntary medication. The court shall not approve involuntary medication unless the State's Attorney establishes by clear and convincing evidence that:

(1) the involuntary medication is medically appropriate;

(2) the involuntary medication serves the important governmental interests of bringing to trial an individual accused of a serious crime and ensuring a fair, timely prosecution;

(3) the involuntary medication significantly furthers these important governmental interests by making it substantially likely to render the defendant competent to stand trial; and

(4) any alternative, less intrusive treatments are unlikely to achieve the same results.

(i) When an evaluation of the person's competency or restorability is required under this section, the defense shall be entitled to conduct an independent evaluation and introduce the results at the hearing.

Sec. 10. 13 V.S.A § 4819a is added to read:

§ 4819a. FORENSIC FACILITY PLACEMENT FOR PERSONS
NOT GUILTY BY REASON OF INSANITY FOR CERTAIN
CRIMES

(a)(1) A person who is charged with an offense punishable by a life sentence and is found not guilty only by reason of insanity at the time of the offense charged shall be committed to a forensic facility pursuant to this section. This section shall not be construed to prohibit the temporary transfer

of a person requiring inpatient treatment through an order of hospitalization pursuant to 18 V.S.A. § 7619 or section 4822 of this title.

(2) The committing court shall retain jurisdiction over the person for all proceedings under this section.

(b)(1) A hearing shall be held by the court where the person was tried within 60 days following admission to the forensic facility, unless that period is extended by the court.

(2) Prior to the date of the hearing, the court shall order that a forensic risk assessment of the person be conducted that includes:

(A) the person's history and present dangerousness;

(B) a description of any tests that were employed and the results of the tests;

(C) the examiner's findings;

(D) the examiner's opinion as to whether the person's release would create a substantial risk of bodily injury to another person; and

(E) recommendations for evidence-based treatment and supervision that would support the individual's success and mitigate risk of aggression and violence.

(3) The results of all evaluations shall be supplied to the court and the parties to the underlying criminal action.

(4)(A) At the hearing, the court shall order the person committed to the forensic facility if the State's Attorney establishes by clear and convincing evidence that the person has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person.

(B) If the State's Attorney does not establish by clear and convincing evidence that the person has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person, the court shall enter an order releasing the person pursuant to subdivisions (e)(3)(A) and (B) of this section.

(C) Notwithstanding any other provision of law or rule, witnesses at the hearing shall be permitted to provide testimony remotely.

(c) A person committed to the forensic facility pursuant to this section shall not be released until the court finds pursuant to subsection (e) of this section that the person no longer has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person.

(d) The Agency of Human Services Medical Director shall, taking into account public safety and the least restrictive conditions applicable, provide adequate care and individualized treatment at the forensic facility to persons ordered committed pursuant to this section. In order that the Medical Director may adequately determine the nature of the person's condition and needs, all persons committed pursuant to this section shall be promptly examined by qualified personnel in order to provide a proper evaluation, diagnosis, and treatment plan.

(e)(1)(A)(i) The State's Attorney shall petition the committing court for review of the person's commitment:

(I) six months after the date that the person is committed pursuant to subdivision (b)(4)(A) of this section;

(II) three years after a commitment order issued following a review under subdivision (I) of this subdivision (i);

(III) every fifth year after a commitment order issued following a review under subdivision (II) of this subdivision (i); and

(IV) at any time upon certification at any time to the Secretary of Human Services by the Agency of Human Services Medical Director that the person no longer has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person.

(ii) The Secretary of Human Services shall provide all reports required under this section to the State's Attorney, who shall file them with the petition.

(B)(i) A person committed pursuant to subdivision (b)(4)(A) of this section may petition the committing court for release on the grounds that the person no longer has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person.

(ii) A petition shall not be filed pursuant to this subdivision (B):

(I) until at least 90 days after the issuance of the commitment order pursuant to subdivision (b)(4)(A) of this section; and

(II) more frequently than once during each applicable period set forth in subdivision (A)(i) of this subdivision (e)(1).

(2) If the State's Attorney establishes by clear and convincing evidence that the person has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person, the court shall deny the petition and order the person committed to the forensic facility for continued treatment pursuant to this section.

