

Recommendations

Forensic Treatment Facility (Competency Restoration)

These recommendations reflect the position that Vermont should establish a secure, therapeutic forensic treatment model under the Department of Mental Health (DMH), rather than a correctional model under the Department of Corrections (DOC). The following are proposed to ensure a clinically appropriate, rights-protective, and evidence-informed system.

1. Governance and Ownership

- Require the forensic facility to be established, licensed, operated, and clinically governed by the Department of Mental Health (DMH), or a DMH-contracted provider.
- Limit DOC involvement to external security only, if necessary.
- Governance model similar to mental health agency oversight models used in other states.

2. Facility Purpose

- Define as a secure treatment facility, not a correctional institution.
- Clarify that placement is for competency restoration, evaluation, stabilization, and treatment—not punishment or detention. Individuals are charged, not convicted.
- Ensure statutory language distinguishes this facility from jails and prisons.

3. Clinical Model

- Require individual, evidence-informed competency restoration plans.
- Include psychiatric care, med management, legal skills (court procedures) education, habilitation, and trauma-informed care.
- Require discharge planning and transition support beginning at admission.

4. Least-Restrictive Placement

- Require DMH-led clinical review for admission.
- Require documented clinical findings that no less-restrictive alternative can safely meet the individual's needs.
- Establish a continuum including outpatient, community-based, inpatient, and secure treatment options.

5. Patient Rights and Ombudsman Oversight

- Apply Vermont's mental health patient rights protections rather than correctional disciplinary frameworks.
- Ensure access to counsel, grievance procedures, advocacy, and interpreters.
- Require independent oversight, including review by the Mental Health Care Ombudsman.

6. Staffing Standards

- Require staffing to meet clinical needs and best practices: forensic psychiatrists, psychologists, nurses, QMHPs, and peer support specialists.
- Require 24/7 clinical coverage.
- Require all staff to be trained in trauma-informed care and de-escalation.

7. Separation from Correctional Populations

- No co-location with sentenced or general correctional populations.
- No use of correctional uniforms, segregation, or disciplinary sanctions.
- Ensure safety through therapeutic design and clinical supervision.

8. Court Review and Time Limits

- Require regular court review of competency status and progress. (3-6 mo)
- Establish limits to prevent indefinite detention.
- Require timely discharge or transition to appropriate level of care when restoration is achieved or unlikely.

9. Independent Quality Oversight

- Require annual public reporting to legislative committees.
- Include data on outcomes, length of stay, demographics, safety incidents, EIP and staffing.

10. Implementation and Rulemaking

- Assign rulemaking to DMH in consultation with DAIL.
- Require consultation with stakeholders including Dept of Corrections, DAIL, Judiciary, advocates, and providers.
- Ensure rules reflect clinical best practices and patient rights.

References

- Vermont Legislature Draft S.193:
<https://legislature.vermont.gov/Documents/2026/Workgroups/House%20Judiciary/Bills/S.193/Draft%2C%20Amendments%2C%20Witness%20Testimony/S.193~Erik%20FitzPatrick~Draft%203.1%2C%204-28-2026~4-29-2026.pdf>
- Washington State Forensic Services: <https://www.dshs.wa.gov/bha/office-forensic-mental-health-services/forensic-patients-competency-restoration>
- SAMHSA Competency Restoration Strategies:
<https://www.samhsa.gov/sites/default/files/state-strategies-address-crisis-competence-to-stand-trial.pdf>
- NAMI Massachusetts Bridgewater Fact Sheet: <https://www.namimass.org/wp-content/uploads/S.1239H.2985-Fact-Sheet-Final-2.pdf>
- Vermont Secure Residential Recovery Facilities Law:
<https://legislature.vermont.gov/Documents/2024/Docs/BILLS/S-0192/S-0192%20As%20Passed%20by%20Both%20House%20and%20Senate%20Official.pdf>