

1 TO THE HONORABLE SENATE:

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 bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 13 V.S.A. § 4815a is added to read:

8 § 4815a. COMPETENCY RESTORATION SERVICES WITHIN
9 FORENSIC FACILITY

10 (a) A person shall be transferred to the forensic facility established in
11 section 4826 of this title if the person:

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

13 (2) is not deemed a “person in need of treatment” pursuant to 18 V.S.A.
14 § 7101 currently receiving treatment through an order of hospitalization
15 pursuant to 18 V.S.A. § 7619; and

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

17 (b)(1) Upon admission, the forensic facility shall cause the person to be
18 evaluated for competency to stand trial not less often than the shorter of either
19 every six months or upon the determination by the forensic facility’s clinical
20 services director that the person is likely competent to stand trial. The results

1 of all evaluations shall be supplied to the court and the parties to the
2 underlying criminal action.

3 (2) At the request of a party the court may order that a second or
4 subsequent evaluation include a forensic risk assessment of the person that
5 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.

12 (c) The person shall remain at the forensic facility until the person receives
13 a verdict in the person’s underlying criminal case is restored to competency or
14 until the charges against the person have been dismissed.

15 (d) The person shall receive competency restoration services while at the
16 forensic facility according to a plan approved by the forensic facility’s clinical
17 services director. Such services may shall include any appropriate
18 combination of medication, education, accommodations, habilitation, or other
19 services identified as necessary or proper to achieve and maintain competency
20 to stand trial. The person’s refusal to receive competency restoration services
21 shall not be grounds for release or dismissal from the forensic facility.

1 continuous period of time equal to or greater than the maximum sentence for
2 the offense. Dismissal under this section shall not be required if the court finds
3 that dismissing the case would be contrary to the interest of justice.

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

5 § 4819a. FORENSIC FACILITY PLACEMENT FOR PERSONS

6 ACQUITTED OF CERTAIN CRIMES

7 (a) A person shall be transferred to the forensic facility established in
8 section 4826 of this title if the person has been acquitted of an offense
9 punishable by a life sentence pursuant to section 4819 of this chapter and the
10 person is not deemed a “person in need of treatment” pursuant to 18 V.S.A.
11 § 7101. A person who is charged with an offense punishable by a life sentence
12 and is found not guilty only by reason of insanity at the time of the offense
13 charged shall be committed to a forensic facility pursuant to this section. This
14 section shall not be construed to prohibit the temporary transfer of a person
15 requiring inpatient treatment through an order of hospitalization pursuant to 18
16 V.S.A. § 7619.

17 (b)(1) A hearing shall be held by the Criminal Division of the Superior
18 Court court where the person was tried within 40 days following admission to
19 the forensic facility, unless that period is extended by the court.

20 (2) Prior to the date of the hearing, the court shall order that a
21 psychiatric or psychological examination of the person be conducted and that a

1 psychiatric or psychological report be filed with the court addressing the
2 person's history and present symptoms; a description of the psychiatric,
3 psychological, and medical tests that were employed and their results; the
4 examiner's findings; and the examiner's opinions as to diagnosis, prognosis;
5 and whether the person is suffering from a mental disease or defect that, upon
6 the person's release, would create a substantial risk of bodily injury to another
7 person or serious damage to the property of another person a forensic risk
8 assessment of the person be conducted that includes:

9 (A) the person's history and present dangerousness

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

12 (C) the examiner's findings; and

13 (D) the examiner's opinion as to whether the person's release would
14 create a substantial risk of bodily injury to another person.

15 (3)(A) At the hearing, the court shall order the person committed to the
16 forensic facility, unless the person establishes by clear and convincing
17 evidence that the person is no longer suffering from a mental disease or defect
18 that, upon the person's release, would create a substantial risk of bodily injury
19 to another person or serious damage to the property of another person.

20 (B) If the court finds that the person has established the person's
21 burden under this subdivision, the court may enter an order consistent with

1 subdivision (d)(2) of this section by clear and convincing evidence that the
2 person is no longer suffering from a mental disease or defect that, upon the
3 person's release, would create a substantial risk of bodily injury to another
4 person, the court shall enter an order releasing the person pursuant to
5 subdivision (e)(2) of this subsection.

6 (c) A placement of a person at the forensic facility shall be for an
7 indeterminate period and shall not have a specified end date. The person shall
8 not be released until the person establishes by clear and convincing evidence
9 the person is no longer suffering from a mental disease or defect that, upon the
10 person's release, would create a substantial risk of bodily injury to another
11 person or serious damage to the property of another person.

12 (d) The Commissioner of Corrections shall provide adequate care and
13 individualized treatment at the forensic facility to persons ordered committed
14 pursuant to this section. In order that the commissioner may adequately
15 determine the nature of the person's condition and needs, all persons
16 committed pursuant to this section shall be promptly examined by qualified
17 personnel in order to provide a proper evaluation, diagnosis, and treatment
18 plan.

