

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. LEGISLATIVE INTENT

9 It is the intent of the General Assembly that the Secretary of Human
10 Services shall establish and operate a locked secure forensic facility for the
11 competency restoration, evaluation, stabilization, treatment, and care of
12 persons who have been found not competent to stand trial or not guilty by
13 reason of insanity for serious criminal offenses. The Department of
14 Corrections shall not operate or staff the forensic facility, with the exception
15 that employees of the Department of Corrections may provide security services
16 for the facility at the admitting area of and around the outside perimeter of a
17 forensic facility if it is co-located on the grounds of a correctional facility.

18 Sec. 2. 13 V.S.A. § 4815a is added to read:

19 § 4815a. COMPETENCY RESTORATION SERVICES WITHIN

20 FORENSIC FACILITY

1 (a) A person shall be placed at the forensic facility established in section
2 4826 of this title if the person:

3 (1) has been charged with an offense punishable by a life sentence;

4 (2)(A) has been held without bail pursuant to section 7553 of this title;

5 or

6 (B) if the person is not held without bail pursuant to section 7553 of
7 this title, has a qualifying condition that, upon the person’s release, would
8 create a substantial risk of bodily injury to another person;

9 (3) is not currently:

10 (A) receiving treatment through an order of hospitalization pursuant
11 to 18 V.S.A. § 7619 or section 4822 of this title; or

12 (B) subject to an order of commitment to the Commissioner of
13 Disabilities, Aging, and Independent Living issued under 18 V.S.A. § 8845 or
14 section 4823 of this title, unless the person is detained in a correctional facility
15 pending trial; and

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

17 (b)(1) The forensic facility shall cause the person to be evaluated for
18 competency to stand trial:

1 (A) six months from the date of admission, and thereafter every
2 six months from the issuance of an order for continued competency restoration
3 treatment under subdivision (3)(B) of this subsection (b); and

4 (B) at any time upon the determination by the Agency of Human
5 Services Medical Director that the person is likely competent to stand trial or
6 that it is unlikely that the person’s competency can be restored.

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 the hearing that the person is competent to
11 stand trial, the court shall immediately notify the State’s Attorney and the
12 person’s counsel in the criminal case.

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

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

19 (c)(1) At the request of a party or the Agency of Human Services Medical
20 Director, the court may order that a competency evaluation conducted pursuant
21 to subsection (b) of this section include an opinion on whether the person’s

1 competency can be restored. If a request is made pursuant to this subsection,
2 the forensic facility shall cause the person to be evaluated for restorability to
3 competence prior to the hearing.

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

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

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

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

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

15 (iii) the examiner’s findings;

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

18 (v) recommendations for evidence-based treatment and
19 supervision that would support the person’s success and mitigate risk of
20 aggression and violence;

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

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

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

7 (4)(A) If the State’s Attorney demonstrates by clear and convincing
8 evidence at a hearing held pursuant to subdivision (3)(A) of this subsection (c)
9 or (B) of this subdivision (4) that the person has a qualifying condition that,
10 upon the person’s release, would create a substantial risk of bodily injury to
11 another person, the court shall order continued commitment of the person
12 consistent with the person’s forensic risk assessment. The court shall order
13 treatment of the person, which may include appropriate supervision and
14 supervised housing, in the least restrictive setting consistent with the person’s
15 forensic risk assessment and treatment needs.

16 (B) If continued commitment is ordered pursuant to subdivision (A)
17 of this subdivision (4), the person’s commitment shall be reviewed by the
18 court:

19 (i) every 12 months; and

20 (ii) at any time upon the determination by the Agency of Human
21 Services Medical Director that the person no longer has a qualifying condition

1 that, upon the person’s release, would create a substantial risk of bodily injury
2 to another person.

