

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

20 (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, and thereafter  
10                  every six months from the issuance of an order for continued competency  
11                  restoration treatment under subdivision (3)(B) of this subsection; or

12                   (B) upon the determination by the forensic facility's clinical  
13                  services director Agency of Human Services Medical Director that the person  
14                  is likely competent to stand trial or that it is unlikely that the person's  
15                  competency can be restored.

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

19           (3)(A) If the court finds after the hearing that the person is competent to  
20           stand trial, the court shall, unless it finds that doing so is likely to cause the  
21           person to again become incompetent, order the person returned to the custodial

1 status that was in place before the person was remanded to the Secretary under  
2 subsection (a) of this section.

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

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

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

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

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

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

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

4                   (ii) a description of any tests that were employed and the results of  
5           the tests;

6                   (iii) the examiner’s findings;

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

9                   (v) recommendations for treatment and supervision that would  
10           support the person’s success and mitigate risk of aggression and violence;

11                   (vi) the examiner’s opinion as to whether the person is a person in  
12           need of custody, care, and habilitation as defined in 18 V.S.A. § 8839; and

13                   (vii) the examiner’s opinion as to whether the person is competent  
14           to stand trial.

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

17           (4)(A) If the State’s Attorney demonstrates by clear and convincing  
18           evidence at a hearing held pursuant to subdivision (3)(A) or (4)(B) of this  
19           subsection that the person has a qualifying condition that, upon the person’s  
20           release, would create a substantial risk of bodily injury to another person, the  
21           court shall order continued commitment of the person consistent with the

1 person's forensic risk assessment. The court shall order treatment of the  
2 person, which may include appropriate supervision and supervised housing, in  
3 the least restrictive setting consistent with the person's forensic risk assessment  
4 and treatment needs.

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

8 (I) every 12 months; or

9 (II) upon the determination by the forensic facility's clinical  
10 services director Agency of Human Services Medical Director that the person  
11 no longer has a qualifying condition that, upon the person's release, would  
12 create a substantial risk of bodily injury to another person.

13 (5)(i) If the State's Attorney does not demonstrate by clear and  
14 convincing evidence at a hearing held pursuant to subdivision (3)(A) or (4)(B)  
15 of this subsection that the person has a qualifying condition that, upon the  
16 person's release, would create a substantial risk of bodily injury to another  
17 person, the court shall:

18 (I) order the release of the person under a prescribed regimen  
19 of medical, psychiatric, or psychological care or treatment, housing, and  
20 supervision by the Commissioner of Mental Health, the Department of  
21 Disabilities, Aging, and Independent Living, or the Department of Health, that

1 the forensic facility's clinical services director Agency of Human Services  
2 Medical Director has certified as appropriate; and

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

9 (ii) A person's release pursuant to this subdivision (5) shall be  
10 reviewed by the court every 12 months. The person shall be released from the  
11 custody and supervision of the Agency of Human Services Commissioner of  
12 Mental Health, the Department of Disabilities, Aging, and Independent Living,  
13 or the Department of Health unless the State's Attorney demonstrates by clear  
14 and convincing evidence at the hearing that continued treatment and  
15 supervision is necessary to prevent the person from becoming a substantial risk  
16 of bodily injury to another person.

17 (iii)(I) The State's Attorney shall make a reasonable effort to  
18 provide the victim with prior notice of any hearing held pursuant to this  
19 subdivision (5). The court may continue the hearing if the victim has not been  
20 provided with the notice required by this subdivision.

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

9                   (6)(A) If the court finds that the person’s competency cannot be  
10                  restored, and finds by clear and convincing evidence that the person is a person  
11                  in need of custody, care, and habilitation as defined in 18 V.S.A. § 8839, the  
12                  court shall, unless subdivision (B) of this subdivision (6) applies, issue an  
13                  order of commitment for up to one year directed to the Commissioner of  
14                  Disabilities, Aging, and Independent Living for placement in a designated  
15                  program in the least restrictive environment consistent with the person’s need  
16                  for custody, care, and habilitation. The order of commitment shall have the  
17                  same force and effect as an order issued under 18 V.S.A. chapter 206,  
18                  subchapter 3 and persons committed under the order shall have the same status,  
19                  and the same rights, including the right to receive care and habilitation, to be  
20                  examined and discharged, and to apply for and obtain judicial review of their

1 cases, as persons ordered committed under 18 V.S.A. chapter 206, subchapter  
2 3.

