

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 for  
12 placement at the forensic facility established in section 4826 of this title if the  
13 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 a qualifying condition that, upon the person’s  
19 release, would create a substantial risk of bodily injury to another person;

20 (3) is not currently receiving treatment through an order of  
21 hospitalization pursuant to 18 V.S.A. § 7619 or section 4822 of this title; and

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

2           (b)(1) Upon admission, The forensic facility shall cause the person to be  
3 evaluated for competency to stand trial not less often than the shorter of either:

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

5                   (B) upon the determination by the forensic facility’s clinical  
6 services director that the person is likely competent to stand trial.

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

10           (3)(A) If the court finds after an evaluation conducted pursuant to  
11 subdivision (1) of this subsection the hearing that the person is competent to  
12 stand trial, the court shall immediately notify the State’s Attorney and the  
13 person’s counsel in the criminal case.

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

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

20           (c)(1)(A) At the request of a party, the court may order that a second or  
21 subsequent competency evaluation conducted pursuant to subsection (b) of this

1 subsection include an opinion on whether the person’s competency can be  
2 restored. If a request is made pursuant to this subsection, the forensic facility  
3 shall cause the person to be evaluated for restorability to competence prior to  
4 the hearing.

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

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

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

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

14 (ii) a description of any tests that were employed and the results of  
15 the tests;

16 (iii) the examiner’s findings;

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

19 (v) the examiner’s opinion as to whether the person is competent  
20 to stand trial.

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

3           (4)(A) If the State’s Attorney demonstrates by clear and convincing  
4           evidence at a hearing held pursuant to subdivision (3)(A) or (4)(B) of this  
5           subsection that the person suffers from a qualifying condition that, upon the  
6           person’s release, would create a substantial risk of bodily injury to another  
7           person, the court shall order continued commitment of the person consistent  
8           with the person’s forensic risk assessment. The court shall order treatment of  
9           the person in the least restrictive setting consistent with the person’s forensic  
10           risk assessment and treatment needs.

11           (B)(i) If continued commitment is ordered pursuant to subdivision  
12           (c)(4)(A), the person’s commitment shall be reviewed not less often than the  
13           shorter of either:

14                   (I) every 12 months; or

15                   (II) upon the determination by the forensic facility’s clinical  
16           services director that the person is no longer suffering from a qualifying  
17           condition that, upon the person’s release, would create a substantial risk of  
18           bodily injury to another person.

19           (5)(i) If the State’s Attorney does not demonstrate by clear and  
20           convincing evidence at a hearing held pursuant to subdivision (3)(A) or (4)(B)  
21           of this subsection that the person suffers from a qualifying condition that, upon

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

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

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

10 (ii)(I) The State's Attorney shall provide the victim with prior  
11 notice of any hearing held pursuant to this subdivision (5). The court may  
12 continue the hearing if the victim has not been provided with the notice  
13 required by this subdivision.

14 (II) At any hearing under this subdivision (5), the court shall  
15 ask if the victim is present and, if so, shall offer the victim the opportunity to  
16 be heard. The court may consider any views offered at the hearing by the  
17 victim, including the victim's views concerning the offense and preferences for  
18 the person's placement and care. If the victim is not present at the hearing, the  
19 court shall ask whether the victim has expressed oral or written views  
20 concerning the offense and preferences for the person's placement and care,  
21 and if so the court may consider those views.

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

5        (d) The person shall receive competency restoration services while at the  
6        forensic facility according to a plan approved by the forensic facility’s clinical  
7        services director. Such services shall include any appropriate combination of  
8        medication, education, accommodations, habilitation, or other services  
9        identified as necessary or proper to achieve and maintain competency to stand  
10       trial. The person’s refusal to receive competency restoration services shall not  
11       be grounds for release or dismissal from the forensic facility.

12       (e) Competency restoration services shall be provided to the person at the  
13       forensic facility, or at another location as part of a discharge plan, until the  
14       person is restored to competency or until there is a final disposition of the  
15       charges against the person.

16       (f)(1) The Commissioner shall actively monitor compliance with orders  
17       issued pursuant to subdivision (c)(5) and shall immediately return a person to  
18       the forensic facility if:

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

1           (B) the Commissioner has reason to believe that due to a qualifying  
2           condition the person’s continued release would create a substantial risk of  
3           bodily injury to another person.

4           (2) The Commissioner shall notify the court where the person was  
5           committed upon return of the person to the forensic facility. Upon  
6           readmission, the court shall hold a hearing at which the State’s Attorney shall  
7           have the burden of establishing by clear and convincing evidence that the  
8           person-is suffering from a qualifying condition that, if the person’s release  
9           continues, would create a substantial risk of bodily injury to another person. If  
10           the State’s Attorney meets its burden, the court shall order the person  
11           readmitted to the forensic facility for treatment pursuant to this section. If the  
12           State’s Attorney does not meet its burden, the court shall order the person  
13           restored to the status the person had when the person was returned to the  
14           facility.

