

1 S.3

2 Representative LaLonde of South Burlington moves that the House concur  
3 in the Senate proposal of amendment to the House proposal of amendment  
4 with further proposal of amendment by striking out Sec. 6, reports; forensic  
5 care working group; prosecutor notification; competency restoration models, in  
6 its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

7 Sec. 6. REPORTS; FORENSIC CARE WORKING GROUP; PROSECUTOR  
8 NOTIFICATION; COMPETENCY RESTORATION MODELS

9 (a) On or before July 15, 2021, the Department of Mental Health shall  
10 convene working groups of interested stakeholders to provide  
11 recommendations necessary to carry out the provisions in subsections (b) and  
12 (c) of this section, including as appropriate:

13 (1) a representative from the Department of Corrections;

14 (2) a representative from the Department of Disabilities, Aging, and  
15 Independent Living;

16 (3) a representative from the Department of Buildings and General  
17 Services;

18 (4) the Chief Superior Judge;

19 (5) a representative from the Department of State's Attorneys and  
20 Sheriffs;

21 (6) a representative from the Office of the Attorney General;

1           (7) a representative from the Office of the Defender General;

2           (8) the Director of Health Care Reform or designee;

3           (9) a representative, appointed by Vermont Care Partners;

4           (10) a representative, appointed by Vermont Legal Aid’s Mental Health  
5 Project;

6           (11) a representative, appointed by the Vermont Medical Society;

7           (12) three crime victims representatives, appointed by the Vermont  
8 Center for Crime Victim Services;

9           (13) the Mental Health Care Ombudsman established pursuant to  
10 18 V.S.A. § 7259 or designee;

11           (14) a representative of the designated hospitals, appointed by the  
12 Vermont Association of Hospitals and Health Care Systems;

13           (15) three individuals with lived experience of mental illness, at least  
14 one of whom has lived experience of the criminal justice system or the civil  
15 commitment system, or both, appointed by Vermont Psychiatric Survivors;

16           (16) a representative, appointed by the Vermont Developmental  
17 Disabilities Council; and

18           (17) any other interested party permitted by the Commissioner of  
19 Mental Health.

20           (b)(1) On or before August 1, 2022, the Department of Mental Health shall  
21 submit a final report to the Joint Legislative Justice Oversight Committee and

1 the Chairs of the House Committees on Corrections and Institutions, on Health  
2 Care, and on Judiciary and of the Senate Committees on Health and Welfare  
3 and on Judiciary addressing:

4 (A) any gaps in the current mental health and criminal justice system  
5 structure related to individuals incompetent to stand trial or who are  
6 adjudicated not guilty by reason of insanity;

7 (B) opportunities to:

8 (i) improve public safety and address the treatment needs for  
9 individuals incompetent to stand trial or who are adjudicated not guilty by  
10 reason of insanity; and

11 (ii) consider the importance of victims' rights in the forensic care  
12 process;

13 (C) competency restoration models used in other states, including  
14 both models that do not rely on involuntary medication to restore competency  
15 and how cases where competency is not restored are addressed;

16 (D) models used in other states to determine public safety risks and  
17 the means used to address such risks, including guilty but mentally ill verdicts  
18 in criminal cases;

19 (E) due process requirements for defendants held without  
20 adjudication of a crime and presumed innocent;

1           (F) processes regarding other mental conditions affecting competence  
2           or sanity, including intellectual disabilities, traumatic brain injury, and  
3           dementia;

4           (G) models for forensic treatment, including the size, scope, and  
5           fiscal impact of any forensic treatment facility; and

6           (H) any additional recommendations.

7           (2) On or before January 15, 2022, the Department shall submit a  
8           preliminary report to the House Committees on Corrections and Institutions,  
9           on Health Care, and on Judiciary and to the Senate Committees on Health and  
10           Welfare and on Judiciary summarizing the work completed pursuant to  
11           subdivision (1) of this subsection to date, except with regard to the work  
12           completed pursuant to subdivision (1)(G).

13           (c) On or before February 15, 2022, the Department of Mental Health shall  
14           submit a report to the House Committees on Corrections and Institutions, on  
15           Health Care, and on Judiciary and to the Senate Committees on Health and  
16           Welfare and on Judiciary that:

17           (1) assesses the necessity of notification to the prosecutor upon  
18           becoming aware that individuals on orders of nonhospitalization pursuant to 18  
19           V.S.A. § 7618 are not complying with the order or that the alternative  
20           treatment is not adequate to meet the individual's treatment needs, including  
21           any recommendations:

1           (A) necessary to clarify the process;

2           (B) addressing what facts and circumstances should trigger the

3           Commissioner’s duty to notify the prosecutor; and

4           (C) addressing steps that the prosecutor should take after receiving

5           the notification; and

6           (2) summarizes the work completed to date by the working groups

7           regarding the models for forensic treatment, including the size, scope, and

8           fiscal impact of any forensic treatment facility, pursuant to subdivision

9           (b)(1)(G) of this section.

10          (d)(1) In conducting the work required by this section, including

11          evaluations for forensic treatment facility models, pursuant to subsections (b)

12          and (c) of this section, the working group shall ensure:

13               (A) that social and racial equity issues are considered, including

14               issues related to transgender and gender nonconforming persons; and

15               (B) consistency with the General Assembly’s policy in 18 V.S.A.

16               § 7629(c) of working “toward a mental health system that does not require

17               coercion or the use of involuntary medication.”

18               (2) These considerations shall be reflected in the final report submitted

19               pursuant to subdivision (b)(1) of this section and the report submitted pursuant

20               to subsection (c) of this section.

1        (e) The Department shall access regional or national expertise to present  
2        models to the working group for review, including any model recommended  
3        by members of the working group.

4        (f) The final report submitted pursuant to subdivision (b)(1) of this section  
5        and the report submitted pursuant to subdivision (c)(1) of this section shall  
6        include proposed draft legislation addressing any identified needed changes to  
7        statute.

8        (g) Members of the working group who are neither State employees nor  
9        otherwise paid to participate in the working group in their professional  
10       capacity shall be entitled to per diem compensation and reimbursement of  
11       expenses for attending meetings as permitted under 32 V.S.A. § 1010.