

1 TO THE HONORABLE SENATE:

2 The Committee on Institutions to which was referred House Bill No. 550
3 entitled “An act relating to gender equity within Vermont’s correctional
4 facilities” respectfully reports that it has considered the same and recommends
5 that the Senate propose to the House that the bill be amended by striking out all
6 after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. INTENT

8 (a) It is the intent of the General Assembly to recognize that gender
9 transition is a deeply personal experience that may involve some combination
10 of social transition, legal transition, medical transition, or none of these. Some
11 transgender, nonbinary, or intersex persons experience gender dysphoria that
12 requires medical treatment, while others do not experience gender dysphoria.

13 (b) It is the further intent of the General Assembly to recognize that due to
14 safety concerns, inconsistent medical and mental health care, and insufficient
15 education and resources, among other factors, incarceration often serves as a
16 barrier to gender transition or recognition and that, regardless of the ways in
17 which a person chooses or is able to express the person’s gender or to take
18 medical, social, or legal transition steps, the person deserves respect, agency,
19 and dignity.

20 (c) It is the further intent of the General Assembly to recognize that,
21 although the Department of Corrections system was built within a traditional

1 gender framework that solely recognized the male and female genders, gender-
2 diverse, intersex, and transgender incarcerated individuals are at a higher risk
3 for abuse, harassment, and sexual violence.

4 Sec. 2. 28 V.S.A. § 3 is amended to read:

5 § 3. GENERAL DEFINITIONS

6 As used in this title:

7 * * *

8 (5) “Gender-diverse” describes an individual with a gender identity or
9 gender expression that is different from social and cultural expectations
10 attributed to the person’s sex at birth. This includes an individual who
11 identifies as nonbinary, gender expansive, gender nonconforming, or other
12 culturally diverse identities.

13 (6) “Gender identity” has the same meaning as in 1 V.S.A. § 144.

14 (7) “Gender pronoun” means a third-person singular personal pronoun,
15 such as “he,” “she,” or “they.”

16 (8) “Honorific” means a form of respectful address typically combined
17 with an individual’s surname.

18 (9) “Inmate” means any person, not a child, committed to the custody of
19 the Commissioner pursuant to the law of the State and subsequently committed
20 to a correctional facility and any person confined at a correctional facility
21 during the pendency of a prosecution against ~~him or her~~ the person.

1 (10) “Intersex” describes an individual with a medical condition in
2 which the individual’s sexual or reproductive anatomy or chromosomal
3 patterns fall outside traditional markers of female and male.

4 ~~(6)~~(11) “Law” includes the laws and ordinances of the State, its political
5 subdivisions, and municipalities.

6 ~~(7)~~(12) “Law enforcement officer” means a State Police officer, a
7 sheriff, a deputy sheriff, a municipal police officer, a constable, the
8 Commissioner, or a member of the Department of Corrections when appointed
9 in writing by the Commissioner and when ~~his or her~~ the member’s
10 appointment is filed in the Office of the Secretary of State. The Commissioner
11 or such member shall have the same powers as a sheriff.

12 ~~(8)~~(13) “Offender” means any person convicted of a crime or offense
13 under the laws of this State, and, for purposes of work crew, a person found in
14 civil contempt under 15 V.S.A. § 603.

15 ~~(9)~~(14) “Supervising officer” means the highest administrative officer in
16 charge of any correctional facility.

17 ~~(10)~~(15) “Correctional officer” means any person who is an employee of
18 the Department of Corrections whose official duties or job classification
19 includes the supervision or monitoring of a person on parole, on probation, or
20 serving any sentence of incarceration whether inside or outside a correctional

1 facility, and who has received training, as approved by the Commissioner of
2 Corrections, as provided in section 551a of this title.

3 ~~(14)~~(16) “Restorative justice program” means a program developed and
4 implemented by the Commissioner, consistent with State policy and legislative
5 intent as provided by section 2a of this title.

6 ~~(12)~~(17) Despite other names this concept has been given in the past or
7 may be given in the future, “segregation” means a form of separation from the
8 general population that may or may not include placement in a single-
9 occupancy cell and that is used for disciplinary, administrative, or other
10 reasons, but shall not mean confinement to an infirmary or a residential
11 treatment setting for purposes of evaluation, treatment, or provision of
12 services.

13 (18) “Transgender” describes an individual whose gender identity or
14 gender expression is not what is typically expected for the individual’s sex at
15 birth.

16 Sec. 3. 28 V.S.A. § 129 is added to read:

17 § 129. GENDER IDENTIFICATION AND NONDISCRIMINATION

18 (a) Gender identification and address. The Department shall ensure that all
19 individuals are addressed in a manner consistent with their gender identity.

