

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 193  
3 entitled “An act relating to establishing a forensic facility for certain criminal  
4 justice involved persons” respectfully reports that it has considered the same  
5 and recommends that the House propose to the Senate that the bill be amended  
6 by striking out all after the enacting clause and inserting in lieu thereof the  
7 following:

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

9 § 4815a. COMPETENCY RESTORATION SERVICES WITHIN

10 FORENSIC FACILITY

11 (a) A person shall be remanded to the Commissioner of Corrections  
12 Secretary of Human Services for placement at the forensic facility established  
13 in section 4826 of this title if the person:

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

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

16 or

17 (B) if the person is not held without bail pursuant to section 7553 of  
18 this title, the person suffers from has a qualifying condition that, upon the  
19 person’s release, would create a substantial risk of bodily injury to another  
20 person;

21 (3) is not currently:

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

3           (B) subject to an order of commitment to the Commissioner of  
4           Disabilities, Aging, and Independent Living issued under 18 V.S.A. § 8845 or  
5           section 4823 of this title; and

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

7           (b)(1) The forensic facility shall cause the person to be evaluated for  
8           competency to stand trial not less often than the shorter of either:

9                   (A) every six months from the date of admission; or

10                   (B) upon the determination by the forensic facility's clinical  
11           services director that the person is likely competent to stand trial or that it is  
12           unlikely that the person's competency can be restored.

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

16           (3)(A) If the court finds after the hearing that the person is competent to  
17           stand trial, the court shall immediately notify the State's Attorney and the  
18           person's counsel in the criminal case order the person returned to the custodial  
19           status that was in place before the person was remanded to the Secretary under  
20           subsection (a) of this section.

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

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

7           (c)(1)(A) At the request of a party or the forensic facility's clinical services  
8           director, the court may order that a competency evaluation conducted pursuant  
9           to subsection (b) of this subsection include an opinion on whether the person's  
10           competency can be restored. If a request is made pursuant to this subsection,  
11           the forensic facility shall cause the person to be evaluated for restorability to  
12           competence prior to the hearing.

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

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

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

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

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

3                   (iii) the examiner’s findings;

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

6                   (v) 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) or (4)(B) of this  
12 subsection that the person suffers from has a qualifying condition that, upon  
13 the person’s release, would create a substantial risk of bodily injury to another  
14 person, the court shall order continued commitment of the person consistent  
15 with the person’s forensic risk assessment. The court shall order treatment of  
16 the person in the least restrictive setting consistent with the person’s forensic  
17 risk assessment and treatment needs.

18                  (B)(i) If continued commitment is ordered pursuant to subdivision  
19 (c)(4)(A), the person’s commitment shall be reviewed by the court not less  
20 often than the shorter of either:

21                   (I) every 12 months; or

1                    (II) upon the determination by the forensic facility’s clinical  
2 services director that the person ~~is no longer suffering from~~ **has** a qualifying  
3 condition that, upon the person’s release, would create a substantial risk of  
4 bodily injury to another person.

5                    (5)(i) If the State’s Attorney does not demonstrate by clear and  
6 convincing evidence at a hearing held pursuant to subdivision (3)(A) or (4)(B)  
7 of this subsection that the person ~~suffers from~~ **has** a qualifying condition that,  
8 upon the person’s release, would create a substantial risk of bodily injury to  
9 another person, the court shall:

10                    (I) order the release of the person under a prescribed regimen  
11 of medical, psychiatric, or psychological care or treatment that the forensic  
12 facility’s clinical services director has certified as appropriate; and

13                    (II) order, as an explicit condition of supervision, that the  
14 person comply with the prescribed regimen of medical, psychiatric, or  
15 psychological care or treatment together with any other conditions appropriate  
16 to protect the public.

17                    (ii) A person’s release pursuant to this subdivision (5) shall be  
18 reviewed by the court every 12 months. The person shall be released from the  
19 custody and supervision of the Agency of Human Services unless the State’s  
20 Attorney demonstrates by clear and convincing evidence at the hearing that

1 continued treatment and supervision is necessary to prevent the person from  
2 becoming a substantial risk of bodily injury to another person.

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

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

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

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 shall 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 provided to the person at the  
6 forensic facility, or at another location as part of a discharge plan, until the  
7 person is restored to competency or until there is a final disposition of the  
8 charges against the person.

9 (f)(1) The **Commissioner Secretary** shall actively monitor compliance with  
10 orders issued pursuant to subdivision (c)(5) and shall immediately return a  
11 person to the forensic facility if:

12 (A) the person was released from the facility pursuant to subdivision  
13 (c)(5); and

14 (B) the **Commissioner Secretary** has reason to believe that due to a  
15 qualifying condition the person’s continued release would create a substantial  
16 risk of bodily injury to another person.

