

1 S.193

2 Representatives Burditt of West Rutland, Arsenault of Williston, Christie of
3 Hartford, Dolan of Essex Junction, Goodnow of Brattleboro, Goslant of
4 Northfield, Harvey of Castleton, LaLonde of South Burlington, Malay of
5 Pittsford, and Oliver of Sheldon move that the report of the Committee on
6 Judiciary be amended as follows:

7 First: By striking out Sec. 1, legislative intent, in its entirety and inserting
8 in lieu thereof a new Sec. 1 to read as follows:

9 Sec. 1. LEGISLATIVE INTENT

10 It is the intent of the General Assembly that the Secretary of Human
11 Services shall establish and operate a locked secure forensic facility by July 1,
12 2029 for the competency restoration, evaluation, stabilization, treatment, and
13 care of persons who have been found not competent to stand trial or not guilty
14 by reason of insanity for serious criminal offenses. The Department of
15 Corrections shall not operate or staff the forensic facility, with the exception
16 that employees of the Department of Corrections may provide security services
17 for the facility at the admitting area of and around the outside perimeter of a
18 forensic facility if it is co-located on the grounds of a correctional facility.

19 Second: In Sec. 7, feasibility plan; forensic facility, in subsection (a), by
20 striking out subdivision (12) in its entirety and inserting in lieu thereof a new
21 subdivision (12) to read as follows:

1 (12) opportunities and cost estimates for persons who would be eligible
2 for placement at the forensic facility to receive, while the development of a
3 forensic facility in Vermont is pending, placement in an out-of-state residence
4 where clinically appropriate programming can be provided;

5 Third: In Sec. 7, feasibility plan; forensic facility, in subsection (b), after
6 the word “section” by inserting “and on the emergency rulemaking required by
7 Sec. 12 of this act”

8 Fourth: In Sec. 7, feasibility plan; forensic facility, by inserting a new
9 subsection (c) to read as follows:

10 (c)(1) Funds appropriated to the Agency of Human Services and its
11 departments in fiscal year 2027 shall be used to complete the feasibility plan
12 required by this section and any other planning activities necessary to
13 implement this act, but absent further legislative enactment by the General
14 Assembly, the Agency and its departments shall not expend funds in fiscal year
15 2027 for the construction or fit-up of a forensic facility.

16 (2) No further legislative enactment by the General Assembly shall be
17 required to implement the interim forensic and competency restoration
18 program established by emergency rules adopted pursuant to Sec. 12 of this
19 act. The interim forensic and competency restoration program is contingent on
20 the availability of sufficient resources including appropriate staffing levels.

1 Fifth: By striking out Secs. 9 and 10 in their entirety and inserting in lieu
2 thereof six new sections to be Secs. 9, 10, 11, 12, 13, and 14 to read as follows:

3 Sec. 9. 13 V.S.A. § 4815a is added to read:

4 § 4815a. COMPETENCY RESTORATION SERVICES WITHIN

5 FORENSIC FACILITY

6 (a) A person shall be placed at the forensic facility established in section
7 4826 of this title if the person:

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

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

10 or

11 (B) if the person is not held without bail pursuant to section 7553 of
12 this title, has a qualifying condition and it has been determined that the
13 person’s release would create a substantial risk of bodily injury to another
14 person;

15 (3) is not currently:

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

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

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

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

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

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

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

13 (3)(A) If the court finds after the hearing that the person is competent to
14 stand trial, the court shall immediately notify the State’s Attorney and the
15 person’s counsel in the criminal case.

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

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

1 (c)(1) At the request of a party or the Agency of Human Services Medical
2 Director, the court may order that a competency evaluation conducted pursuant
3 to subsection (b) of this section include an opinion on whether the person’s
4 competency can be restored. If a request is made pursuant to this subsection,
5 the forensic facility shall cause the person to be evaluated for restorability to
6 competence prior to the hearing.

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

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

13 (B) Prior to the date of the hearing, the court shall order that a
14 forensic risk assessment of the person be conducted by an evaluator
15 appropriately qualified for the qualifying condition of the person that includes:

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

17 (ii) a description of any tests that were employed and the results of
18 the tests;

19 (iii) the examiner’s findings;

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

1 (v) recommendations for evidence-based treatment and
2 supervision, including in a community-based placement, that would support
3 the person’s success and mitigate risk of aggression and violence; and

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

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

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

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

21 (i) every 12 months;

1 (ii) at any time upon the determination by the Agency of Human
2 Services Medical Director that the person no longer has a qualifying condition
3 and the person’s release would not create a substantial risk of bodily injury to
4 another person; and

5 (iii) upon petition of the person filed at any time after 90 days
6 following an order of continued commitment issued pursuant to subdivision
7 (A) of this subdivision (4), and thereafter not earlier than six months from the
8 issuance of an order for continued commitment under subdivision (4)(A) of
9 this subsection (c).