(3) If the State's Attorney does not establish by clear and convincing evidence that the person has a qualifying condition that, upon the person's release, would create a substantial risk of bodily injury to another person, the court shall:

(A) order the release of the person under a prescribed regimen of medical, psychiatric, or psychological care or treatment, including supervision and housing, that the Agency of Human Services Medical Director has certified as appropriate; and

(B) order, as an explicit condition of supervision, that the person comply with the prescribed regimen of evidence-informed medical, psychiatric, or psychological care or treatment, including supervision and housing, together with any other conditions appropriate to protect the public.

(f) As appropriate for the needs of the person, the Agency of Human Services Medical Director, in consultation with the Commissioner of Mental Health; of Health; or of Disabilities, Aging, and Independent Living, shall actively monitor compliance with orders issued pursuant to subdivision (e)(2) of this section. Upon request from the Agency of Human Services Medical Director, the court shall immediately order the return of the person to the forensic facility if the Medical Director determines that the person is noncompliant with the order and that the noncompliance may create a risk of bodily injury to another person. The Agency of Human Services Medical Director shall notify the court where the person was committed upon return of the person to the forensic facility. Upon readmission, the court shall hold a hearing at which the State's Attorney shall have the burden of establishing by clear and convincing evidence that the person was noncompliant with the court's order for conditional release and that the noncompliance creates a risk of bodily injury to another person.

(g)(1) The State's Attorney shall provide the victim with prior notice of any hearing held pursuant to this section. The court may continue the hearing if the victim has not been provided with the notice required by this subdivision.

(2) At any hearing under this section, the court shall ask if the victim is present and, if so, shall offer the victim the opportunity to be heard. The court may consider any views offered at the hearing by the victim, including the victim's views concerning the offense and preferences for the person's placement and care. If the victim is not present at the hearing, the court shall ask whether the victim has expressed oral or written views concerning the offense and preferences for the person's placement and care, and, if so, the court may consider those views.

Sec. 11. 13 V.S.A. § 4826 is added to read:

§ 4826. FORENSIC FACILITY; DEFINITIONS

(a)(1) As used in this chapter:

(A) “Competency can be restored” means a substantial probability that in the foreseeable future the person will attain the capacity to permit the proceedings to go forward.

(B) “Forensic facility” means the interim forensic and competency restoration program established by emergency rules adopted pursuant to Sec. 12 of this act, which shall be a locked secure facility where:

(i) the Agency of Human Services provides for the secure competency restoration, evaluation, stabilization, treatment, and care of persons with a qualifying condition who are involved in the legal system and who do not require a hospitalization level of care; and

(ii) a person is transferred pursuant to subsections 4815a(a) and 4819a(a) of this title.

(C) “Qualifying condition” means any condition whether mental, congenital, or traumatic, however acquired or developed, or any other circumstance that resulted in the person being determined:

(i) incompetent to stand trial; or

(ii) not guilty by reason of insanity.

(2) The evaluations required by this chapter may be conducted pursuant to contracts entered into between the Commissioner of Buildings and General Services and evaluation providers.

(3) Prior to any hearing under section 4815a or 4819a of this title, the person shall be required, at the request of a party, to permit an expert assessment of the person’s competency, forensic risk, or restorability to competency.

(b) The Secretary of Human Services shall establish and operate a locked secure forensic facility for the competency restoration, evaluation, stabilization, treatment, and care of persons who have been transferred pursuant to subsections 4815a(a) and 4819a(a) of this title. The forensic facility’s clinical, forensic, and competency restoration services shall be overseen by the Agency of Human Services Medical Director. The forensic facility shall:

(1) be designed and operated in a manner that supports therapeutic, recovery-oriented, and trauma-informed programming while maintaining appropriate levels of safety and security;

(2) not refuse any persons it is ordered to admit and shall not require any clinical or diagnostic prerequisites for admission;

(3) provide for the safe competency restoration, evaluation, treatment, stabilization, and care of persons, including the ability to separate the population by sex or gender and to otherwise address clinical, safety, or operational considerations as appropriate, including the possible operation of multiple facilities;

(4) follow the direction of the Agency of Human Services Medical Director, who shall oversee all forensic, clinical, and competency restoration services provided to transferred persons;

(5) implement staff qualifications, licensure, training, and supervision requirements that are sufficient to ensure that persons transferred to the forensic facility have access to clinically appropriate care, treatment, services, and supports consistent with individual needs and with applicable professional standards;

(6) ensure that a registered nurse licensed pursuant to 26 V.S.A. chapter 28 or a physician licensed pursuant to 26 V.S.A. chapter 23 or 33 is available to provide care to transferred persons as clinically necessary;