3 (5)(A) If the State’s Attorney does not demonstrate by clear and
4 convincing evidence at a hearing held pursuant to subdivision (3)(A) or (4)(B)
5 of this subsection (c) that the person has 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:

8 (i) order the release of the person under a prescribed regimen of
9 medical, psychiatric, or psychological care or treatment, housing, and
10 supervision by the Commissioner of Mental Health; the Department of
11 Disabilities, Aging, and Independent Living; or the Department of Health, that
12 the Agency of Human Services Medical Director has certified as appropriate;
13 and

14 (ii) 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, housing, and supervision by the Commissioner of Mental
17 Health; the Department of Disabilities, Aging, and Independent Living; or the
18 Department of Health, together with any other conditions appropriate to protect
19 the public.

20 (B) A person’s release pursuant to this subdivision (5) shall be
21 reviewed by the court every 12 months. The person shall be released from the

1 supervision of the Commissioner of Mental Health; the Department of
2 Disabilities, Aging, and Independent Living; or the Department of Health
3 unless the State’s Attorney demonstrates by clear and convincing evidence at
4 the hearing that continued treatment and supervision is necessary to prevent the
5 person from becoming a substantial risk of bodily injury to another person.

6 (C)(i) The State’s Attorney shall make a reasonable effort to provide
7 the victim with prior notice of any hearing held pursuant to this subdivision
8 (5). The court may continue the hearing if the victim has not been provided
9 with the notice required by this subdivision (C)(i).

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

18 (6)(A) If the court finds that the person’s competency cannot be
19 restored, and finds by clear and convincing evidence that the person is a person
20 in need of custody, care, and habilitation as defined in 18 V.S.A. § 8839, the
21 court shall issue an order of commitment for up to one year directed to the

1 Commissioner of Disabilities, Aging, and Independent Living for placement in
2 a designated program in the least restrictive environment consistent with the
3 person’s need for custody, care, and habilitation. The order of commitment
4 shall have the same force and effect as an order issued under 18 V.S.A. chapter
5 206, subchapter 3 and persons committed under the order shall have the same
6 status, and the same rights, including the right to receive care and habilitation,
7 to be examined and discharged, and to apply for and obtain judicial review of
8 their cases, as persons ordered committed under 18 V.S.A. chapter 206,
9 subchapter 3.

10 (B)(i) The Commissioner shall provide appropriate custody, care, and
11 habilitation in a designated program to a person committed under subdivision
12 (A) of this subdivision (6).

13 (ii) The court may order continued treatment at the forensic
14 facility for a period not to exceed one year if the court finds that the
15 Commissioner is not currently able to provide appropriate custody, care, and
16 habilitation in a designated program. For good cause shown the court may
17 extend the one-year period by an additional period not to exceed six months.

18 (C)(i) The court shall review an order of continued treatment issued
19 pursuant to subdivision (B)(ii) of this subdivision (6) every 90 days.

20 (ii) If the court finds at the review that that appropriate custody,
21 care, and habilitation can be provided to the person in a designated program,

1 the court shall vacate the order for continued treatment and order the person
2 committed to the custody of the Commissioner pursuant to subdivision (A) of
3 this subdivision (6).

4 (iii) If the court finds at the review that that appropriate custody,
5 care, and habilitation cannot be provided to the person in a designated
6 program, the court shall order continued treatment at the forensic facility
7 pursuant to subdivision (B)(ii) of this subdivision (6).

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

13 (E) As used in this subdivision (6), “Commissioner” means the
14 Commissioner of Disabilities, Aging, and Independent Living.

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

19 (e) The person shall receive competency restoration services while at the
20 forensic facility according to a plan approved by the Agency of Human
21 Services Medical Director. Such services shall include any appropriate

1 combination of medication, education, accommodations, habilitation, or other
2 services identified as necessary or proper to achieve and maintain competency
3 to stand trial. The person’s refusal to receive competency restoration services
4 shall not be grounds for release or dismissal from the forensic facility.