3 (B) If the Commissioner certifies to the court that appropriate  
4 custody, care, and habilitation cannot be provided to the person in a designated  
5 program:

6 (i) the person shall not be committed under subdivision (A) of this  
7 subdivision (6); and

8 (ii) the court shall order continued treatment at the forensic facility  
9 until the Commissioner has provided a designated program in the least  
10 restrictive setting consistent with the person's treatment needs.

11 (C)(i) The court shall review an order of continued treatment issued  
12 pursuant to subdivision (B)(ii):

13 (I) every six months; and

14 (II) upon a petition filed by the person subject to the order at  
15 any time not less than 90 days after the order and not less than six months after  
16 the filing of a previous petition.

17 (ii) If the court finds at the review that that appropriate custody,  
18 care, and habilitation can be provided to the person in a designated program,  
19 the court shall vacate the order for continued treatment and order the person  
20 committed to the custody of the Commissioner pursuant to subdivision (A).

1            (iii) If the court finds at the review that that appropriate custody,  
2 care, and habilitation cannot be provided to the person in a designated  
3 program, the court shall order continued treatment at the forensic facility  
4 pursuant to subdivision (B)(ii).

5            (D) The Commissioner may at any time certify to the court that  
6 appropriate custody, care, and habilitation can be provided to the person in a  
7 designated program, and after such a certification the court shall vacate the  
8 order for continued treatment and order the person committed to the custody of  
9 the Commissioner pursuant to subdivision (A).

10           (E) As used in this subdivision (6), “commissioner means the  
11 Commissioner of Disabilities, Aging, and Independent Living.

12           (d) Except as provided in subdivisions (c)(4)(A), (c)(5), and (c)(6)(A) of  
13 this section, person shall remain at the forensic facility until the person is  
14 restored to competency or until there is a final disposition of the charges  
15 against the person.

16           (e) The person shall receive competency restoration services while at the  
17 forensic facility according to a plan approved by the forensic facility’s clinical  
18 services director. Such services shall include any appropriate combination of  
19 medication, education, accommodations, habilitation, or other services  
20 identified as necessary or proper to achieve and maintain competency to stand

1 trial. The person’s refusal to receive competency restoration services shall not  
2 be grounds for release or dismissal from the forensic facility.

3 (f) Competency restoration services shall be provided to the person at the  
4 forensic facility, or at another location as part of a discharge plan, until the  
5 person is restored to competency or until there is a final disposition of the  
6 charges against the person.

7 (g)(1) The Secretary As appropriate for the needs of the person, the  
8 Commissioner of Mental Health, of Health, or of Disabilities, Aging and  
9 Independent Living shall actively monitor compliance with orders issued  
10 pursuant to subdivision (c)(5) and shall immediately return a person to the  
11 forensic facility if:

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

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

17 (2) The Secretary Commissioner monitoring the person shall notify the  
18 court 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 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 (h) The Secretary Agency of Human Services Medical Director shall  
8 receive prior approval of the Criminal Division of the Superior Court where  
9 the person’s underlying criminal charge is pending for any competency  
10 restoration plan involving involuntary medication. The court shall not approve  
11 involuntary medication unless the court finds State’s Attorney establishes by  
12 clear and convincing evidence that:

13 (1) the involuntary medication is medically appropriate;

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

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

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

1           (i) When an evaluation is required of the person's competency or  
2           restorability under this section, the defense shall be entitled to conduct an  
3           independent evaluation and introduce the results at the hearing.

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

5           § 4817. COMPETENCY TO STAND TRIAL; DETERMINATION;

6                   DISMISSAL

7                                   \* \* \*

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

15           (2)(A) If the offense is not a qualifying crime under subdivision  
16           7601(a)(A) of this title, the court shall hold a hearing prior to dismissing a case  
17           under this subsection. The State's Attorney shall make a reasonable effort to  
18           provide the victim with prior notice of the hearing, and the court shall continue  
19           the hearing if the victim has not been provided with the notice required by this  
20           subdivision.

1           (B) At the hearing, the court shall ask if the victim is present and, if  
2           so, shall offer the victim the opportunity to be heard. The court may consider  
3           any views offered at the hearing by the victim, including the victim’s views  
4           concerning the offense and the interests of justice. If the victim is not present at  
5           the hearing, the court shall ask whether the victim has expressed oral or written  
6           views concerning the offense and the interests of justice, and if so, the court  
7           may consider those views.

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

9           § 4819a. FORENSIC FACILITY PLACEMENT FOR PERSONS

10           NOT GUILTY BY REASON OF INSANITY FOR CERTAIN

11           CRIMES

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

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

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

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

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

7                   (B) a description of any tests that were employed and the results of  
8           the tests;

9                   (C) the examiner’s findings; and

10                  (D) the examiner’s opinion as to whether the person’s release would  
11           create a substantial risk of bodily injury to another person; and

12                   (E) recommendations for treatment and supervision that would  
13           support the individual’s success and mitigate risk of aggression and violence.

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

16           (4)(A) At the hearing, the court shall order the person committed to the  
17           forensic facility if the State’s Attorney establishes by clear and convincing  
18           evidence that the person has a qualifying condition that, upon the person’s  
19           release, would create a substantial risk of bodily injury to another person.

20                   (B) If ~~the court finds that~~ the State’s Attorney ~~has~~ does not establish  
21           by clear and convincing evidence that the person has a qualifying condition

1 that, upon the person’s release, would create a substantial risk of bodily injury  
2 to another person, the court shall enter an order releasing the person pursuant  
3 to subdivision (e)(3)(A) and (B) of this section.

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

6 (c) A person committed to the forensic facility pursuant to this section shall  
7 not be released until the court finds pursuant to subsection (e) of this section  
8 that the person no longer has a qualifying condition that, upon the person’s  
9 release, would create a substantial risk of bodily injury to another person.

10 (d) The **Secretary of Human Services Agency of Human Services Medical**  
11 **Director** shall, taking into account public safety and the least restrictive  
12 conditions applicable, provide adequate care and individualized treatment at  
13 the forensic facility to persons ordered committed pursuant to this section. In  
14 order that the **Secretary Medical Director** may adequately determine the nature  
15 of the person’s condition and needs, all persons committed pursuant to this  
16 section shall be promptly examined by qualified personnel in order to provide  
17 a proper evaluation, diagnosis, and treatment plan.

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

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

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

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

5                   (IV) upon certification at any time to the Commissioner of  
6 Corrections Secretary of Human Services by the forensic facility's clinical  
7 services director Agency of Human Services Medical Director that the person  
8 no longer has a qualifying condition that, upon the person's release, would  
9 create a substantial risk of bodily injury to another person.

10                   (ii) The Commissioner of Corrections Secretary of Human  
11 Services shall provide all reports required under this section to the State's  
12 Attorney, who shall file them with the petition.

13                   (B)(i) A person committed pursuant to subdivision (b)(4)(A) of this  
14 section may petition the committing court for release on the grounds that the  
15 person no longer has a qualifying condition that, upon the person's release,  
16 would create a substantial risk of bodily injury to another person.

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

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

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

1           (2) If the ~~court finds~~ State’s Attorney establishes by clear and  
2 convincing evidence that the person has 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 deny the petition and order the person committed to the  
5 forensic facility for continued treatment pursuant to this section.

6           (3) If the State’s Attorney does not establish by clear and convincing  
7 evidence that the person is no longer suffering from ~~has~~ a qualifying condition  
8 that, upon the person’s release, would create a substantial risk of bodily injury  
9 to another person, the court shall:

10           (A) order the release of the person under a prescribed regimen of  
11 medical, psychiatric, or psychological care or treatment, including supervision  
12 and housing, that the forensic facility’s clinical services director Agency of  
13 Human Services Medical Director has certified as appropriate; and

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

18           (f) The Secretary As appropriate for the needs of the person, the  
19 Commissioner of Mental Health, of Health, or of Disabilities, Aging and  
20 Independent Living shall actively monitor compliance with orders issued  
21 pursuant to subdivision (e)(2) of this section and shall immediately return the

1 person to the forensic facility if the Secretary Agency of Human Services  
2 Medical Director determines that the person is noncompliant with the order  
3 and that the noncompliance may create a risk of bodily injury to another  
4 person. The Secretary Commissioner monitoring the person shall notify the  
5 court where the person was committed upon return of the person to the forensic  
6 facility. Upon readmission, the court shall hold a hearing at which the State's  
7 Attorney shall have the burden of establishing by clear and convincing  
8 evidence that the person was noncompliant with the court's order for  
9 conditional release and that the noncompliance creates a risk of bodily injury  
10 to another person.

