

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Corrections and Institutions to which was referred  
3 House Bill No. 550 entitled “An act relating to gender equity within Vermont’s  
4 correctional facilities” respectfully reports that it has considered the same and  
5 recommends that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

7 Sec. 1. INTENT

8 (a) It is the intent of the General Assembly to recognize that gender  
9 transition is a deeply personal experience that may involve some combination  
10 of social transition, legal transition, medical transition, or none of these. Some  
11 transgender, nonbinary, or intersex persons experience gender dysphoria that  
12 requires medical treatment, while others do not experience gender dysphoria.

13 (b) It is the further intent of the General Assembly to recognize that due to  
14 safety concerns, inconsistent medical and mental health care, and insufficient  
15 education and resources, among other factors, incarceration often serves as a  
16 barrier to gender transition or recognition and that, regardless of the ways in  
17 which a person chooses or is able to express the person’s gender or to take  
18 medical, social, or legal transition steps, the person deserves respect, agency,  
19 and dignity.

20 (c) It is the further intent of the General Assembly to recognize that,  
21 although the Department of Corrections system was built within a traditional

1 gender framework that solely recognized the male and female genders, gender-  
2 diverse, intersex, and transgender incarcerated individuals are at a higher risk  
3 for abuse, harassment, and sexual violence.

4 Sec. 2. 28 V.S.A. § 3 is amended to read:

5 § 3. GENERAL DEFINITIONS

6 As used in this title:

7 \* \* \*

8 (5) “Gender-diverse” describes an individual with a gender identity or  
9 gender expression that is different from social and cultural expectations  
10 attributed to the person’s sex at birth. This includes an individual who  
11 identifies as nonbinary, gender expansive, gender nonconforming, or other  
12 culturally diverse identities.

13 (6) “Gender identity” has the same meaning as in 1 V.S.A. § 144.

14 (7) “Gender pronoun” means a third-person singular personal pronoun,  
15 such as “he,” “she,” or “they.”

16 (8) “Health care practitioner” means an individual licensed or certified  
17 by the Office of Professional Regulation or the Board of Medical Practice  
18 acting within the individual’s lawful scope of practice.

19 (9) “Honorific” means a form of respectful address typically combined  
20 with an individual’s surname.

1           (10) “Inmate” means any person, not a child, committed to the custody  
2 of the Commissioner pursuant to the law of the State and subsequently  
3 committed to a correctional facility and any person confined at a correctional  
4 facility during the pendency of a prosecution against ~~him or her~~ the person.

5           (11) “Intersex” describes an individual with a medical condition in  
6 which the individual’s sexual or reproductive anatomy or chromosomal  
7 patterns fall outside traditional markers of female and male.

8           ~~(6)~~(12) “Law” includes the laws and ordinances of the State, its political  
9 subdivisions, and municipalities.

10           ~~(7)~~(13) “Law enforcement officer” means a State Police officer, a  
11 sheriff, a deputy sheriff, a municipal police officer, a constable, the  
12 Commissioner, or a member of the Department of Corrections when appointed  
13 in writing by the Commissioner and when ~~his or her~~ the member’s  
14 appointment is filed in the Office of the Secretary of State. The Commissioner  
15 or such member shall have the same powers as a sheriff.

16           ~~(8)~~(14) “Offender” means any person convicted of a crime or offense  
17 under the laws of this State, and, for purposes of work crew, a person found in  
18 civil contempt under 15 V.S.A. § 603.

19           ~~(9)~~(15) “Supervising officer” means the highest administrative officer in  
20 charge of any correctional facility.

1           ~~(10)~~(16) “Correctional officer” means any person who is an employee of  
2           the Department of Corrections whose official duties or job classification  
3           includes the supervision or monitoring of a person on parole, on probation, or  
4           serving any sentence of incarceration whether inside or outside a correctional  
5           facility, and who has received training, as approved by the Commissioner of  
6           Corrections, as provided in section 551a of this title.

7           ~~(11)~~(17) “Restorative justice program” means a program developed and  
8           implemented by the Commissioner, consistent with State policy and legislative  
9           intent as provided by section 2a of this title.

10          ~~(12)~~(18) Despite other names this concept has been given in the past or  
11          may be given in the future, “segregation” means a form of separation from the  
12          general population that may or may not include placement in a single-  
13          occupancy cell and that is used for disciplinary, administrative, or other  
14          reasons, but shall not mean confinement to an infirmary or a residential  
15          treatment setting for purposes of evaluation, treatment, or provision of  
16          services.

