



THE UNITED STATES VIRGIN ISLANDS
OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE
Charlotte Amalie, V.I. 00802
340-774-0001

January 13, 2020

The Honorable Novelte E. Francis, Jr.
President
Thirty-Third Legislature of the Virgin Islands
Capitol Building
St. Thomas, VI 00802

Re: ***Proposed Bill; Request to Legislature to Enact and Establish First Behavioral Health and Developmental Disability Act***

Dear Mr. President:

I am pleased to forward to you the enclosed Bill proposed by the Governor, establishing the first Behavioral Health and Developmental Disability Act ("Act"). The Act amends restructures and reclassifies sections and chapters of Title 19 that addressed public health and mental health services, and combines and expands these provisions into one Act. The Act also repeals certain sections or chapters within Title 19 to update the law, services and programs that are currently available in these areas to serve adults and children in the Virgin Islands community who suffer from behavioral health challenges, mental health disorders, intellectual or developmental disabilities, alcoholism, and drug dependency. Additionally, the Act establishes the first Behavioral Health, Mental Health, Developmental Disability, Alcohol or Substance Abuse Facility to serve the public's need for services and treatment here in the Virgin Islands. The Act is also enforced through the coordination and participation of multiple agencies and organizations and is structured to use territorial, out-of-state, private, public, and community resources to comprehensively treat individuals that face multiple health challenges.

As has become keenly evident in the aftermath of Hurricanes Irma and Maria, there is a pressing need in the community to comprehensively deal with mental health, developmental and intellectual disabilities and drug and alcohol dependency and abuse. This Act seeks to accomplish that.

The Act expands public health and mental health services in the Virgin Islands by adding the following additional programs and services:

1. Community Behavioral Health Services
2. New Divisions, Programs, Treatments, and Patient Rights:

- a. *Division of Behavioral Health, Mental Health, Developmental Disability, Alcoholism, and Drug Dependency Services;*
 - b. *Director of Behavioral Health, Mental Health, Developmental Disability, Alcoholism, and Drug Dependency Services;*
 - c. *Interdepartmental Coordinating Committee;*
 - d. *Emergency and Involuntary Commitment; and*
 - e. *Care of persons diagnosed with behavioral health challenges, mental health disorders, developmental disabilities, and alcohol or drug dependency by relative or friend; bond.*
3. Behavioral Health, Mental Health, Developmental Disability, Alcohol or Substance Abuse Facility
 4. New Types of Commitments, Examinations, and Reports:
 - a. *Behavioral Health Examiners;*
 - b. *Mental Competency Determination and Hearings;*
 - c. *Hospitalization of a Person Found Not Guilty by Reason of Insanity;*
 - d. *Hospitalization of a Convicted Person Suffering From Behavioral Disorder, Mental Disease, or Defect;*
 - e. *Hospitalization of an Imprisoned Person Suffering from Behavioral Health Challenge, Mental, Disease, or Defect;*
 - f. *Hospitalization of a Person Due for Release but Suffering from Behavioral Health Challenges; and*
 - g. *Civil commitment of a sexually dangerous person.*
 5. Expansion of Civil Commitment and Rehabilitation of Narcotic Addicts
 6. Expansion of Civil Commitment of Persons Not Charged with Any Criminal Offense
 7. Treatment of the Above By Telepsychology or Telehealth
 8. Expansion of Intellectual and Developmental Disabilities Services and Programs
 9. Expansion of Behavioral Health for children and young adults

The Act repeals or reclassifies the following provision in the Virgin Islands code to expand public health and mental health services to comprehensive behavioral health, mental disorders, developmental disabilities, alcoholism, and drug dependency services:

- Part I. Chapter 7. Maternal, Child Health, Physical Disability and Intellectual Disability Children's Services (§§ 151 — 153);
 - **Reclassified and moved into new Behavioral Health Act**
- Chapter 29. Subchapters IV. Civil Commitment and Rehabilitation of Narcotic Addicts (§§ 661 — 666) and Subchapter V. Civil Commitment of Persons Not Charged with Any Criminal Offense (§§ 681 — 696);
 - **Reclassified and moved into new Behavioral Health Act**
- Chapter 30 Virgin Islands Commission on Alcoholism and Narcotics (§§ 701 — 704)
 - **§701 is repealed**
 - **§702 is repealed**
 - **§703 is repealed**

- **§704 is repealed**
- Chapter 31. Behavioral Health, Alcoholism and Drug Dependency (§§ 710 — 729);
 - **§716 is repealed**
 - **§717 is repealed**
 - **§726 is repealed**
 - **§746 is repealed**
- Part V. Subchapters I - V (§§ 1101-1204)
 - **§1101 is repealed**
 - **§1111 is repealed**
 - **§1112 is repealed**
 - **§1113 is repealed**
 - **§1114 is repealed**
 - **§1130 is repealed**
 - **§1131 is repealed**
 - **§1131 is repealed**
 - **§1132 is repealed**
 - **§1133 is repealed**
 - **§1134 is repealed**
 - **§1135 is repealed**
 - **§1136 is repealed**
 - **§1137 is repealed**
 - **§1138 is repealed**
 - **§1139 is repealed**
 - **§1140 is repealed**
 - **§1141 is repealed**
 - **§1142 is repealed**
 - **§1143 is repealed**
 - **§1171 is repealed**
 - **§1172 is repealed**
 - **§1173 is repealed**
 - **§1174 is repealed**
 - **§1174(a) is repealed**
 - **§1175 is repealed**
 - **§1176 is repealed**
 - **§1177 is repealed**
 - **1201 is repealed**
 - **1202 is repealed**
 - **1204 is repealed**
- Part VIII. Mental Retardation Facilities and Community Health Centers Construction Act (Chs. 73 — 74)
 - **Reclassified and moved into new Behavioral Health Act**

- Title 5 Section 3637 of the Virgin Islands Code
 - **Is repealed and Reclassified and moved into new Behavioral Health Act**

I am asking the Legislature to give this proposed Bill prompt attention in light of the Virgin Islands need to restructure and update the provisions of Virgin Islands Law to address the difficulties that exist in providing comprehensive behavioral health and developmental health services. Your assistance in bringing these measures before the Thirty-Third Legislature for prompt and favorable consideration will be greatly appreciated.

Respectfully Yours,

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Albert Bryan, Jr.

Governor

BILL NO. - _____
THIRTY-THIRD LEGISLATURE OF THE UNITED STATES VIRGIN ISLANDS
REGULAR SESSION
2019

A Bill amending, restructuring, reclassifying and adopting the first comprehensive Virgin Islands Behavioral Health and Developmental Disability Act. The Act addresses services and interdepartmental agencies and organizations coordination of a structure to address providing support to individuals throughout the Virgin Islands who suffer from behavioral health challenges, mental health disorders, developmental disabilities, alcoholism, or drug dependency. The Act establishes community behavioral health, alcoholism, drug dependency, and developmental health and disability services, as well as provides for the first comprehensive public Behavioral Health and Developmental Disability Facility to treat individuals voluntarily and involuntarily who face behavioral health or developmental health challenges.

PROPOSED BY: The Governor

1 **WHEREAS**, gaps continue to exist in comprehensive behavioral health and
2 developmental health service systems;

3
4 **WHEREAS**, provisions for a comprehensive behavioral health and developmental health
5 service system have not yet been adopted within the Virgin Islands Code;

6
7 **WHEREAS**, there is a need in the Virgin Islands for a coordinated structure to build a new
8 comprehensive behavioral health and developmental health service system to address gaps
9 in services to those in the community who suffer from behavioral health challenges, mental
10 health disorders, developmental disabilities, alcoholism, or drug dependency;