15           (g) The Commissioner shall receive prior approval of the Criminal Division  
16           of the Superior Court where the person’s underlying criminal charge is pending  
17           for any competency restoration plan involving involuntary medication. The  
18           court shall not approve involuntary medication unless the court finds that:



1 Sec. 3. 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; and

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.

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

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

11           (B) If the court finds that the State’s Attorney has not established by  
12 clear and convincing evidence that the person is suffering from 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 enter an order releasing the  
15 person pursuant to subdivision (e)(3)(A) and (B) of this section.

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

18           (c) A person committed to the forensic facility pursuant to this section shall  
19 not be released until the court finds pursuant to subsection (e) of this section  
20 that the person is no longer suffering from a qualifying condition that, upon the

1 person's release, would create a substantial risk of bodily injury to another  
2 person.

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

19 (IV) upon certification at any time to the Commissioner of  
20 Corrections by the forensic facility's clinical services director that the person is

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

3 (ii) The Commissioner of Corrections 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 is no longer suffering from a qualifying condition that, upon the  
9 person’s release, would create a substantial risk of bodily injury to another  
10 person.

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

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

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

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

1           (3) If the state’s attorney establishes by clear and convincing evidence  
2           that the person is no longer suffering from a qualifying condition that, upon the  
3           person’s release, would create a substantial risk of bodily injury to another  
4           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 shall actively monitor compliance with orders issued  
14                  pursuant to subdivision (e)(2) of this section and shall immediately return the  
15                  person to the forensic facility if the Commissioner determines that the person  
16                  is noncompliant with the order and that the noncompliance may create a risk of  
17                  bodily injury to another person. The Commissioner shall notify the court  
18                  where the person was committed upon return of the person to the forensic  
19                  facility. Upon readmission, the court shall hold a hearing at which the State’s  
20                  Attorney shall have the burden of establishing by clear and convincing  
21                  evidence that the person was noncompliant with the court’s order for

1 conditional release and that the noncompliance creates a risk of bodily injury  
2 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  
8 victim may express court may consider any views offered at the hearing by the  
9 victim, including the victim’s views concerning the offense and preferences for  
10 the person’s placement and care, and the court may consider the victim’s  
11 testimony. If the victim is not present at the hearing, the court shall ask  
12 whether the victim has expressed oral or written views concerning the offense  
13 and preferences for the person’s placement and care, and if so the court may  
14 consider those views.

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

16 § 4826. FORENSIC FACILITY; DEFINITIONS

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

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

19 (i) the Department of Corrections provides for the secure  
20 evaluation, treatment, and care of persons involved in the legal system who do  
21 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) “Qualifying condition” means any condition whether mental,  
5                    congenital, or traumatic, however acquired or developed, or any other  
6                    circumstance that resulted in the person being determined:

7                    (i) incompetent to stand trial; or

8                    (ii) not guilty by reason of insanity.

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

12                    (b) The Commissioner of Corrections shall establish and operate a locked  
13                    secure forensic facility for the secure evaluation, treatment, and care of  
14                    individuals who have been transferred pursuant to subsections 4815a(a) and  
15                    4819a(a) of this title. The forensic facility shall:

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

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

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

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

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

12           (6) ensure that a registered nurse licensed pursuant to 26 V.S.A. chapter  
13           28 or a physician licensed pursuant to 26 V.S.A. chapter 23 or 33 is available  
14           to provide care to transferred persons 24 hours a day, seven days a week; and

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

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



1 the House Committees on Corrections and Institutions, on Human Services,  
2 and on Judiciary and to the Senate Committees on Institutions, on Health and  
3 Welfare, and on Judiciary addressing:

4 (1) the number of persons served at the forensic facility during the  
5 previous calendar year; and

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

8 Sec. 5. RULEMAKING; FORENSIC FACILITY

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

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

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

20 (3) victim notification procedures, including:



1 probation; proceedings concerning competency restoration; granting or  
2 revoking conditional release from a forensic facility; finding probable cause  
3 for arrests without warrant and issuance of citations, warrants for arrest,  
4 criminal summonses, and search warrants.

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6 Sec. 7. INTERIM REPORT; FORENSIC FACILITY

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

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

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

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

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

3           Sec. 8. EFFECTIVE DATES

4           (a) This section, Sec. 2 (13 V.S.A. § 4817), Sec. 5 (rulemaking; forensic  
5           facility), and Sec. 7 (interim report; forensic facility) shall take effect on July  
6           1, 2026.

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

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

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12           (Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_

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FOR THE COMMITTEE