

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number: H.555 Name of Bill: Commitment of a criminal defendant who is incompetent to stand trial because of a traumatic brain injury.

Agency/Dept: DPS-SP Author of Bill Review: Det Sgt Fred Cornell

Date of Bill Review: 1/8/2014 Status of Bill: (check one):

 Upon Introduction ☐ As passed by 1st body ☒ As passed by both bodies

Analysis of Bill

1. **Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why*
Proposes to provide the court with the authority to commit criminal defendant who has been found to be incompetent to stand trial because of traumatic brain injury to the Department of Mental Health.

2. **Is there a need for this bill?** *Please explain why or why not*
Yes. There is currently no mechanism in place to properly deal with people who suffer from traumatic brain injuries and later enter the criminal justice system and are found incompetent to stand trial. As a result there is no way to protect the victim from further incidents.

3. **What are likely to be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**
In the articles I researched and read on line it is unknown how many people with TBI come into contact with the judicial system. The numbers could have a varying degree of impact on whatever agency currently ends up over seeing these people. At the "call for service level", the state police will not see any changes in the way we do business. In fact calls for service could go down as a result of "offender's" being dealt with instead of being let go with little or no oversight and reoffending. The largest stake holder will be the agency who over sees and continues to monitor and be responsible for people who are found incompetent to stand trial. While the bill suggests it will be the Department of Mental Health, it was suggested to me that the Department of Aging and Disability is really the correct place for this matter to be dealt with. It is unknown how much it would be to add a program like this and supervise it. It was suggested that no agency in Vermont is prepared to deal with this issue right now from either a fiscal or programmatic perspective. None of the listed stakeholder's were aware of the bill when I called. Health organizations like Medicaid/Medicare could see an influx of cases from uninsured defendants. The state's attorney's, Judge, and defender general I spoke with all agree that this bill is a good starting point towards closing a hole that exists in the law. There is little burden placed on each of these agencies as they are already dealing with these cases but would now have a proper venue to deal with them. There could be a slight decrease in work load if a successful solution can be found for how to deal with TBI issues can be found. The Bill's author, Van Wyck of Addison states that there is no supervision, no treatment options for TBI defendant's, and no teeth for the legal system to deal with these TBI issues. In speaking with a mental health representative they stated that the bill is a good start mirroring what the other stake holders offered. They went on to say the big hurdles are ultimately the fiscal and management side. Since the issue of TBI is brand new there are current ideas as to how much money would need to be budgeted to staff and implement a program to handle the issue.

4. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be**

their perspective on it?

The Brain Injury Association of Vermont- This bill would bring to the forefront the TBI issue. Other stakeholders will be looking to this group for research and guidance on how to proceed with this issue. This may result in a need for further funding and staffing.

5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc)*

[Click here to enter text.](#)

6. **Other Stakeholders:**

6.1. **Who else is likely to support the proposal and why?**

Brain Injury Association of Vermont- will give the judicial system the means to deal with people who suffer from TBI. State's Attorney's/ Judges/defender general's office will be afforded a tool they did not previously possess to be able to deal with these issues when they arise. While each have a differing focus on what the definition should say, or how far it should reach, all agree there is a need for this matter to be visited. As stated above, Mental Health also believes there is a need for this bill and supports. But they have concerns for funding and management of these cases.

6.2. **Who else is likely to oppose the proposal and why?**

None

7. **Rationale for recommendation:** *Justify recommendation stated above.*

[Click here to enter text.](#)

8. **Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended positions.*

NONE. *****05-23-2014 this bill has been passed by both bodies. It will not take affect until July 2018. The original intent of the first bill I read is in the final approved bill with some additions, none which would change our position. The time delay allows for a study, funded with \$50,000, to help DHS project a budget and personnel needs associated with these new clients. This bill goes into greater detail than the original with regards to who can request a hearing and under what circumstances. Also details the responsibilities of DHS with these individuals.

Secretary/Commissioner has reviewed this documents:



Date: 5/27/2014

Please return this bill review as a Microsoft Word or PDF document to laura.gray@state.vt.us