17          (19) “Sexual orientation” has the same meaning as in 1 V.S.A. § 143.

18          (20) “Transgender” describes an individual whose gender identity or  
19          gender expression is not what is typically expected for the individual’s sex at  
20          birth.

21          Sec. 3. 28 V.S.A. § 129 is added to read:

1     § 129. GENDER IDENTIFICATION AND NONDISCRIMINATION

2           (a) Gender identification and address. The Department shall ensure that  
3     each individual is addressed in a manner consistent with the individual’s  
4     gender identity.

5           (1) During the initial intake process, and in as private a setting as  
6     possible, the Department shall ask each individual to specify the following:

7           (A) the individual’s gender identity of female, male, transgender,  
8     gender-diverse, or intersex;

9           (B) the individual’s gender pronoun and honorific; and

10          (C) the individual’s views as to the gender of staff who may perform  
11     a lawful search.

12          (2) An individual shall not be disciplined for refusing to answer, or for  
13     not disclosing complete information in response to, the questions pursuant to  
14     subdivision (1) of this subsection.

15          (3) At any time after intake, an individual may inform designated  
16     facility staff of the individual’s gender identity, and designated facility staff  
17     shall promptly repeat the process described in subdivision (1) of this  
18     subsection.

19          (4) In all verbal and written communications that involve the use of the  
20     individual’s pronoun and honorific, Department staff, contractors, and

1 volunteers shall not consistently fail to use the gender pronoun and honorific  
2 an individual has specified.

3 (5) The Department shall ensure Department staff, contractors, and  
4 volunteers receive trauma-informed and gender-responsive training.

5 (b) Nondiscrimination. The Department shall not overrule an individual’s  
6 search, classification, housing, or programming placement views based on:

7 (1) the anatomy, including the genitalia or other physical characteristics,  
8 of the individual; or

9 (2) any other discriminatory reason, meaning based on any legally  
10 protected category.

11 Sec. 4. 28 V.S.A. § 130 is added to read:

12 § 130. SEARCHES

13 (a) The Department shall conduct any lawful searches in accordance with  
14 this section, including clothed searches, unclothed searches, urinalysis, and  
15 body scans.

16 (b) The Department shall not search or physically examine any individual  
17 for the sole purpose of determining the individual’s genital status. If the  
18 individual’s genital status is unknown, it may be determined during  
19 conversations with the individual, by reviewing medical records, or, if  
20 necessary, by learning the information as part of a broader medical  
21 examination conducted in private by a health care practitioner.

1       (c) The Department shall consider on an individualized basis whether an  
2       individual’s views as to the gender of staff who may perform a lawful search  
3       would best support the individual’s health and safety and whether a search  
4       designation would pose risks to safety or security.

5           (1) There shall be a rebuttable presumption that an individual’s views as  
6       to the gender of staff who may perform a lawful search are in the best interests  
7       of the individual’s health and safety.

8           (2) This presumption may be rebutted if the Department finds that  
9       designating the individual’s views would pose an unreasonable risk to safety or  
10       security.

11           (3) If the Department overrules an individual’s views as to the gender of  
12       staff who may perform a lawful search, the Department shall, before overruling  
13       the individual’s views, document and certify in writing a specific and  
14       articulable reason the Department is unable to accommodate the individual’s  
15       views as to the gender of staff who may perform a lawful search.

16           (d) A lawful search may be conducted by facility staff of any gender if  
17       exigent circumstances exist, including in an emergent situation when the  
18       search of an individual is imperative to the safety and security of any  
19       individual or to the operations of a facility.

20           (e)(1) A lawful unclothed search may be observed by facility staff who are  
21       present, regardless of gender, if exigent circumstances exist, including in an

1 emergent situation when the search of an individual is imperative to the safety  
2 and security of any individual or to the operations of a facility.

3 (2)(A) A visual recording of a lawful unclothed search shall not be  
4 viewed by facility staff of a different gender from the individual searched.

5 (B) Notwithstanding subdivision (A) of this subdivision (2),  
6 authorized persons of any gender may view a visual recording of a lawful  
7 unclothed search for investigatory or certified administrative purposes.

8 (f) The Department shall document:

9 (1) all different-gender unclothed searches;

10 (2) all different-gender clothed searches of female inmates; and

11 (3) all searches not conducted by facility staff of the gender designated  
12 by the Department.