11
12 **WHEREAS**, there is a lack of provisions to address the urgent need for supervision and
13 oversight by the courts, behavioral health professionals, and institutions, dealing with
14 persons within the Virgin Islands in need of services who suffer from behavioral health
15 challenges, mental health disorders, developmental disabilities, alcoholism, or drug
16 dependency;

17
18 **WHEREAS**, it is necessary to restructure and update the provisions of Virgin Islands Law
19 to address the difficulties that exist in the Virgin Islands with providing comprehensive
20 behavioral health and developmental health service and developing a comprehensive
21 behavioral health and developmental health service system;

22
23 **WHEREAS**, creating a “Behavioral Health and Developmental Disability Act” will allow
24 a comprehensive behavioral health and developmental health service system to be
25 established;

26

1 **WHEREAS**, the Act will allow for interdepartmental coordination between the court,
2 government agencies, private and public facilities, health professionals, and non-profit
3 organizations to respond to and address the needs of the Virgin Islands community;
4

5 **WHEREAS**, the interdepartmental coordination and comprehensive Act will facilitate
6 establishing and expanding all of the following in the Virgin Islands: 1) residential
7 psychiatric facilities, 2) community-based crisis services, 3) residential and outpatient
8 behavioral health services with case management, 4) medication-assisted treatment and
9 associated recovery supports, 5) adequate workforce, 6) detoxification services, and 7)
10 affordable supportive housing;
11

12 **WHEREAS**, the purpose of this Act is to enact a plan that will support consistent,
13 comprehensive, and ongoing partnerships that seek to improve behavioral health treatment
14 by strengthening guardianship and community attachment in the Virgin Islands now and
15 in the future;
16

17 ***Be it enacted by the Legislature of the Virgin Islands:***
18

19 **SECTION 1.** Title 32, Chapter 21, Section 517, subsection “(c)” is amended by
20 striking the following: “Fifteen (15%) percent to hospitals and health”, “One (1%) percent
21 for gambling addiction and education programs”, and “Five (5%) percent to the University
22 of the Virgin Islands” and replacing them with “Twenty-one (21%) percent to the
23 Behavioral Health and Developmental Disability Treatment Facility”.
24

25 **SECTION 2.** Title 19, Chapters 47 and 48 (§§ 1251-1267) are being removed
26 from Part V. Mental Health and reclassified under Part I. Chapter 7. which is to be renamed
27 “Cancer and Autoimmune Disease Registry” and renumbered. Title 19, Chapter 75.
28 Fluoridation of Water (§§ 4201-4204) is to be removed and reclassified under Part VI.
29 Regulatory Provisions Concerning Public Health (Chs. 51 — 62) as “Chapter 51A.
30 Fluoridation of Water” and renumbered.
31

32 **SECTION 3.** Title 19, Part V. Mental Health, is to be renamed the “Behavioral
33 Health and Developmental Disability Act”, and provisions – Part I. Chapter 7. Maternal,
34 Child Health, Physical Disability and Intellectual Disability Children’s Services (§§ 151 —
35 153), Chapter 29. Subchapters IV. Civil Commitment and Rehabilitation of Narcotic
36 Addicts (§§ 661 — 666) and Subchapter V. Civil Commitment of Persons Not Charged
37 with Any Criminal Offense (§§ 681 — 696); Chapter 31. Behavioral Health, Alcoholism
38 and Drug Dependency (§§ 710 — 729), and Part VIII. Mental Retardation Facilities and
39 Community Health Centers Construction Act (Chs. 73 — 74) are to be renumbered and
40 reclassified into the newly entitled “Part V. Behavioral Health and Developmental
41 Disability Act of 2020” as follows:
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43
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45
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1 **Part V. Behavioral Health and Developmental Disability Act (Chs. 45 - 48)**

2 *Chapter 45. Behavioral Health, Mental Health Disorders, Developmental Disabilities, and Alcohol or*
3 *Drug Dependency (Subchs. I – III)*