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

9 (g)(1) As appropriate for the needs of the person, the Commissioner of
10 Mental Health; of Health; or of Disabilities, Aging, and Independent Living
11 shall actively monitor compliance with orders issued pursuant to subdivision
12 (c)(5) of this section. Upon request from the commissioner monitoring the
13 person, the court shall immediately order return of a person to the forensic
14 facility if:

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

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

20 (2) The commissioner monitoring the person shall notify the court
21 where the person was committed upon return of the person to the forensic

1 facility. Upon readmission, the court shall hold a hearing at which the State’s
2 Attorney shall have the burden of establishing by clear and convincing
3 evidence that the person has a qualifying condition that, if the person’s release
4 continues, would create a substantial risk of bodily injury to another person. If
5 the State’s Attorney meets its burden, the court shall order the person
6 readmitted to the forensic facility for treatment pursuant to this section. If the
7 State’s Attorney does not meet its burden, the court shall order the person
8 restored to the status the person had when the person was returned to the
9 facility.

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

16 (1) the involuntary medication is medically appropriate;

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

1 subsection (e). The State’s Attorney shall make a reasonable effort to provide
2 the victim with prior notice of the hearing, and the court may continue the
3 hearing if the victim has not been provided with the notice required by this
4 subdivision (2)(A).

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

12 Sec. 4. 13 V.S.A § 4819a is added to read:

13 § 4819a. FORENSIC FACILITY PLACEMENT FOR PERSONS

14 NOT GUILTY BY REASON OF INSANITY FOR CERTAIN
15 CRIMES

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

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

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

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

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

9 (B) a description of any tests that were employed and the results of
10 the tests;

11 (C) the examiner’s findings;

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

14 (E) recommendations for evidence-based treatment and supervision
15 that would support the individual’s success and mitigate risk of aggression and
16 violence.

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

19 (4)(A) At the hearing, the court shall order the person committed to the
20 forensic facility if the State’s Attorney establishes by clear and convincing

1 evidence that the person has a qualifying condition that, upon the person's
2 release, would create a substantial risk of bodily injury to another person.

3 (B) If the State's Attorney does not establish by clear and convincing
4 evidence that the person has a qualifying condition that, upon the person's
5 release, would create a substantial risk of bodily injury to another person, the
6 court shall enter an order releasing the person pursuant to subdivisions
7 (e)(3)(A) and (B) of this section.

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

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

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

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

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

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

7 (III) every fifth year after a commitment order issued following
8 a review under subdivision (II) of this subdivision (i); and

9 (IV) at any time upon certification at any time to the Secretary
10 of Human Services by the Agency of Human Services Medical Director that
11 the person no longer has a qualifying condition that, upon the person’s release,
12 would create a substantial risk of bodily injury to another person.

13 (ii) The Secretary of Human Services shall provide all reports
14 required under this section to the State’s Attorney, who shall file them with the
15 petition.

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

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

1 (I) until at least 90 days after the issuance of the commitment
2 order pursuant to subdivision (b)(4)(A) of this section; and

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

5 (2) If the State’s Attorney establishes by clear and convincing evidence
6 that the person has a qualifying condition that, upon the person’s release,
7 would create a substantial risk of bodily injury to another person, the court
8 shall deny the petition and order the person committed to the forensic facility
9 for continued treatment pursuant to this section.

10 (3) If the State’s Attorney does not establish by clear and convincing
11 evidence that the person has a qualifying condition that, upon the person’s
12 release, would create a substantial risk of bodily injury to another person, the
13 court shall:

14 (A) order the release of the person under a prescribed regimen of
15 medical, psychiatric, or psychological care or treatment, including supervision
16 and housing, that the Agency of Human Services Medical Director has
17 certified as appropriate; and

18 (B) order, as an explicit condition of supervision, that the person
19 comply with the prescribed regimen of evidence-informed medical,
20 psychiatric, or psychological care or treatment, including supervision and
21 housing, together with any other conditions appropriate to protect the public.

1 (f) As appropriate for the needs of the person, the Commissioner of Mental
2 Health; of Health; or of Disabilities, Aging, and Independent Living shall
3 actively monitor compliance with orders issued pursuant to subdivision (e)(2)
4 of this section. Upon request from the commissioner monitoring the person,
5 the court shall immediately order return of the person to the forensic facility if
6 the Agency of Human Services Medical Director determines that the person is
7 noncompliant with the order and that the noncompliance may create a risk of
8 bodily injury to another person. The commissioner monitoring the person shall
9 notify the court where the person was committed upon return of the person to
10 the forensic facility. Upon readmission, the court shall hold a hearing at which
11 the State’s Attorney shall have the burden of establishing by clear and
12 convincing evidence that the person was noncompliant with the court’s order
13 for conditional release and that the noncompliance creates a risk of bodily
14 injury to another person.

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

18 (2) At any hearing under this section, the court shall ask if the victim is
19 present and, if so, shall offer the victim the opportunity to be heard. The court
20 may consider any views offered at the hearing by the victim, including the
21 victim’s views concerning the offense and preferences for the person’s

1 placement and care. If the victim is not present at the hearing, the court shall
2 ask whether the victim has expressed oral or written views concerning the
3 offense and preferences for the person’s placement and care, and, if so, the
4 court may consider those views.

5 Sec. 5. 13 V.S.A. § 4826 is added to read:

6 § 4826. FORENSIC FACILITY; DEFINITIONS

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

8 (A) “Competency can be restored” means a substantial probability
9 that in the foreseeable future the person will attain the capacity to permit the
10 proceedings to go forward.

11 (B) “Forensic facility” means a locked secure facility licensed as a
12 therapeutic community residence as defined in 33 V.S.A. § 7102(11) where:

13 (i) the Agency of Human Services provides for the secure
14 competency restoration, evaluation, stabilization, treatment, and care of
15 persons with a qualifying condition who are involved in the legal system and
16 who do not require a hospitalization level of care; and

17 (ii) a person is transferred pursuant to subsections 4815a(a) and
18 4819a(a) of this title.

19 (C) “Qualifying condition” means any condition whether mental,
20 congenital, or traumatic, however acquired or developed, or any other
21 circumstance that resulted in the person being determined:

1 (i) incompetent to stand trial; or

2 (ii) not guilty by reason of insanity.

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

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

10 (b) The Secretary of Human Services shall establish and operate a locked
11 secure forensic facility for the competency restoration, evaluation,
12 stabilization, treatment, and care of persons who have been transferred
13 pursuant to subsections 4815a(a) and 4819a(a) of this title. The forensic
14 facility’s clinical, forensic, and competency restoration services shall be
15 overseen by the Agency of Human Services Medical Director. The
16 Department of Corrections shall not play a role in the forensic facility’s
17 operation, the provision of services, or internal security, except to provide
18 security services for the facility at the admitting area and around the outside
19 perimeter if the facility is co-located on the grounds of a correctional facility.
20 The forensic facility shall:

1 (1) be designed and operated in a manner that supports therapeutic,
2 recovery-oriented, and trauma-informed programming in a therapeutic
3 community residence, while maintaining appropriate levels of safety and
4 security;

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

7 (3) provide for the safe competency restoration, evaluation, treatment,
8 stabilization, and care of persons, including the ability to separate the
9 population by sex or gender and to otherwise address clinical, safety, or
10 operational considerations as appropriate, including the possible operation of
11 multiple facilities;

12 (4) follow the direction of the Agency of Human Services Medical
13 Director, who shall oversee all forensic, clinical, and competency restoration
14 services provided to transferred persons;

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

1 (6) ensure that a registered nurse licensed pursuant to 26 V.S.A. chapter
2 28 or a physician licensed pursuant to 26 V.S.A. chapter 23 or 33 is available
3 to provide care to transferred persons 24 hours a day, seven days a week;

4 (7) ensure that persons receive clinically appropriate assessment and
5 treatment planning and competency restoration plans, as appropriate, including
6 the development of an initial person-specific treatment plan within 72 hours
7 following transfer, which shall be reviewed periodically as clinically indicated;

8 (8) ensure that clinical services and programming include psychiatric
9 care, management of medications, education about court procedures,
10 habilitation, and trauma-informed care, as appropriate;

11 (9) continue to provide evaluation, treatment, stabilization, and care of a
12 resident who has regained competency while the resident awaits and
13 participates in the resident’s trial;

14 (10) provide residents with interpreters, as appropriate;

15 (11) implement grievance and appeals procedures; and

16 (12) implement a process for reporting instances of death or serious
17 bodily injury to residents of the forensic facility to the Agency of Human
18 Services Medical Director.