13 Sec. 5. 28 V.S.A. § 701b is amended to read:

14 § 701b. CLASSIFICATION OF PERSONS OR DEFENDANTS

15 \* \* \*

16 (c) The Department shall make classification and housing placement  
17 determinations consistent with this subsection.

18 (1) During the initial intake process, and in as private a setting as  
19 possible, the Department shall ask each inmate to specify the inmate's views as  
20 to housing placement.

1           (2) The Department shall make classification and housing placement  
2           determinations for inmates who identify as transgender, gender-diverse, or  
3           intersex based on review by a multidisciplinary review panel. The  
4           multidisciplinary review panel shall be composed of individuals including  
5           medical personnel, mental health professionals with experience in gender  
6           dysphoria or gender-affirming care, and personnel who have received training  
7           aligned with nationally recognized standards for gender-affirming care.

8           (3) The Department shall consider on an individualized basis whether a  
9           classification or housing placement would best support the inmate’s health and  
10           safety and whether the placement would pose risks to safety or security. The  
11           Department may determine that a classification or housing placement would  
12           not best protect health or safety at that time, but may recommend discussing  
13           reassessment with the inmate after a specified period.

14           (A) There shall be a rebuttable presumption that an inmate’s  
15           classification or housing placement views are in the best interests of the  
16           inmate’s health and safety.

17           (B) This presumption may be rebutted if the Department finds that  
18           designating the inmate’s views would pose an unreasonable risk to safety or  
19           security.

20           (C) The Department shall base its classification and housing  
21           placement decisions on reliable, objective evidence. The Department shall not

1 override an inmate’s classification or housing placement views based on  
2 assumptions or stereotypes about the risks at a particular correctional facility.

3 (D) If the Department overrules an inmate’s classification or housing  
4 placement views, the Department shall, before overruling the views, document  
5 and certify in writing a specific and articulable reason the Department is  
6 unable to accommodate the inmate’s classification or housing placement  
7 views.

8 (E) The Department shall consider on an individualized basis  
9 whether placement at a contracted facility, including outside the State, would  
10 best support the inmate’s health and safety and whether the placement would  
11 pose risks to safety or security. The Department shall coordinate with any  
12 contracted facility to assess and reassess placement determinations.

13 (4)(A) The Department shall consider on an individualized basis  
14 whether a bed assignment, placement, or programming decision would best  
15 support the inmate’s health and safety and whether the bed assignment,  
16 placement, or programming decision would pose risks to safety or security.

17 (B) The Department shall give the inmate’s perception of health and  
18 safety serious consideration in making bed assignment, placement, and  
19 programming decisions, including:

20 (i) housing the inmate with another inmate to best support safety  
21 and security; and

1                   (ii) if there is an articulable risk to the inmate, removing the risk,  
2                   where possible, or otherwise alleviating the risk.

3                   (5) The Department shall reassess an inmate’s housing and placement at  
4                   any time if:

5                   (A) the inmate requests a reassessment or raises concerns about the  
6                   inmate’s health or safety; or

7                   (B) the inmate engages in misconduct, including conduct that poses a  
8                   safety risk to the inmate or to other inmates.

9                   (6) The Department shall not place a transgender, gender-diverse, or  
10                  intersex inmate in segregation housing solely based on the inmate’s gender  
11                  identity or status.

12                  Sec. 6. 28 V.S.A. § 801 is amended to read:

13                  § 801. MEDICAL CARE OF INMATES

14                  (a) Provision of medical care.

15                  (1) The Department shall provide health care for inmates in accordance  
16                  with the prevailing medical standards. When the provision of such care  
17                  requires that the inmate be taken outside the boundaries of the correctional  
18                  facility wherein the inmate is confined, the Department shall provide  
19                  reasonable safeguards, when deemed necessary, for the custody of the inmate  
20                  while the inmate is confined at a medical facility.

1           (2) To the extent feasible, the Department and its contractors shall  
2           ensure the use of a licensed health care provider with cultural competency to  
3           administer health care services to all inmates in correctional facilities,  
4           including transgender, gender-diverse, and intersex inmates.

5           (3) The Department and its contractors shall ensure inmates' access to:

6                   (A) all necessary and appropriate medical care, including mental  
7                   health care;

8                   (B) routine and preventive medical care related to an inmate's sex  
9                   characteristics; and

10                   (C) affirming medical care, including mental health care, as related to  
11                   gender dysphoria or gender affirmation.

12           (b) Screenings and assessments.

13                   (1)(A) Upon admission to a correctional facility for a minimum of 14  
14                   consecutive days, each inmate shall be given a physical assessment unless  
15                   extenuating circumstances exist.

16                   (B) The physical assessment shall include identifying any medical  
17                   needs, including mental health needs, related to gender-affirming care.

18                   (C) The Department shall not search or physically examine any  
19                   inmate for the sole purpose of determining the inmate's genital status. If the  
20                   inmate's genital status is unknown, it may be determined during conversations  
21                   with the inmate, by reviewing medical records, or, if necessary, by learning the

1 information as part of a broader medical examination conducted in private by a  
2 health care practitioner.

3 (2) Within 24 hours after admission to a correctional facility, each  
4 inmate shall be screened for substance use disorders as part of the initial and  
5 ongoing substance use screening and assessment process. This process  
6 includes screening and assessment for opioid use disorders.

7 \* \* \*

8 (e) Pre-existing prescriptions; definitions for subchapter.

9 \* \* \*

10 (5) As used in this subchapter:

11 (A) “Medically necessary” describes health care services that are  
12 appropriate in terms of type, amount, frequency, level, setting, and duration to  
13 the individual’s diagnosis or condition; are informed by generally accepted  
14 medical or scientific evidence; and are consistent with generally accepted  
15 practice parameters. Such services shall be informed by the unique needs of  
16 each individual and each presenting situation and shall include a determination  
17 that a service is needed to achieve proper growth and development or to  
18 prevent the onset or worsening of a health condition.

19 (B) “Medication for opioid use disorder” has the same meaning as in  
20 18 V.S.A. § 4750.



- 1           (11) agreements with outside law enforcement agencies;
- 2           (12) agreements with the prosecuting authority;
- 3           (13) employee training;
- 4           (14) volunteer and contractor training;
- 5           (15) inmate education;
- 6           (16) attorney and contractor notification of agency zero-tolerance
- 7 policy;
- 8           (17) specialized training related to investigations;
- 9           (18) specialized training related to medical care, including mental health
- 10 care;
- 11           (19) screening for risk of victimization and abusiveness;
- 12           (20) use of screening information;
- 13           (21) inmate reporting;
- 14           (22) exhaustion of administrative remedies;
- 15           (23) inmate access to outside confidential support services or legal
- 16 representation;
- 17           (24) third-party reporting;
- 18           (25) staff and facility or agency head reporting duties;
- 19           (26) reporting to other confinement facilities;
- 20           (27) staff first responder duties;
- 21           (28) coordinated response;

- 1           (29) agency protection against retaliation;
- 2           (30) duty to investigate;
- 3           (31) criminal and administrative agency investigations;
- 4           (32) evidence standard for administrative investigations;
- 5           (33) disciplinary sanctions for staff;
- 6           (34) disciplinary sanctions for inmates;
- 7           (35) referrals for prosecution for inmate-on-inmate sexual abuse;
- 8           (36) medical screenings, including mental health screenings, related to  
9 history of sexual abuse;
- 10           (37) access to emergency medical services, including mental health  
11 services;
- 12           (38) ongoing medical care, including mental health care, for sexual  
13 abuse victims and abusers;
- 14           (39) immediate and ongoing access to sexual assault crisis services;
- 15           (40) sexual abuse incident reviews;
- 16           (41) data collection;
- 17           (42) data review for corrective action;
- 18           (43) data storage, publication, and destruction; and
- 19           (44) audits of standards.
- 20           (b) On or before January 15, 2027, and annually thereafter, the  
21 Commissioner of Corrections shall submit a report to the House Committee on

1 Corrections and Institutions and the Senate Committee on Institutions detailing  
2 information including:

3 (1) training provided to Department staff concerning compliance with  
4 the Prison Rape Elimination Act national standards, 28 C.F.R. Part 115, in  
5 effect as of January 1, 2024;

6 (2) the number of reports of sexual assault and the types of sexual  
7 assault reported; and

8 (3) how many reports of sexual assault were investigated and the  
9 outcome of each investigation.

10 (c) On or before January 15, 2027, the Commissioner of Corrections shall  
11 adopt rules to implement the provisions of subsection (a) of this section.

12 Sec. 8. EFFECTIVE DATE

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

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16

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

18

\_\_\_\_\_

19

Representative \_\_\_\_\_

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FOR THE COMMITTEE