

Testimony of William Ashe, Ed.D.

House Human Services Committee

April 28, 2026

Thank you for the opportunity to speak with you about Bill No 193 entitled “An act relating to establishing a forensic facility for certain criminal justice involved persons”. My name is William Ashe, and I am now retired. I began my career in 1970 working in a large state institution that served approximately 1600 people with intellectual and developmental disabilities. There I worked with many different individuals in a direct care capacity, assisting them with a wide range of daily living skills. This included structured and unstructured activities designed to facilitate the development of skills and competencies that would make their lives more comfortable. In 1977 I was appointed to the position of Director of Community based programs and services for the Springfield Massachusetts Region, where I designed and facilitated the development of range of community-based services for people with disabilities both living in the community, as well as persons leaving the large institution for community-based living.

In 1980 I returned to Vermont as the program director for developmental disability services for Washington County Mental Health services, a position that I held until 1992. In 1992 I became the Executive Director for Upper Valley Services. I held this

position for 29 years retiring in 2021. During my 41 years in Vermont, I also earned my Doctorate in Education in 1991.

My testimony today relates to the appropriate treatment of people with an intellectual and or developmental disability within the context of a forensic facility as described in Bill 193.

In the 1980's it became clear in Vermont that a gap existed in Vermont law that allowed for the civil commitment of a developmentally delayed person only if that person was found to be a danger to himself. As a result, there was no protective mechanism in place to address legal circumstances when a person with a developmental disability was charged with a crime, but who was not competent to stand trial. While these occasions were rare, the only legal alternative was to dismiss the charges. There was no real mechanism to compel such a person to participate in supervision and treatment if they were not willing to do so. This resulted in the inability of the system to properly address safety risks including the potential for the reoccurrence of dangerous behavior.

In 1987 the Vermont Legislature adopted what is known as Act 248. This Act defined a process where a Court could commit an individual who had engaged in a criminal activity, and who was found not competent to stand trial, to the care and custody of the Commissioner of Mental Health, thus creating a mechanism where such

persons would receive appropriately designed supervision and treatment in the interest of public safety. This Act has been in place in Vermont since 1987, and has enabled Vermont to address these rare occurrences from both a treatment perspective and within the framework of public safety. Having been in a position in Vermont to provide services and support to individuals, both prior and subsequent to Act 248, I can attest to the effectiveness of this provision. In my view Act 248 should make the reliance on a forensic facility should one be established, a very remote necessity.

A main intent of Bill No. 193 is a focus on restoring someone to competency, thus enabling them to stand trial for the criminal charges being brought against them. For individuals with an intellectual and/or developmental disability such a goal in most instances is not viable. This is due to the characteristics of the disability. Someone with an intellectual and/or developmental disability is likely to experience:

1. Challenges with cognitive functioning affecting reasoning and problem solving
2. Challenges with both receptive and expressive communication skills
3. Challenges with learning and performing social and adaptive skills
4. Challenges with learning and processing new information
5. Challenges with decision making
6. Challenges with generalizing skills learned across different environments and settings

These challenges are **Life Long**. They are most often noticed in early childhood (certainly before age 18) and will continue throughout one's life time. They will not be ameliorated over short time frames such as are promoted in Bill 193. Such people, however, can be supported successfully and safely within properly structured and supervised community-based programs.

The services and support provided by designated and specialized service agencies in Vermont under Act 248 , are very sophisticated . These programs use a system of careful assessment of need, individually designed service structure, individually tailored supervision models, and treatment components that are necessitated by the individual. These programs are closely monitored by the State of Vermont's Developmental Disabilities program, as well as an annual judicial review that determines the individuals' need for ongoing custody, care, and habilitation.

Risk is continually assessed. Service models will vary based on the amount and degree of supervision needed by the individual for his/her treatment AND for the proper management of community risk. This may range from eyes on supervision to more intensive models that may include alarms on windows and doors, restrictions on types of environments and movements, or GPS tracking bracelets if warranted. In most instances good consistent supervision is sufficient to manage community risk.

In summary, it is my opinion that supervision and support models that have been relied upon for nearly 40 years in Vermont meet the needs identified in Bill 193 for those individuals who are intellectually and/or developmentally disabled. Should someone with I/DD be placed in a forensic facility as described, I fear it would become a lifelong sentence. The “restore to competence” model as being portrayed in the Bill would likely not succeed for reasons stated above. It is also my opinion that the targeted population as described: (1) has been charged with a crime punishable by a life sentence, for people with I/DD would be extremely rare. In my 41 years in Vermont, I was called upon only a single time to serve such a person. This individual was supported successfully (under the provisions of Act 248) and has lived safely in Vermont for more than 25 years.

Again thank you for the opportunity to address this committee. I am available for any questions that you may have for me.