19 (e)(1)(A) The Commissioner of Corrections shall petition the unit of the
20 Criminal Division of the Superior Court in which the acquittal was returned
21 not less frequently than the shorter of every five years or the committing court

1 for release of the person upon certification by the clinical services director that
2 the person is no longer suffering from a mental disease or defect that, upon the
3 person's release, would create a substantial risk of bodily injury to another
4 person or serious damage to the property of another person.

5 (B) A person committed pursuant to subdivision (b)(3)(A) of this
6 section may petition the committing court for release on the grounds that the
7 person is no longer suffering from a mental disease or defect that, upon the
8 person's release, would create a substantial risk of bodily injury to another
9 person. A petition shall not be filed pursuant to this subdivision until at least
10 90 days after the issuance of the commitment order.

11 (2) If the reviewing court finds by clear and convincing evidence that
12 person is no longer suffering from a mental disease or defect that, upon the
13 person's release, would create a substantial risk of bodily injury to another
14 person or serious damage to the property of another person, the court shall:

15 (A) order the release of the person under a prescribed regimen of
16 medical, psychiatric, or psychological care or treatment that the forensic
17 facility's clinical services director has certified as appropriate and that has been
18 found by the court to be appropriate; and

19 (B) order, as an explicit condition of release, that the person comply
20 with the prescribed regimen of medical, psychiatric, or psychological care or
21 treatment together with any other conditions appropriate to protect the public.

1 (3) If the court finds that the person is suffering from a mental disease or
2 defect that, upon the person’s release, would create a substantial risk of bodily
3 injury to another person, the court shall deny the petition and order the person
4 committed to the forensic facility for continued treatment pursuant to this
5 section. If the court denies a petition filed under this section, no further petition
6 shall be brought for at least one year, unless a shorter duration is authorized by
7 the court.

8 (e) The Commissioner shall actively monitor compliance with orders
9 issued pursuant to subdivision (d)(2) of this section and shall immediately
10 return the person to the forensic facility if the Commissioner determines that
11 the person is noncompliant with the order and that the noncompliance may
12 create a risk of bodily injury to another person or serious damage to the
13 property of another. The Commissioner shall notify the Criminal Division of
14 the Superior Court in the county court where the where the person was
15 acquitted committed upon return of the person to the forensic facility. Upon
16 readmission, the court shall hold a hearing where the Commissioner state’s
17 attorney shall have the burden of establishing by a preponderance of the
18 evidence that the person was noncompliant with the court’s order for
19 conditional release and that the noncompliance creates a risk of bodily injury
20 to another person or serious damage to the property of another.

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

2 § 4826. FORENSIC FACILITY

3 (a)(1) As used in this chapter “forensic facility” means a locked facility or
4 placement that:

5 (A) the Department of Corrections provides for the secure evaluation,
6 treatment, and care of persons involved in the legal system who do not require
7 a hospitalization level of care; and

8 (B) 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 (2) The evaluations required by this chapter may be conducted pursuant
12 to contracts entered into between the Commissioner of General Services and
13 evaluation providers.

14 (b) The Commissioner of Corrections shall establish and operate a locked
15 secure forensic facility for the assessment and safe housing secure evaluation,
16 treatment, and care of persons who are subject to any stage of proceedings
17 under this chapter or who have been acquitted pursuant to section 4819 of this
18 chapter have been transferred pursuant to subsections 4815a(a) and 4819a(a) of
19 this title. The forensic facility shall not refuse any persons it is ordered to
20 admit, nor shall it and it shall not require any clinical or diagnostic
21 prerequisites for admission. All forensic, clinical, and competency restoration

1 services provided at the forensic facility shall be overseen by a clinical services
2 director.

3 (b) Any records related to a person placed at the forensic facility shall be
4 exempt from public inspection and copying under the Public Records Act and
5 shall be kept confidential, except that records shall be made available to the
6 parties in the underlying criminal case upon request.

7 (c) Persons shall be admitted to and maintained at the forensic facility
8 pursuant to sections 4815a and 4819a of this title.

9 (d) The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 to
10 implement this section.

11 Sec. 5. RULEMAKING; FORENSIC FACILITY

12 Pending the adoption of permanent rules pursuant to 3 V.S.A. chapter 25 to
13 implement the provisions of Secs. 1–4 of this act, the Commissioner of
14 Corrections shall adopt emergency rules pursuant to 3 V.S.A. § 844 not later
15 than January 1, 2027, which shall be deemed to meet the emergency
16 rulemaking standard in 3 V.S.A. § 844(a).

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

18 RULE 1101. APPLICABILITY OF RULES

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

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

3 * * *

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

11 * * *

12 Sec. 7. EFFECTIVE DATE

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

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21 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE