

S.193

Introduced by Senator Lyons

Referred to Committee on

Date:

Subject: Criminal procedure; public safety; mental health; forensic facility;  
competency restoration

Statement of purpose of bill as introduced: This bill proposes to establish a forensic facility for certain criminal justice-involved persons; to require the court, unless contrary to the interests of justice, to dismiss misdemeanor charges against a person who has been found incompetent to stand trial if, after the finding of incompetence, the case remains inactive for a continuous period of time equal to or greater than the maximum sentence for the offense; and to limit the applicability of the Vermont Rules of Evidence in proceedings involving competency restoration and granting or revoking conditional release from a forensic facility.

An act relating to establishing a forensic facility for certain criminal justice-involved persons

1 It is hereby enacted by the General Assembly of the State of Vermont:

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

3 § 4815a. COMPETENCY RESTORATION SERVICES WITHIN  
4 FORENSIC FACILITY

5 (a) A person shall be transferred to the forensic facility established in  
6 section 4826 of this title if the person has been charged with an offense  
7 punishable by a life sentence, the person is not deemed a “person in need of  
8 treatment” pursuant to 18 V.S.A. § 7101, and the person has been found not  
9 competent to stand trial.

10 (b) Upon admission, the forensic facility shall cause the person to be  
11 evaluated for competency to stand trial not less often than the shorter of either  
12 every six months or upon the determination by the forensic facility’s clinical  
13 services director that the person is likely competent to stand trial. The results  
14 of all evaluations shall be supplied to the court and the parties to the  
15 underlying criminal action.

16 (c) A person shall remain at the forensic facility until the person receives a  
17 verdict in the person’s underlying criminal case or until the charges against the  
18 person have been dismissed.

19 (d) The person shall receive competency restoration services while at the  
20 forensic facility according to a plan approved by the forensic facility’s clinical  
21 services director. Such services may include any appropriate combination of

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

5 (e) Competency restoration services shall be maintained until the person  
6 receives a verdict in the person's underlying criminal case.

7 (f) The Commissioner shall receive prior approval of the Criminal Division  
8 of the Superior Court where the person's underlying criminal charge is pending  
9 for any competency restoration plan involving involuntary medication. The  
10 court shall not approve involuntary medication unless the court finds that the  
11 involuntary medication is clinically appropriate and is likely to aid in the  
12 restoration of the person's competency to stand trial.

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

14 § 4817. COMPETENCY TO STAND TRIAL; DETERMINATION;

15 DISMISSAL

16 \* \* \*

17 (e) When a person has been found incompetent to stand trial for an alleged  
18 misdemeanor offense, the charges against the person shall be dismissed with  
19 prejudice if, after the finding of incompetence, the case remains inactive for a  
20 continuous period of time equal to or greater than the maximum sentence for

1 the offense. Dismissal under this section shall not be required if the court finds  
2 that dismissing the case would be contrary to the interest of justice.

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

4 § 4819a. FORENSIC FACILITY PLACEMENT FOR PERSONS

5 ACQUITTED OF CERTAIN CRIMES

6 (a) A person shall be transferred to the forensic facility established in  
7 section 4826 of this title if the person has been acquitted of an offense  
8 punishable by a life sentence pursuant to section 4819 of this chapter and the  
9 person is not deemed a “person in need of treatment” pursuant to 18 V.S.A.  
10 § 7101.

11 (b)(1) A hearing shall be held by the Criminal Division of the Superior  
12 Court within 40 days following admission to the forensic facility, unless that  
13 period is extended by the court.

14 (2) At the hearing, the court shall order the person committed to the  
15 forensic facility, unless the person establishes by clear and convincing  
16 evidence that the person is no longer suffering from a mental disease or defect,  
17 that upon the person’s release, would create a substantial risk of bodily injury  
18 to another person or serious damage to the property of another person. If the  
19 court finds that the person has established the person’s burden under this  
20 subdivision, the court may enter an order consistent with subdivision (d)(2) of  
21 this section.

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

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

16          (d)(1) The Commissioner of Corrections shall petition the unit of the  
17          Criminal Division of the Superior Court in which the acquittal was returned  
18          not less frequently than the shorter of every five years or upon certification by  
19          the clinical services director that the person is no longer suffering from a  
20          mental disease or defect that, upon the person's release, would create a

1 substantial risk of bodily injury to another person or serious damage to the  
2 property of another person.

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

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

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

14 (e) The Commissioner of Corrections shall actively monitor compliance  
15 with orders issued under subdivision (d)(2) of this section and shall  
16 immediately return the person to the forensic facility if the Commissioner or  
17 the Commissioner's designees determine that the person is noncompliant with  
18 the order and that the noncompliance may create a risk of bodily injury to  
19 another person or serious damage to the property of another. The  
20 Commissioner shall notify the Criminal Division of the Superior Court in the  
21 county where the person was acquitted upon return of the person to the

1 forensic facility. Upon readmission, the court shall hold a hearing where the  
2 Commissioner shall have the burden of establishing by a preponderance of the  
3 evidence that the person was noncompliant with the court's order for  
4 conditional release and that the noncompliance creates a risk of bodily injury  
5 to another person or serious damage to the property of another.

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

7 § 4826. FORENSIC FACILITY

8 (a) The Commissioner of Corrections shall establish and operate a locked  
9 secure forensic facility for the assessment and safe housing of persons who are  
10 subject to any stage of proceedings under this chapter or who have been  
11 acquitted pursuant to section 4819 of this chapter. The forensic facility shall  
12 not refuse any persons it is ordered to admit, nor shall it require any clinical or  
13 diagnostic prerequisites for admission. All forensic, clinical, and competency  
14 restoration services provided at the forensic facility shall be overseen by a  
15 clinical services director.

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

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

## Sec. 5. RULEMAKING; FORENSIC FACILITY

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

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

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VT LEG #386014 v.1



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