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H.555

Introduced by Representative Clarkson of Woodstock

Referred to Committee on

Date:

Subject: Criminal procedures; competency to stand trial; discharge hearing

Statement of purpose of bill as introduced: This bill proposes to require the court to hold a discharge hearing before a person who has been found incompetent to stand trial for a listed offense may be released from the custody of the Commissioner of Mental Health.

An act relating to proceedings involving persons found incompetent to stand trial

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

Sec. 1. 13 V.S.A. § 4822 is amended to read:

§ 4822. FINDINGS AND ORDER; PERSONS WITH A MENTAL ILLNESS

* * *

(e)(1) The court shall hold a hearing before the discharge from custody of any person charged with a listed crime and committed under this section. The discharge hearing shall be required in all circumstances where termination of the defendant's commitment to the Commissioner of Mental Health's care and custody is proposed, including when the Commissioner decides not to file an

1 application for continued treatment or when the Commissioner proposes the
2 defendant's discharge from custody prior to the expiration of a current order of
3 commitment.

4 (2) The court shall consider all relevant factors when determining
5 whether the defendant should be discharged under this subsection, including
6 the nature of the charged crimes underlying the initial commitment order and
7 the extent to which the defendant poses a risk to public safety.

8 (3) If a discharge hearing requirement is included in a defendant's initial
9 commitment order, the hearing requirement shall apply to subsequent
10 continued treatment orders issued for the same commitment, whether or not the
11 requirement is included in the subsequent treatment orders.

12 (f) If the Court determines that commitment shall no longer be necessary, it
13 shall issue an order discharging the patient from the custody of the ~~Department~~
14 Commissioner of Mental Health.

15 (f)(g) The Court shall issue its findings and order not later than 15 days
16 from the date of hearing.

17 Sec. 2. 2014 Acts and Resolves No. 58, Sec. 9 is amended to read:

18 Sec. 9. 13 V.S.A. § 4822 is amended to read:

19 § 4822. FINDINGS AND ORDER; PERSONS WITH A MENTAL ILLNESS

20 * * *

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2 any person charged with a listed crime and committed under this section. The
3 discharge hearing shall be required in all circumstances where termination of
4 the defendant's commitment to the Commissioner of Mental Health's care and
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6 application for continued treatment or when the Commissioner proposes the
7 defendant's discharge from custody prior to the expiration of a current order of
8 commitment.

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15 continued treatment orders issued for the same commitment, whether or not the
16 requirement is included in the subsequent treatment orders.

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18 shall issue an order discharging the patient from the custody of the ~~Department~~
19 Commissioner of Mental Health.

20 (~~f~~)(g) The Court shall issue its findings and order not later than 15 days
21 from the date of hearing.

1 Sec. 3. EFFECTIVE DATE

2 This act shall take effect on July 1, 2016.