

1 S.193

2 Representatives Burditt of West Rutland, Arsenault of Williston, Christie of  
3 Hartford, Dolan of Essex Junction, Goodnow of Brattleboro, Goslant of  
4 Northfield, Harvey of Castleton, LaLonde of South Burlington, Malay of  
5 Pittsford, and Oliver of Sheldon move that the report of the Committee on  
6 Judiciary be amended as follows:

7 First: By striking out Sec. 1, legislative intent, in its entirety and inserting  
8 in lieu thereof a new Sec. 1 to read as follows:

9 Sec. 1. LEGISLATIVE INTENT

10 It is the intent of the General Assembly that the Secretary of Human  
11 Services shall establish and operate a locked secure forensic facility by July 1,  
12 2029 for the competency restoration, evaluation, stabilization, treatment, and  
13 care of persons who have been found not competent to stand trial or not guilty  
14 by reason of insanity for serious criminal offenses. The Department of  
15 Corrections shall not operate or staff the forensic facility, with the exception  
16 that employees of the Department of Corrections may provide security services  
17 for the facility at the admitting area of and around the outside perimeter of a  
18 forensic facility if it is co-located on the grounds of a correctional facility.

19 Second: In Sec. 7, feasibility plan; forensic facility, in subsection (a), by  
20 striking out subdivision (12) in its entirety and inserting in lieu thereof a new  
21 subdivision (12) to read as follows:

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

5           Third: In Sec. 7, feasibility plan; forensic facility, in subsection (b), after  
6           the word “section” by inserting “and on the emergency rulemaking required by  
7           Sec. 12 of this act, including a budget estimate for the period from January 1,  
8           2027 to June 30, 2027 that includes sources, uses of funding, and staffing  
9           levels”

10          Fourth: In Sec. 7, feasibility plan; forensic facility, by inserting a new  
11          subsection (c) to read as follows:

12          (c)(1) Absent further legislative enactment by the General Assembly, the  
13          Agency of Human Services and its departments shall not advance the  
14          development of the permanent forensic facility other than what is required to  
15          complete the feasibility plan required by this section

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

1        Fifth: By striking out Secs. 9 and 10 in their entirety and inserting in lieu  
2 thereof six new sections to be Secs. 9, 10, 11, 12, 13, and 14 to read as follows:

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

4        § 4815a. COMPETENCY RESTORATION SERVICES WITHIN

5                    FORENSIC FACILITY

6            (a) A person shall be placed at the forensic facility established in section  
7 4826 of this title if the person:

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

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

10        or

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

15                    (3) is not currently:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16           (i) the person’s history and present dangerousness;

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

19           (iii) the examiner’s findings;

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

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

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

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

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

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

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

4                   (i) every 12 months;

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

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

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

19                   (i) order the release of the person under a prescribed regimen of  
20           medical, psychiatric, or psychological care or treatment, housing, and  
21           supervision by the Department of Corrections in collaboration with the

1 Commissioner of Mental Health; the Department of Disabilities, Aging, and  
2 Independent Living; or the Department of Health, that the Agency of Human  
3 Services Medical Director has certified as appropriate; and

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

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

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

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

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

7 (6)(A) If the court finds that the person’s competency cannot be  
8 restored, and finds by clear and convincing evidence that the person is a person  
9 in need of custody, care, and habilitation as defined in 18 V.S.A. § 8839, the  
10 court shall issue an order of commitment for up to one year directed to the  
11 Commissioner of Disabilities, Aging, and Independent Living for placement in  
12 a designated program in the least restrictive environment consistent with the  
13 person’s need for custody, care, and habilitation. The order of commitment  
14 shall have the same force and effect as an order issued under 18 V.S.A. chapter  
15 206, subchapter 3 and persons committed under the order shall have the same  
16 status, and the same rights, including the right to receive care and habilitation,  
17 to be examined and discharged, and to apply for and obtain judicial review of  
18 their cases, as persons ordered committed under 18 V.S.A. chapter 206,  
19 subchapter 3.