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

15 (i) order the release of the person under a prescribed regimen of
16 medical, psychiatric, or psychological care or treatment, housing, and
17 supervision by the Department of Corrections in collaboration with the
18 Commissioner of Mental Health; the Department of Disabilities, Aging, and
19 Independent Living; or the Department of Health, that the Agency of Human
20 Services Medical Director has certified as appropriate; and

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

7 (B) A person’s release pursuant to this subdivision (5) shall be
8 reviewed by the court every 12 months. The person shall be released from the
9 supervision of the Commissioner of Corrections unless the State’s Attorney
10 demonstrates by clear and convincing evidence at the hearing that continued
11 treatment and supervision is necessary to prevent the person from becoming a
12 substantial risk of bodily injury to another person.

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

17 (ii) At any hearing under this subdivision (5), the court shall ask if
18 the victim is present and, if so, shall offer the victim the opportunity to be
19 heard. The court may consider any views offered at the hearing by the victim,
20 including the victim’s views concerning the offense and preferences for the
21 person’s placement and care. If the victim is not present at the hearing, the

1 court shall ask whether the victim has expressed oral or written views
2 concerning the offense and preferences for the person’s placement and care,
3 and, if so, the court may consider those views.

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

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

20 (ii) The court may order continued treatment at the forensic
21 facility for a period not to exceed one year if the court finds that the

1 Commissioner is not currently able to provide appropriate custody, care, and
2 habilitation in a designated program. For good cause shown, the court may
3 extend the one-year period by an additional period not to exceed six months.

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

6 (ii) If the court finds at the review that appropriate custody, care,
7 and habilitation can be provided to the person in a designated program, the
8 court shall vacate the order for continued treatment and order the person
9 committed to the custody of the Commissioner pursuant to subdivision (A) of
10 this subdivision (6).

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

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

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

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

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

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

16 (g)(1) As appropriate for the needs of the person, the Agency of Human
17 Services Medical Director, in consultation with the Commissioner of Mental
18 Health; of Health; or of Disabilities, Aging, and Independent Living, shall
19 actively monitor compliance with orders issued pursuant to subdivision (c)(5)
20 of this section. Upon request from the Agency of Human Services Medical

1 Director, the court shall immediately order the return of a person to the
2 forensic facility if:

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

5 (B) the Agency of Human Services Medical Director has reason to
6 believe that the person has a qualifying condition and that the person’s
7 continued release would create a substantial risk of bodily injury to another
8 person.

9 (2) The Agency of Human Services Medical Director shall notify the
10 court where the person was committed upon return of the person to the forensic
11 facility. Upon readmission, the court shall hold a hearing at which the State’s
12 Attorney shall have the burden of establishing by clear and convincing
13 evidence that the person has a qualifying condition and that the person’s
14 continued release would create a substantial risk of bodily injury to another
15 person. If the State’s Attorney meets its burden, the court shall order the
16 person readmitted to the forensic facility for treatment pursuant to this section.
17 If the State’s Attorney does not meet its burden, the court shall order the
18 person restored to the status the person had when the person was returned to
19 the facility.

20 (h) The Agency of Human Services Medical Director shall receive prior
21 approval of the Criminal Division of the Superior Court where the person’s

1 underlying criminal charge is pending for any competency restoration plan
2 involving involuntary medication. The court shall not approve involuntary
3 medication unless the State’s Attorney establishes by clear and convincing
4 evidence that:

5 (1) the involuntary medication is medically appropriate;

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

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

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

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

17 Sec. 10. 13 V.S.A § 4819a is added to read:

18 § 4819a. FORENSIC FACILITY PLACEMENT FOR PERSONS

19 NOT GUILTY BY REASON OF INSANITY FOR CERTAIN

20 CRIMES

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

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

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

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

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

15 (B) a description of any tests that were employed and the results of
16 the tests;

17 (C) the examiner’s findings;

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

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

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

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

10 (B) 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 enter an order releasing the person pursuant to subdivisions
14 (e)(3)(A) and (B) of this section.

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

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

1 (d) The Agency of Human Services Medical Director shall, taking into
2 account public safety and the least restrictive conditions applicable, provide
3 adequate care and individualized treatment at the forensic facility to persons
4 ordered committed pursuant to this section. In order that the Medical Director
5 may adequately determine the nature of the person’s condition and needs, all
6 persons committed pursuant to this section shall be promptly examined by
7 qualified personnel in order to provide a proper evaluation, diagnosis, and
8 treatment plan.

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

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

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

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

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

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

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

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

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

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

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

18 (3) If the State’s Attorney does not establish by clear and convincing
19 evidence 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:

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

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

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

1 court’s order for conditional release and that the noncompliance creates a risk
2 of bodily injury to another person.

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

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

14 Sec. 11. 13 V.S.A. § 4826 is added to read:

15 § 4826. FORENSIC FACILITY; DEFINITIONS

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

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

1 (B) “Forensic facility” means the interim forensic and competency
2 restoration program established by emergency rules adopted pursuant to Sec.
3 12 of this act, which shall be a locked secure facility where:

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

8 (ii) a person is transferred pursuant to subsections 4815a(a) and
9 4819a(a) of this title.

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

13 (i) incompetent to stand trial; or

14 (ii) not guilty by reason of insanity.

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

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

1 (b) The Secretary of Human Services shall establish and operate a locked
2 secure forensic facility for the competency restoration, evaluation,
3 stabilization, treatment, and care of persons who have been transferred
4 pursuant to subsections 4815a(a) and 4819a(a) of this title. The forensic
5 facility’s clinical, forensic, and competency restoration services shall be
6 overseen by the Agency of Human Services Medical Director. The forensic
7 facility shall:

8 (1) be designed and operated in a manner that supports therapeutic,
9 recovery-oriented, and trauma-informed programming while maintaining
10 appropriate levels of safety and security;

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

13 (3) provide for the safe competency restoration, evaluation, treatment,
14 stabilization, and care of persons, including the ability to separate the
15 population by sex or gender and to otherwise address clinical, safety, or
16 operational considerations as appropriate, including the possible operation of
17 multiple facilities;

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

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

6 (6) ensure that a registered nurse licensed pursuant to 26 V.S.A. chapter
7 28 or a physician licensed pursuant to 26 V.S.A. chapter 23 or 33 is available
8 to provide care to transferred persons as clinically necessary;

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

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

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

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

20 (11) implement grievance and appeals procedures; and

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

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

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

9 (2) the person’s health care providers may, with the person’s
10 permission, view forensic facility records of the person’s psychiatric
11 assessments at the facility, including assessments of the person’s competency
12 to stand trial and criminal responsibility.

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

17 (e) The Secretary of Human Services shall regularly consult with the
18 Agency of Human Services Medical Director and the Commissioners of
19 Corrections; of Mental Health; of Health; and of Disabilities, Aging, and
20 Independent Living when performing the duties required by this chapter for
21 operating the forensic facility.

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

4 Sec. 12. EMERGENCY RULEMAKING; INTERIM FORENSIC
5 AND COMPETENCY RESTORATION PROGRAM

6 (a) On or before December 31, 2026, the Secretary of Human Services, in
7 consultation with the Departments of Corrections; of Health; of Mental Health;
8 and of Disabilities, Aging, and Independent Living, shall adopt emergency
9 rules pursuant to 3 V.S.A. chapter 25 to establish an interim forensic and
10 competency restoration program that shall be effective on July 1, 2027 and
11 shall operate pending the completion of a permanent forensic facility. The
12 emergency rules shall establish for the interim forensic and competency
13 restoration program and consistent with the standards and procedures of Secs.
14 9, 10, and 11 of this act:

15 (1) clinically appropriate standards governing the provision of services
16 in the forensic and competency restoration program, including requirements
17 related to staffing patterns and ratios; staff qualifications; where the person is
18 placed within a Department of Corrections facility; licensure and training;
19 clinical supervision; and the delivery of safe, effective, evidence-informed
20 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;

4 (3) the manner in which the Department of Corrections would cooperate
5 with and obtain necessary information from other departments about persons
6 released under supervision from the forensic and competency restoration
7 program;

8 (4) opportunities and cost estimates for persons who would be eligible
9 for placement at the forensic facility to receive, while the development of a
10 forensic facility in Vermont is pending, competency restoration services within
11 a Vermont correctional facility, provided that the entity which provides the
12 services shall not be under contract with the Department of Corrections;

13 (5) victim notification procedures, including:

14 (A) which events within the program will trigger victim notification;

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

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

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

20 (6) any other provisions necessary to ensure the safe, effective, and
21 clinically appropriate implementation of Secs. 9, 10, and 11 of this act,

1 including potentially requiring the provision of forensic services in a unit that
2 is separate from other correctional populations.

3 (b) The emergency rules adopted pursuant to this section shall:

4 (1) be deemed to have met the standard for emergency rulemaking set
5 forth in 3 V.S.A. § 844(a);

6 (2) notwithstanding 3 V.S.A. § 844(b), remain in effect until July 1,
7 2029, and

8 (3) be repealed on July 1, 2029.

9 Sec. 13. REPEALS

10 Sec. 9–11 shall be repealed on July 1, 2029.

11 Sec. 14. EFFECTIVE DATES

12 (a) This section, Sec. 1, Sec. 3, and Secs. 6–13 shall take effect on July 1,
13 2026.

14 (b) Secs. 2, 4, and 5 shall take effect on July 1, 2029.