20 (1) During the initial intake process, and in as private a setting as
21 possible, the Department shall ask each individual to specify the following:

1 (A) the individual’s gender identity of female, male, transgender,
2 gender-diverse, or intersex;
3 (B) the individual’s gender pronoun and honorific; and
4 (C) for transgender, gender-diverse, or intersex individuals, the
5 individual’s request as to the gender of staff who may perform a lawful search.

6 (2) An individual shall not be disciplined for refusing to answer, or for
7 not disclosing complete information in response to, the questions pursuant to
8 subdivision (1) of this subsection.

9 (3) At any time after intake, an individual may inform designated
10 facility staff of the individual’s gender identity, and designated facility staff
11 shall promptly repeat the process described in subdivision (1) of this
12 subsection.

13 (4) The Department shall ensure Department staff and contractors
14 receive gender-responsive training proportional to their level of interaction
15 with inmates.

16 (b) Nondiscrimination. The Department’s decision not to accommodate a
17 transgender, gender-diverse, or intersex individual’s search, classification or
18 housing placement request shall not be based solely on the individual’s:

19 (1) anatomy, including the genitalia;

20 (2) other physical characteristics; or

21 (3) diverse gender expression.

1 Sec. 4. 28 V.S.A. § 130 is added to read:

2 § 130. SEARCHES

3 (a) The Department shall conduct any lawful searches in accordance with
4 this section, including clothed searches, unclothed searches, urinalysis, and
5 body scans.

6 (b) The Department shall not search or physically examine, or request that
7 contractors search or physically examine, any individual for the sole purpose
8 of determining the individual’s genital status.

9 (c) The Department shall consider on an individualized basis whether a
10 transgender, gender-diverse, or intersex individual’s request as to the gender of
11 staff who may perform a lawful search would best support the individual’s
12 health and safety and whether accommodating the inmate’s request would pose
13 risks to safety or security.

14 Sec. 5. 28 V.S.A. § 701c is added to read:

15 § 701c. CLASSIFICATION AND HOUSING PLACEMENT

16 DETERMINATIONS

17 (a) The Department shall make classification and housing placement
18 determinations for transgender, gender-diverse, and intersex inmates consistent
19 with this section.

1 (b) During the initial intake process, and in as private a setting as possible,
2 the Department shall ask each transgender, gender-diverse, or intersex inmate
3 to specify the inmate’s request as to housing placement.

4 (c) The Department shall make classification and housing placement
5 determinations for transgender, gender-diverse, or intersex inmates based on
6 review by the Department’s multidisciplinary review panels. The
7 multidisciplinary review panels shall consult with medical personnel, mental
8 health professionals with experience in gender dysphoria or gender-affirming
9 care, and personnel who have received training aligned with nationally
10 recognized standards for gender-affirming care.

11 (d) The Department shall consider on an individualized basis whether a
12 classification or housing placement would best support a transgender, gender-
13 diverse, or intersex inmate’s health and safety and whether the placement
14 would pose risks to safety or security. The Department may determine that a
15 classification or housing placement would not best protect health or safety at
16 that time, but may recommend discussing reassessment with the inmate at a
17 later time.

18 (1) The Department shall give serious consideration to the inmate’s
19 classification or housing placement request. If the Department finds that
20 accommodating the inmate’s request would pose an unreasonable risk to
21 institutional safety or security, the inmate’s health or safety, or the safety or

1 security of other inmates or staff, the Department may decide that it cannot
2 accommodate the request.

3 (2) The Department shall make its classification and housing placement
4 determinations on an objective basis.

5 (e) If the Department does not accommodate an inmate’s classification or
6 housing placement request, the Department shall, upon determining that it will
7 not accommodate the request, document in writing a specific reason the
8 Department is unable to accommodate the inmate’s classification or housing
9 placement request.

10 (f) The Department shall consider on an individualized basis whether
11 placement at a facility outside the State would best support a transgender,
12 gender-diverse, or intersex inmate’s health and safety and whether the
13 placement would pose risks to safety or security. The Department shall
14 coordinate with any facility outside the State to assess and reassess placement
15 determinations.

16 (g) The Department shall reassess an inmate’s housing placement at any
17 time if:

18 (1) the inmate requests a reassessment or raises concerns about the
19 inmate’s health or safety; or

20 (2) the inmate engages in misconduct, including conduct that poses a
21 safety risk to the inmate or to other inmates.

1 (h) The Department shall give a transgender, gender-diverse, or intersex
2 inmate’s perception of health and safety serious consideration in making bed
3 assignment and housing placement decisions, including:

4 (1) selecting the inmate with whom the inmate is housed to best support
5 safety and security; and

6 (2) if there is an articulable risk to the inmate, removing the risk, where
7 possible, or otherwise alleviating the risk.

8 Sec. 6. 28 V.S.A. § 820 is added to read:

9 § 820. PRISON RAPE ELIMINATION STANDARDS

10 (a) The Department of Corrections shall adopt and comply with the Prison
11 Rape Elimination Act national standards, 28 C.F.R. Part 115, in effect as of
12 January 1, 2024, for the prevention, detection, and monitoring of, and response
13 to, sexual abuse in correctional facilities, including:

14 (1) zero tolerance of sexual abuse;

15 (2) contracting with other entities for the confinement of inmates;

16 (3) inmate or detainee supervision;

17 (4) heightened protection for vulnerable detained individuals;

18 (5) limits to different-gender viewing and searches;

19 (6) accommodating inmates with special needs;

20 (7) hiring and promotion decisions;

21 (8) assessment and use of monitoring technology;

- 1 (9) evidence protocol and forensic medical examinations;
- 2 (10) agreements with outside public entities and community service
- 3 providers;
- 4 (11) agreements with outside law enforcement agencies;
- 5 (12) agreements with the prosecuting authority;
- 6 (13) employee training;
- 7 (14) volunteer and contractor training;
- 8 (15) inmate education;
- 9 (16) attorney and contractor notification of agency zero-tolerance
- 10 policy;
- 11 (17) specialized training related to investigations;
- 12 (18) specialized training related to medical care, including mental health
- 13 care;
- 14 (19) screening for risk of victimization and abusiveness;
- 15 (20) use of screening information;
- 16 (21) inmate reporting;
- 17 (22) exhaustion of administrative remedies;
- 18 (23) inmate access to outside confidential support services or legal
- 19 representation;
- 20 (24) third-party reporting;
- 21 (25) staff and facility or agency head reporting duties;

- 1 (26) reporting to other confinement facilities;
- 2 (27) staff first responder duties;
- 3 (28) coordinated response;
- 4 (29) agency protection against retaliation;
- 5 (30) duty to investigate;
- 6 (31) criminal and administrative agency investigations;
- 7 (32) evidence standard for administrative investigations;
- 8 (33) disciplinary sanctions for staff;
- 9 (34) disciplinary sanctions for inmates;
- 10 (35) referrals for prosecution for inmate-on-inmate sexual abuse;
- 11 (36) medical screenings, including mental health screenings, related to
12 history of sexual abuse;
- 13 (37) access to emergency medical services, including mental health
14 services;
- 15 (38) ongoing medical care, including mental health care, for sexual
16 abuse victims and abusers;
- 17 (39) immediate and ongoing access to sexual assault crisis services;
- 18 (40) sexual abuse incident reviews;
- 19 (41) data collection;
- 20 (42) data review for corrective action;
- 21 (43) data storage, publication, and destruction; and

1 Sec. 8. 28 V.S.A. § 127 is amended to read:

2 § 127. DEPARTMENT OF CORRECTIONS; PEER SUPPORT PROGRAM;
3 CONFIDENTIALITY

4 (a) As used in this section:

5 * * *

6 (7) “Staff member” means a supervising officer as defined in
7 subdivision 3(9)(14) of this title, a correctional officer as defined in
8 subdivision 3(10)(15) of this title, and any other employee of the Department.

9 * * *

10 Sec. 9. 28 V.S.A. § 701a is amended to read:

11 § 701a. SEGREGATION OF INMATES WITH A SERIOUS FUNCTIONAL
12 IMPAIRMENT

13 * * *

14 (b) As used in this section, “segregation” ~~shall have~~ has the same meaning
15 as in subdivision 3(12)(17) of this title.

16 * * *

17 Sec. 10. SEARCH POLICY REVIEW

18 (a) On or before August 1, 2026, the Department of Corrections shall
19 submit a revised search policy to the Joint Legislative Justice Oversight
20 Committee.

1 (b) The Joint Legislative Justice Oversight Committee shall review the
2 policy and recommend whether updates to the policy are warranted and what,
3 if any, statutory changes might be warranted.

4 Sec. 11. PRISON RAPE ELIMINATION STANDARDS AND REPORTING

5 On or before December 15, 2027, the Department of Corrections shall
6 submit a report to the House Committee on Corrections and Institutions and
7 the Senate Committee on Institutions. The report shall identify any changes to
8 the standards or reporting requirements under the Prison Rape Elimination Act,
9 34 U.S.C. §§ 30301–30309, as may be amended, and any impact on the
10 Department.

11 Sec. 12. GENDER-AFFIRMING CARE

12 On or before October 15, 2026, the Joint Legislative Justice Oversight
13 Committee shall review current practices related to gender-affirming care in
14 correctional settings and submit a report to the House Committee on
15 Corrections and Institutions and the Senate Committee on Institutions. The
16 report shall include recommended statutory language.

17 Sec. 13. EFFECTIVE DATE

18 This act shall take effect on July 1, 2026.

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4 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE