

1 H.550
2 Introduced by Representatives Headrick of Burlington, Bluemle of Burlington,
3 Casey of Montpelier, Greer of Bennington, Howard of Rutland
4 City, McCann of Montpelier, McGill of Bridport, and Minier of
5 South Burlington

6 Referred to Committee on

7 Date:

8 Subject: Corrections; administration; health care; transgender standards

9 Statement of purpose of bill as introduced: This bill proposes to create intake,
10 classification, and housing assignment standards for transgender, nonbinary,
11 and intersex persons who are housed within the Department of Corrections.

12 An act relating to gender equity within Vermont's correctional facilities

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

14 Sec. 1. INTENT

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

1 (b) It is the further intent of the General Assembly to recognize that due to
2 safety concerns, inconsistent medical and mental health care, and insufficient
3 education and resources, among other factors, incarceration often serves as a
4 barrier to gender transition or recognition and that, regardless of the ways in
5 which a person chooses or is able to express the person's gender or to take
6 medical, social, or legal transition steps, the person deserves respect, agency,
7 and dignity.

8 Sec. 2. 28 V.S.A. § 701b is amended to read:

9 § 701b. CLASSIFICATION OF PERSONS OR DEFENDANTS

10 (a)(1) When a defendant or person in a civil or criminal action is sentenced
11 to the custody of the Commissioner or committed to the Commissioner's
12 custody pending a prosecution on a misdemeanor charge or for sentencing, the
13 Commissioner or the Commissioner's designee shall within five days of
14 sentencing or commitment, excluding weekends and holidays, classify the
15 person to determine whether he or she the person shall be incarcerated, held at
16 a community work camp, or furloughed. Failure to classify within the five-day
17 period shall not create a private right of action against the State, its political
18 subdivisions, or its employees.

19 (2) When classifying or assigning an inmate to a correctional facility,
20 the Commissioner or the Commissioner's designee shall ensure that:

1 (A) the inmate is addressed in a manner consistent with the inmate's
2 gender identity;

3 (B) if the inmate is lawfully searched, the inmate be searched
4 according to the search policy for the inmate's gender identify or according to
5 the gender designation of the correctional facility where the inmate is housed,
6 based on the inmate's search preference;

7 (C) if the inmate's gender identity cannot be determined, any lawful
8 search shall be conducted according to the gender designation of the
9 correctional facility where the inmate is housed;

10 (D) the inmate is housed at a correctional facility designated for men
11 or women based on the inmate's preference, including, if eligible, any
12 residential treatment program within the jurisdiction of the Department; and

13 (E) the inmate's perception of health and safety be given serious
14 consideration in any bed assignment, placement, or programming decision
15 within the facility in which the inmate is housed, including granting single-cell
16 status, housing the inmate with another inmate of choice, or removing the
17 inmate or individual who pose a threat from any location where there is access
18 to the inmate expressing a safety concern.

19 (3)(A) Any denial of an inmate's search or housing preference pursuant
20 to subdivision (2) of this subsection (a) shall, before denying such a
21 preference, document and certify in writing a specific and articulable basis

1 why the department is unable to accommodate the search or housing
2 preference.

3 (B) If an inmate raises concerns about the inmate's health or safety at
4 any time, the inmate's housing and placement shall be reassessed.

5 (4) The Department shall not deny a search or housing placement based
6 on any discriminatory reason including the following:

7 (A) the anatomy, including the genitalia or other physical
8 characteristics, of the inmate;

9 (B) the sexual orientation of the inmate; or

10 (C) for a denial of a housing preference, a factor present among other
11 inmates at the preferred correctional facility.

12 (b) Notwithstanding 13 V.S.A. § 7554, the Commissioner may place on
13 furlough under provisions of section 808 of this title, a misdemeanor defendant
14 when the Commissioner, based upon a completed classification, has
15 determined that the defendant is likely to appear in court as directed. If the
16 Commissioner places such a defendant on furlough, the Commissioner shall
17 impose not only the conditions of release initially ordered by the judicial
18 officer, but also such additional terms or conditions deemed necessary to
19 ensure that the defendant will appear in court. The Commissioner shall
20 supervise compliance with all such conditions imposed.

1 Sec. 3. 28 V.S.A. § 801 is amended to read:

2 § 801. MEDICAL CARE OF INMATES

3 (a) Provision of medical care. The Department shall provide health care for
4 inmates in accordance with the prevailing medical standards. When the
5 provision of such care requires that the inmate be taken outside the boundaries
6 of the correctional facility wherein the inmate is confined, the Department
7 shall provide reasonable safeguards, when deemed necessary, for the custody
8 of the inmate while the inmate is confined at a medical facility. At all times,
9 the Department and its contractors shall use best efforts to identify a licensed
10 health care provider with cultural competency to administer health care
11 services to all inmates in the Commissioner's custody, including transgender,
12 nonbinary, and intersex inmates.

13 (b) Screenings and assessments.

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

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

1 (3)(A) During the initial intake and classification process, and in a
2 private setting, the Department shall ask each inmate to specify the following:
3 (i) the individual's gender identity of female, male, or nonbinary;
4 (ii) whether the individual identifies as transgender, nonbinary, or
5 intersex; and
6 (iii) the individual's gender pronoun and honorific.

7 (B) An inmate shall not be disciplined for refusing to answer, or for
8 not disclosing complete information in response to, the questions pursuant to
9 subdivision (A) of this subdivision (3).

10 (C) At any time, an inmate may inform designated facility staff of the
11 inmate's gender identity, and designated facility staff shall promptly repeat the
12 process described in subdivision (A) of this subdivision (3).

13 (D) Department staff, contractors, and volunteers shall not
14 consistently fail to use the gender pronoun and honorific an inmate has
15 specified in all verbal and written communications that involve the use of the
16 inmate's pronoun and honorific.

17 (c) Emergency care. When there is reason to believe an inmate is in need
18 of medical care, the officers and employees shall render emergency first aid
19 and immediately secure additional medical care for the inmate in accordance
20 with the standards set forth in subsection (a) of this section. A correctional

1 facility shall have on staff at all times at least one person trained in emergency
2 first aid.

3 (d) Policies. The Department shall establish and maintain policies for the
4 delivery of health care in accordance with the standards in subsection (a) of
5 this section.

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

7 * * *

8 (5) As used in this subchapter:

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

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

19 (C) “Cultural competency” has the same meaning as in 18 V.S.A.
20 § 251.

1 (D) “Gender pronoun” means a third-person singular personal
2 pronoun, such as “he,” “she,” or “they.”

3 (E) “Honorific” means a form of respectful address typically
4 combined with an individual’s surname.

5 * * *

6 Sec. 4. EFFECTIVE DATE

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