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

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

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

2 § 4826. FORENSIC FACILITY; DEFINITIONS

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

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

5 (i) the Department of Corrections Agency of Human Services

6 provides for the secure evaluation, treatment, and care of persons involved in

7 the legal system who do not require a hospitalization level of care; and

8 (ii) is required for the custody, control, correctional treatment, and

9 rehabilitation of persons transferred pursuant to subsections 4815a(a) and

10 4819a(a) of this title.

11 (B) “Competency can be restored” means a substantial probability

12 that in the foreseeable future the person will attain the capacity to permit the

13 proceedings to go forward.

14 (C) “Qualifying condition” means any condition whether mental,

15 congenital, or traumatic, however acquired or developed, or any other

16 circumstance that resulted in the person being determined:

17 (i) incompetent to stand trial; or

18 (ii) not guilty by reason of insanity.

19 (2) The evaluations required by this chapter may be conducted pursuant

20 to contracts entered into between the Commissioner of Buildings and General

21 Services and evaluation providers.

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

5           (b) The Commissioner of Corrections Secretary of Human Services shall  
6           establish and operate a locked secure forensic facility for the secure evaluation,  
7           treatment, and care of individuals who have been transferred pursuant to  
8           subsections 4815a(a) and 4819a(a) of this title. The facility’s clinical, forensic,  
9           and competency restoration services shall be overseen by the AHS Medical  
10          Director. The forensic facility shall:

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

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

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

1           (4) employ a clinical services director to follow the direction of the  
2           Agency of Human Services Medical Director, who shall oversee all forensic,  
3           clinical, and competency restoration services provided to transferred persons;

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

9           (6) ensure that a registered nurse licensed pursuant to 26 V.S.A. chapter  
10          28 or a physician licensed pursuant to 26 V.S.A. chapter 23 or 33 is available  
11          to provide care to transferred persons 24 hours a day, seven days a week; and

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

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

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



1        (g) Annually, on or before January 15, the Department of Corrections, in  
2        consultation with the Departments of Health, of Mental Health, and of  
3        Disabilities, Aging, and Independent Living, shall submit a written report to  
4        the House Committees on Corrections and Institutions, on Human Services,  
5        and on Judiciary and to the Senate Committees on Institutions, on Health and  
6        Welfare, and on Judiciary addressing:

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

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

11        Sec. 5. RULEMAKING; FORENSIC FACILITY

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

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

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

4           (3) victim notification procedures, including:

5                   (A) which events within the forensic facility will trigger victim  
6                   notification;

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

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

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

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

16           Sec. 6. Rule 1101 of the Vermont Rules of Evidence is amended to read:

17           RULE 1101. APPLICABILITY OF RULES

18           (a) Rules applicable. Except as otherwise provided in subdivision (b),  
19           these rules apply to all actions and proceedings in the courts of this state.

20           (b) Rules inapplicable. The rules other than those with respect to privileges  
21           do not apply in the following situations:

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(3) Miscellaneous Proceedings. Proceedings for extradition or rendition; inquest proceedings; except as otherwise provided by statute or rule promulgated by the Supreme Court, sentencing or granting or revoking probation; proceedings concerning competency restoration; granting or revoking conditional release from a forensic facility; finding probable cause for arrests without warrant and issuance of citations, warrants for arrest, criminal summonses, and search warrants.

\* \* \*

Sec. 7. INTERIM REPORT; FORENSIC FACILITY

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

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

(2) forensic facility planning, including the specific proposed location of the forensic facility, space considerations and design elements necessary to

1 support the provision of therapeutic services and security at the proposed  
2 location, and the timeline for any necessary fit-up of the forensic facility;

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

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

7 Sec. 8. EFFECTIVE DATES

8 (a) This section, Sec. 2 (13 V.S.A. § 4817), Sec. 5 (rulemaking; forensic  
9 facility), and Sec. 7 (interim report; forensic facility) shall take effect on July  
10 1, 2026.

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

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

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15  
16 (Committee vote: \_\_\_\_\_)

17 \_\_\_\_\_

18 Representative \_\_\_\_\_

19 FOR THE COMMITTEE