17 (2) The **Commissioner Secretary** shall notify the court where the person  
18 was committed upon return of the person to the forensic facility. Upon  
19 readmission, the court shall hold a hearing at which the State’s Attorney shall  
20 have the burden of establishing by clear and convincing evidence that the  
21 person **is suffering from** has a qualifying condition that, if the person’s release

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

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

12 (1) the involuntary medication is medically appropriate;

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

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

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

21

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

2 § 4817. COMPETENCY TO STAND TRIAL; DETERMINATION;

3 DISMISSAL

4 \* \* \*

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

12 (2)(A) The court shall hold a hearing prior to dismissing a case under  
13 this subsection. The State’s Attorney shall make a reasonable effort to provide  
14 the victim with prior notice of the hearing, and the court shall continue the  
15 hearing if the victim has not been provided with the notice required by this  
16 subdivision.

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

1 views concerning the offense and the interests of justice, and if so, the court  
2 may consider those views.

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

4 § 4819a. FORENSIC FACILITY PLACEMENT FOR PERSONS

5 NOT GUILTY BY REASON OF INSANITY FOR CERTAIN

6 CRIMES

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

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

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

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

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

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

3           (C) the examiner’s findings; and

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

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

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

13           (B) If the court finds that the State’s Attorney has not established by  
14 clear and convincing evidence that the person is suffering from has a  
15 qualifying condition that, upon the person’s release, would create a substantial  
16 risk of bodily injury to another person, the court shall enter an order releasing  
17 the person pursuant to subdivision (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 is no longer suffering from has a qualifying condition that,  
2 upon the person’s release, would create a substantial risk of bodily injury to  
3 another person.

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

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

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

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

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

20 (IV) upon certification at any time to the Commissioner of  
21 Corrections Secretary of Human Services by the forensic facility’s clinical

1 services director that the person ~~is no longer suffering from~~ has a qualifying  
2 condition that, upon the person’s release, would create a substantial risk of  
3 bodily injury to another person.

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

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

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

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

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

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

1           (3) If the state’s attorney establishes by clear and convincing evidence  
2           that the person is no longer suffering from has a qualifying condition that,  
3           upon the person’s release, would create a substantial risk of bodily injury to  
4           another person, the court shall:

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

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

13                  (f) The Commissioner Secretary shall actively monitor compliance with  
14                  orders issued pursuant to subdivision (e)(2) of this section and shall  
15                  immediately return the person to the forensic facility if the Commissioner  
16                  Secretary determines that the person is noncompliant with the order and that  
17                  the noncompliance may create a risk of bodily injury to another person. The  
18                  Commissioner Secretary shall notify the court where the person was  
19                  committed upon return of the person to the forensic facility. Upon  
20                  readmission, the court shall hold a hearing at which the State’s Attorney shall  
21                  have the burden of establishing by clear and convincing evidence that the

1 person was noncompliant with the court’s order for conditional release and that  
2 the noncompliance creates a risk of bodily injury to another person.

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

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

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

15 § 4826. FORENSIC FACILITY; DEFINITIONS

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

17 (A) “Forensic facility” means a locked facility or placement that:

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

1           (ii) is required for the custody, control, correctional treatment, and  
2 rehabilitation of persons transferred pursuant to subsections 4815a(a) and  
3 4819a(a) of this title.

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

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

10           (i) incompetent to stand trial; or

11           (ii) not guilty by reason of insanity.

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

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

19           (b) The ~~Commissioner of Corrections~~ Secretary of Human Services shall  
20 establish and operate a locked secure forensic facility for the secure evaluation,

1 treatment, and care of individuals who have been transferred pursuant to  
2 subsections 4815a(a) and 4819a(a) of this title. The forensic facility shall:

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

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

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

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

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

1           (6) ensure that a registered nurse licensed pursuant to 26 V.S.A. chapter  
2           28 or a physician licensed pursuant to 26 V.S.A. chapter 23 or 33 is available  
3           to provide care to transferred persons 24 hours a day, seven days a week; and

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

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

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

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

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



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

3           Sec. 5. RULEMAKING; FORENSIC FACILITY

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

8           (1) clinically appropriate standards governing the provision of services  
9           at the forensic facility, including requirements related to staffing patterns and  
10           ratios; staff qualifications; licensure and training; clinical supervision; and the  
11           delivery of safe, effective, evidence-informed care;

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

15           (3) victim notification procedures, including:

16           (A) which events within the forensic facility will trigger victim  
17           notification;

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

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



1       Sec. 7. INTERIM REPORT; FORENSIC FACILITY

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

9           (1) the status of and anticipated timeline for the adoption of rules under  
10          this act;

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

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

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

19       Sec. 8. EFFECTIVE DATES

1        (a) This section, Sec. 2 (13 V.S.A. § 4817), Sec. 5 (rulemaking; forensic  
2        facility), and Sec. 7 (interim report; forensic facility) shall take effect on July  
3        1, 2026.

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

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

6

7

8

9        (Committee vote: \_\_\_\_\_)

10

\_\_\_\_\_

11

Representative \_\_\_\_\_

12

FOR THE COMMITTEE