

1 S.193

2 Representatives Burditt of West Rutland, Goslant of Northfield, and Oliver
3 of Sheldon move that the report of the Committee on Judiciary be amended as
4 follows:

5 First: By striking out Sec. 1 in its entirety and inserting in lieu thereof a
6 new Sec. 1 to read as follows:

7 Sec. 1. LEGISLATIVE INTENT

8 It is the intent of the General Assembly that the Secretary of Human
9 Services shall establish and operate a locked secure forensic facility for the
10 competency restoration, evaluation, stabilization, treatment, and care of
11 persons who have been found not competent to stand trial or not guilty by
12 reason of insanity for serious criminal offenses.

13 Second: In Sec. 2, 13 V.S.A. § 4815a, in subdivision (c)(5)(A), by striking
14 out subdivisions (i) and (ii) in their entireties and inserting in lieu thereof new
15 subdivisions (i) and (ii) to read as follows:

16 (i) order the release of the person under a prescribed regimen of
17 medical, psychiatric, or psychological care or treatment, housing, and
18 supervision by the Department of Corrections in collaboration with the
19 Department of Mental Health; the Department of Disabilities, Aging, and
20 Independent Living; or the Department of Health, that the Agency of Human
21 Services Medical Director has certified as appropriate; and

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

7 Third: In Sec. 2, 13 V.S.A. § 4815a, in subdivision (c)(5)(B), after the word
8 “Commissioner”, by striking out “of Mental Health; the Department of
9 Disabilities, Aging, and Independent Living; or the Department of Health” and
10 inserting in lieu thereof “of Corrections”

11 Fourth: In Sec. 2, 13 V.S.A. § 4815a, by striking out subdivision (g)(1) in
12 its entirety and inserting in lieu thereof a new subdivision (g)(1) to read as
13 follows:

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

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

3 (B) the Agency of Human Services Medical Director has reason to
4 believe that, due to a qualifying condition, the person’s continued release
5 would create a substantial risk of bodily injury to another person.

6 Fifth: In Sec. 2, 13 V.S.A. § 4815a, in subdivision (g)(2), by striking out
7 “commissioner monitoring the person” and inserting in lieu thereof “Agency of
8 Human Services Medical Director”

9 Sixth: In Sec. 4, 13 V.S.A. § 4819a, by striking out subsection (f) in its
10 entirety and inserting in lieu thereof a new subsection (f) to read as follows:

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 Seventh: In Sec. 5, 13 V.S.A. § 4826, in subdivision (a)(1)(B), after the
6 words “secure facility”, by striking out “licensed as a therapeutic community
7 residence as defined in 33 V.S.A. § 7102(11)” and inserting in lieu thereof
8 “that provides a suitable clinical setting”

9 Eighth: In Sec. 5, 13 V.S.A. § 4826, in subsection (b), by striking out “The
10 Department of Corrections shall not play a role in the forensic facility’s
11 operation, the provision of services, or internal security, except to provide
12 security services for the facility at the admitting area and around the outside
13 perimeter if the facility is co-located on the grounds of a correctional facility.”

14 Ninth: In Sec. 5, 13 V.S.A. § 4826, in subdivision (b)(1), by striking out
15 “therapeutic community residence” and inserting in lieu thereof “suitable
16 clinical setting”

17 Tenth: In Sec. 5, 13 V.S.A. § 4826, in subsection (e), after the words
18 “consult with”, by inserting “the Agency of Human Services Medical Director
19 and”

20 Eleventh: By striking out Sec. 7 in its entirety and inserting in lieu thereof a
21 new Sec. 7 to read as follows:

1 Sec. 7. FEASIBILITY PLAN; FORENSIC FACILITY

2 (a) On or before January 15, 2027, the Secretary of Human Services, in
3 consultation with the Department of Buildings and General Services, shall
4 submit a feasibility plan for the development and operation of a forensic
5 facility to the House Committees on Appropriations, on Corrections and
6 Institutions, on Health Care, on Human Services, and on Judiciary and to the
7 Senate Committees on Appropriations, on Health and Welfare, on Institutions,
8 and on Judiciary. The feasibility plan shall assume that operation, staffing, and
9 programming at the forensic facility shall be provided by the Agency of
10 Human Services or its departments. The feasibility plan shall address the
11 following:

