

1 H.555

2 Introduced by Representative Van Wyck of Ferrisburgh

3 Referred to Committee on

4 Date:

5 Subject: Crimes and criminal procedure; insanity as defense; traumatic brain
6 injury

7 Statement of purpose of bill as introduced: This bill proposes to provide the
8 court with the authority to commit a criminal defendant who has been found to
9 be incompetent to stand trial because of a traumatic brain injury to the
10 Department of Mental Health.

11 An act relating to the commitment of a criminal defendant who is
12 incompetent to stand trial because of a traumatic brain injury

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

14 Sec. 1. 13 V.S.A. § 4817 is amended to read:

15 § 4817. COMPETENCY TO STAND TRIAL; DETERMINATION

16 (a) A person shall not be tried for a criminal offense if he or she is
17 incompetent to stand trial.

18 (b) If a person indicted, complained, or informed against for an alleged
19 criminal offense, an attorney or guardian acting in his or her behalf, or the ~~state~~
20 State, at any time before final judgment, raises before the court before which

1 such person is tried or is to be tried, the issue of whether such person is
2 incompetent to stand trial, or if the court has reason to believe that such person
3 may not be competent to stand trial, a hearing shall be held before such court at
4 which evidence shall be received and a finding made regarding his or her
5 competency to stand trial. However, in cases where the court has reason to
6 believe that such person may be incompetent to stand trial due to a mental
7 disease ~~or~~, mental defect, or traumatic brain injury, such hearing shall not be
8 held until an examination has been made and a report submitted by an
9 examining psychiatrist in accordance with sections 4814–4816 of this title.

10 (c) A person who has been found incompetent to stand trial for an alleged
11 offense may be tried for that offense if, upon subsequent hearing, such person
12 is found by the court having jurisdiction of his or her trial for the offense to
13 have become competent to stand trial.

14 Sec. 2. 13 V.S.A. § 4820 is amended to read:

15 § 4820. HEARING REGARDING COMMITMENT

16 When a person charged on information, complaint, or indictment with a
17 criminal offense:

18 * * *

19 (2) Is found upon hearing pursuant to section 4817 of this title to be
20 incompetent to stand trial due to a mental disease ~~or~~, mental defect, or
21 traumatic brain injury; or

1 * * *

2 Sec. 3. 18 V.S.A. § 7101 is amended to read:

3 § 7101. DEFINITIONS

4 As used in this part of this title, the following words, unless the context
5 otherwise requires, shall have the following meanings:

6 * * *

7 (17) “A person in need of treatment” means a person who is suffering
8 from mental illness or traumatic brain injury and, as a result of that mental
9 illness or traumatic brain injury, his or her capacity to exercise self-control,
10 judgment, or discretion in the conduct of his or her affairs and social relations
11 is so lessened that he or she poses a danger of harm to himself, to herself, or to
12 others:

13 * * *

14 Sec. 4. EFFECTIVE DATE

15 This act shall take effect on July 1, 2014.