(7) ensure that persons receive clinically appropriate assessment and treatment planning and competency restoration plans, as appropriate, including the development of an initial person-specific treatment plan within 72 hours following transfer, which shall be reviewed periodically as clinically indicated;

(8) ensure that clinical services and programming include psychiatric care, management of medications, education about court procedures, habilitation, and trauma-informed care, as appropriate;

(9) continue to provide evaluation, treatment, stabilization, and care of a resident who has regained competency while the resident awaits and participates in the resident's trial;

(10) provide residents with interpreters, as appropriate;

(11) implement grievance and appeals procedures; and

(12) implement a process for reporting instances of death or serious bodily injury to residents of the forensic facility to the Agency of Human Services Medical Director.

(c) Any records related to a person placed at the forensic facility shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that:

(1) the records shall be made available to the parties in the underlying criminal case upon request; and

(2) the person's health care providers may, with the person's permission, view forensic facility records of the person's psychiatric assessments at the facility, including assessments of the person's competency to stand trial and criminal responsibility.

(d) Persons shall be admitted to and maintained at the forensic facility pursuant to sections 4815a and 4819a of this title and in proceedings under those sections shall be entitled to have counsel appointed from Vermont Legal Aid to represent them.

(e) The Secretary of Human Services shall regularly consult with the Agency of Human Services Medical Director and the Commissioners of Corrections; of Mental Health; of Health; and of Disabilities, Aging, and Independent Living when performing the duties required by this chapter for operating the forensic facility.

(f) The Agency of Human Services Medical Director and an evaluator submitting a report pursuant to sections 4815a and 4819a of this title shall testify at any hearing under those sections if requested by the court or a party.

**Sec. 12. EMERGENCY RULEMAKING; INTERIM FORENSIC
AND COMPETENCY RESTORATION PROGRAM**

(a) On or before December 31, 2026, the Secretary of Human Services, in consultation with the Departments of Corrections; of Health; of Mental Health; and of Disabilities, Aging, and Independent Living, shall adopt emergency rules pursuant to 3 V.S.A. chapter 25 to establish an interim forensic and competency restoration program that shall be effective on July 1, 2027, and shall operate pending the completion of a permanent forensic facility. The emergency rules shall establish for the interim forensic and competency restoration program, consistent with the standards and procedures of Secs. 9, 10, and 11 of this act:

(1) clinically appropriate standards governing the provision of services in the forensic and competency restoration program, including requirements related to staffing patterns and ratios; staff qualifications; where the person is placed within a Department of Corrections facility; licensure and training; clinical supervision; and the delivery of safe, effective, evidence-informed care;

(2) standards for quality assurance and improvement; clinical oversight; documentation and reporting requirements; safety and risk management protocols; and mechanisms for monitoring compliance;

(3) the manner in which the Department of Corrections would cooperate with and obtain necessary information from other departments about persons released under supervision from the forensic and competency restoration program;

(4) opportunities and cost estimates for persons who would be eligible for placement at the forensic facility to receive, while the development of a forensic facility in Vermont is pending, competency restoration services within a Vermont correctional facility, provided that the entity that provides the services shall not be under contract with the Department of Corrections;

(5) victim notification procedures, including:

(A) which events within the program will trigger victim notification;

(B) who will provide victim notification and by what methods;

(C) how victims will be informed of their right to receive notifications; and

(D) the processes that will permit victims to opt in and opt out of receiving notifications; and

(6) any other provisions necessary to ensure the safe, effective, and clinically appropriate implementation of Secs. 9, 10, and 11 of this act, including potentially requiring the provision of forensic services in a unit that is separate from other correctional populations.

(b) The emergency rules adopted pursuant to this section shall:

(1) be deemed to have met the standard for emergency rulemaking set forth in 3 V.S.A. § 844(a);

(2) notwithstanding 3 V.S.A. § 844(b), remain in effect until July 1, 2029; and

(3) be repealed on July 1, 2029.

Sec. 13. REPEALS

Secs. 9–11 shall be repealed on July 1, 2029.

Sec. 14. EFFECTIVE DATES

(a) This section, Sec. 1, Sec. 3, and Secs. 6–13 shall take effect on July 1, 2026.

(b) Secs. 2, 4, and 5 shall take effect on July 1, 2029.