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

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

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

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

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

20          (D) The Commissioner may at any time certify to the court that  
21          appropriate custody, care, and habilitation can be provided to the person in a

1 designated program, and after such a certification the court shall vacate the  
2 order for continued treatment and order the person committed to the custody of  
3 the Commissioner pursuant to subdivision (A) of this subdivision (6).

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

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

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

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

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

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

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

14               (2) The Agency of Human Services Medical Director shall notify the  
15        court where the person was committed upon return of the person to the forensic  
16        facility. Upon readmission, the court shall hold a hearing at which the State’s  
17        Attorney shall have the burden of establishing by clear and convincing  
18        evidence that the person has a qualifying condition that the person’s continued  
19        release would create a substantial risk of bodily injury to another person. If the  
20        State’s Attorney meets its burden, the court shall order the person readmitted to  
21        the forensic facility for treatment pursuant to this section. If the State’s

1 Attorney does not meet its burden, the court shall order the person restored to  
2 the status the person had when the person was returned to the facility.

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

9 (1) the involuntary medication is medically appropriate;

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

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

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

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

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

2 § 4819a. FORENSIC FACILITY PLACEMENT FOR PERSONS

3 NOT GUILTY BY REASON OF INSANITY FOR CERTAIN

4 CRIMES

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

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

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

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

18 (A) the person’s history and present dangerousness;

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

1           (C) the examiner’s findings;

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

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

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

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

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

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

20           (c) A person committed to the forensic facility pursuant to this section shall  
21 not be released until the court finds pursuant to subsection (e) of this section

1 that the person no longer has a qualifying condition that, upon the person's  
2 release, would create a substantial risk of bodily injury to another person.

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

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

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

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

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

19 (IV) at any time upon certification at any time to the Secretary  
20 of Human Services by the Agency of Human Services Medical Director that

1 the person no longer has a qualifying condition that, upon the person’s release,  
2 would create a substantial risk of bodily injury to another person.

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

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

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

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

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

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

20 (3) If the State’s Attorney does not establish by clear and convincing  
21 evidence that the person has a qualifying condition that, upon the person’s

1 release, would create a substantial risk of bodily injury to another person, the  
2 court shall:

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

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

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

1 hearing at which the State’s Attorney shall have the burden of establishing by  
2 clear and convincing evidence that the person was noncompliant with the  
3 court’s order for conditional release and that the noncompliance creates a risk  
4 of bodily injury to another person.

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

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

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

17 § 4826. FORENSIC FACILITY; DEFINITIONS

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

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

1           (B) “Forensic facility” means the interim forensic and competency  
2           restoration program established by emergency rules adopted pursuant to Sec.  
3           12 of this act, which shall be a locked secure facility where:

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

8                   (ii) a person is transferred pursuant to subsections 4815a(a) and  
9                   4819a(a) of this title.

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

13                   (i) incompetent to stand trial; or

14                   (ii) not guilty by reason of insanity.

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

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

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

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

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

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

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

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

6           (6) ensure that a registered nurse licensed pursuant to 26 V.S.A. chapter  
7           28 or a physician licensed pursuant to 26 V.S.A. chapter 23 or 33 is available  
8           to provide care to transferred persons as clinically necessary;

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

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

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

19          (10) provide residents with interpreters, as appropriate;

20          (11) implement grievance and appeals procedures; and

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

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

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

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

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

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

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

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

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

14               (1) clinically appropriate standards governing the provision of services  
15       in the forensic and competency restoration program, including requirements  
16       related to staffing patterns and ratios; staff qualifications; licensure and  
17       training; clinical supervision; and the delivery of safe, effective, evidence-  
18       informed care;

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

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

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

9           (5) victim notification procedures, including:

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

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

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

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

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

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

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

3           (2) notwithstanding 3 V.S.A. § 844(b), remain in effect until July 1,  
4           2029, and

5           (3) be repealed on July 1, 2029.

6           Sec. 13. REPEALS

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

8           Sec. 14. EFFECTIVE DATES

9           (a) This section, Sec. 1, Sec. 3, and Secs. 6–13 shall take effect on July 1,  
10          2026.

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