12 (1) the proposed location of a forensic facility;

13 (2) the proposed design plans for a forensic facility that allows for the
14 ability to separate residents by sex or gender and clinical need;

15 (3) the number of beds within a forensic facility;

16 (4) the entity or entities responsible for operating and providing services
17 in a forensic facility;

18 (5) the timeline for constructing a stand-alone forensic facility or fitting
19 up an existing stand-alone facility to operate as a forensic facility;

20 (6) the estimated cost of constructing or fitting up and operating a
21 forensic facility;

1 (7) which aspects of the therapeutic community residence rule would
2 need to be modified to operate the forensic facility as a therapeutic community
3 residence;

4 (8) the clinical services available at a forensic facility, including on-site
5 competency restoration services;

6 (9) the proposed staffing levels, staff qualifications, and potential
7 contracting needs necessary to establish a multidisciplinary clinical team at the
8 forensic facility that reflects best practices, including required evidence-based,
9 trauma-informed staff training and multiple potential staffing strategies;

10 (10) the physical and staff security plan within and around the perimeter
11 of a forensic facility, including therapeutic design and clinical supervision that
12 reflect best practices;

13 (11) a resident discharge and community monitoring plan from each
14 department with custody of individuals in the forensic facility, developed in
15 consultation with the Department of Corrections, that prioritizes community
16 safety and provides residential, clinical, and case management services;

17 (12) a plan for the expansion of 1988 Acts and Resolves No. 248 to
18 include individuals with a cognitive disability;

19 (13) annual reporting metrics on the demographics, outcomes, and
20 staffing at the forensic facility; and

1 (14) any recommendations for legislative action to effectuate the
2 development of a therapeutic, trauma-informed forensic facility.

3 (b) At the August and November 2026 meetings of the Joint Legislative
4 Justice Oversight Committee, the Secretary of Human Services or designee
5 shall provide an interim status update on the development of the feasibility
6 plan required pursuant to subsection (a) of this section.

7 Twelfth: By striking out Secs. 9 and 10 in their entireties and inserting in
8 lieu thereof new Secs. 9 and 10 to read as follows:

9 Sec. 9. EMERGENCY RULEMAKING; INTERIM FORENSIC FACILITY

10 AND COMPETENCY RESTORATION PROGRAM

11 (a) On or before December 31, 2026, the Secretary of Human Services, in
12 consultation with the Departments of Corrections, of Health, of Mental Health,
13 and of Disabilities, Aging, and Independent Living, shall adopt emergency
14 rules pursuant to 3 V.S.A. chapter 25 to establish an interim forensic facility
15 and competency restoration program that shall operate pending the completion
16 of a permanent forensic facility. The emergency rules shall establish, for the
17 interim forensic facility and competency restoration program and consistent
18 with the standards of Secs. 1, 2, 4, and 5 of this act:

19 (1) clinically appropriate standards governing the provision of services
20 at the forensic facility, including requirements related to staffing patterns and

1 ratios; staff qualifications; licensure and training; clinical supervision; and the
2 delivery of safe, effective, evidence-informed care;

3 (2) standards for quality assurance and improvement; clinical oversight;
4 documentation and reporting requirements; safety and risk management
5 protocols; and mechanisms for monitoring compliance;

6 (3) victim notification procedures, including:

7 (A) which events within the forensic facility will trigger victim
8 notification;

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

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

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

14 (4) any other provisions necessary to ensure the safe, effective, and
15 clinically appropriate implementation of Secs. 1, 3, and 4 of this act, including
16 potentially requiring the provision of forensic facility services in a unit that is
17 separate from other correctional populations.

18 (b) The emergency rules adopted pursuant to this section shall be repealed
19 on January 1, 2028.

1 Sec. 10. EFFECTIVE DATES

2 (a) This section, Sec. 3 (13 V.S.A. § 4817), Sec. 7 (feasibility plan; forensic
3 facility), and Sec. 9 (emergency rulemaking; interim forensic facility and
4 competency restoration program) shall take effect on July 1, 2026.

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