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

3 (2) the person’s health care providers may, with the person’s
4 permission, view forensic facility records of the person’s psychiatric
5 assessments at the facility, including assessments of the person’s competency
6 to stand trial and criminal responsibility.

7 (d) Persons shall be admitted to and maintained at the forensic facility
8 pursuant to sections 4815a and 4819a of this title, and in proceedings under
9 those sections shall be entitled to have counsel appointed from Vermont Legal
10 Aid to represent them.

11 (e) The Secretary of Human Services shall regularly consult with the
12 Commissioners of Corrections; of Mental Health; of Health; and of
13 Disabilities, Aging, and Independent Living when performing the duties
14 required by this chapter for operating the forensic facility.

15 (f) The Agency of Human Services Medical Director and an evaluator
16 submitting a report pursuant to sections 4815a and 4819a of this title shall
17 testify at any hearing under those sections if requested by the court or a party.

18 (g) The Secretary of Human Services shall adopt rules pursuant to 3 V.S.A.
19 chapter 25 to implement this section.

1 Sec. 6. 18 V.S.A. § 7257 is amended to read:

2 § 7257. REPORTABLE ADVERSE EVENTS

3 (a) An acute inpatient hospital, an intensive residential recovery facility, a
4 designated agency, a psychiatric residential treatment facility for youth, a
5 forensic facility, or a secure residential recovery facility shall report to the
6 Department of Mental Health instances of death or serious bodily injury to
7 individuals with a mental condition or psychiatric disability in the custody or
8 temporary custody of the Commissioner.

9 * * *

10 Sec. 7. FEASIBILITY PLAN; FORENSIC FACILITY

11 (a) On or before January 15, 2027, the Secretary of Human Services, in
12 consultation with the Department of Buildings and General Services, shall
13 submit a feasibility plan for the development and operation of a forensic
14 facility to the House Committees on Appropriations, on Corrections and
15 Institutions, on Health Care, on Human Services, and on Judiciary and to the
16 Senate Committees on Appropriations, on Health and Welfare, on Institutions,
17 and on Judiciary. The feasibility plan shall assume that operation, staffing, and
18 programming at the forensic facility shall be provided by the Agency of
19 Human Services or its departments, with the exception that the Department of
20 Corrections shall not play a role in its operation, the provision of services, or
21 internal security, other than the provision of security services for the facility at

1 the admitting area and around the outside perimeter if the facility is co-located
2 on the grounds of a correctional facility. The feasibility plan shall address the
3 following:

4 (1) the proposed location of a forensic facility, which shall be
5 independent from a correctional facility, and, if on the same grounds as a
6 correctional facility, shall be separated by sight and sound;

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

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

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

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

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

16 (7) which aspects of the therapeutic community residence rule would
17 need to be modified to operate the forensic facility as a therapeutic community
18 residence;

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

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

5 (10) the physical and staff security plan within and around the perimeter
6 of a forensic facility, including therapeutic design and clinical supervision that
7 reflect best practices, which shall not involve the Department of Corrections,
8 with the exception that employees of the Department of Corrections may
9 provide security services for the facility at the admitting area and around the
10 outside perimeter of the facility if it is co-located on the grounds of a
11 correctional facility;

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

16 (12) opportunities and cost estimates for persons who would be eligible
17 for placement at the forensic facility to receive the following services while the
18 development of a forensic facility in Vermont is pending:

19 (A) placement in an out-of-state residence where clinically
20 appropriate programming can be provided; and

1 (Committee vote: _____)

2

3

Representative _____

4

FOR THE COMMITTEE