4
5 Subchapter I. Community Behavioral Health Services (§§ 1000-1009)

- 6 **1000.** Purpose
7 **1001.** Definitions
8 **1002.** Commissioner’s Duties Regarding Behavioral Health Services
9 **1003.** Cooperative Planning Required; Grant Recipients and Bureau of
10 Correction Authorities
11 **1004.** Community Service Networks
12 **1005.** Crisis Intervention Program
13 **1006.** Crisis Intervention Team
14 **1007.** Behavioral Health Training
15 **1008.** Protective Custody
16 **1009.** Sexual Activity with Recipient of Services Prohibited

17
18 Subchapter II. Divisions, Programs, Treatment, Patient Rights (§§ 1010-
19 1040)

- 20 **1010.** Declaration of Policy
21 **1011.** Division of Behavioral Health, Mental Health, Developmental Disability,
22 Alcoholism, and Drug Dependency Services; Director; Bureaus; Bureau
23 Chiefs
24 **1012.** Powers of the Division
25 **1013.** Duties of Division
26 **1014.** Interdepartmental Coordinating Committee
27 **1015.** Citizens Advisory Council on Behavioral Health, Alcoholism and Drug
28 Dependency, and Developmental Disabilities
29 **1016.** Standards for public and private treatment facilities; enforcement
30 procedures; penalties
31 **1017.** Acceptance for treatment; rules
32 **1018.** Voluntary treatment for persons who suffer from behavioral health
33 challenges or mental health disorders, alcoholism, intoxication and
34 developmental disabilities
35 **1019.** Treatment and services for persons who suffer from behavioral health
36 challenges or mental health disorders, alcoholism, intoxication, drug
37 dependency, and developmental disabilities
38 **1020.** Emergency commitment
39 **1021.** Involuntary Commitment of Persons Diagnosed with Behavioral Health
40 Challenges or
41 Mental Health Disorders, Alcoholic and Drug Dependency, and
42 Developmental Disability, or Dual Diagnose into a Behavioral Health
43 Treatment Facility or Hospital
44 **1022.** Involuntary treatment with Medication
45 **1023.** Transfer to other Facilities
46 **1024.** Hospitalization Outside of the Territory
47 **1025.** Protective Custody

- 1 **1026.** Expense of transportation
- 2 **1027.** Maintenance of patients
- 3 **1028.** Care of persons diagnosed with behavioral health challenges, mental health
- 4 disorders, developmental disabilities, and alcohol or drug dependency by
- 5 relative or friend; bond
- 6 **1029.** Conditional Release
- 7 **1030.** Return from Unauthorized Absence
- 8 **1031.** Patient’s Rights
- 9 **1032.** Visitation and communication of patients
- 10 **1033.** Progressive Treatment Program
- 11 **1034.** Support of person adjudged behaviorally challenged or diagnosed with
- 12 mental health disorders
- 13 **1035.** Discharge
- 14 **1036.** Notification to Bureau of Corrections and Police Commissioner
- 15 **1037.** Records of persons who suffer from behavioral, mental, or developmental
- 16 disability health disorders and alcoholism, intoxication and drug
- 17 dependents
- 18 **1038.** Prohibitive Act: Penalty
- 19 **1039.** Criminal laws limitations
- 20 **1040.** Severability; inconsistency with other provisions

21

22 Subchapter III. Behavioral Health, Mental Health, Developmental Disability,

23 Alcohol or Substance Abuse Facility (§§ 1041-1044)

- 24 **1041.** Establishment of a Behavioral Health, Mental Health, Developmental
- 25 Disability, Alcohol or Substance Abuse Treatment Facility
- 26 **1042.** Persons who may be admitted into the Behavioral Health, Mental Health,
- 27 Developmental
- 28 Disability, Alcohol or Substance Abuse Treatment Facility
- 29 **1043.** Rules and Regulation
- 30 **1044.** Funding Source

31

32

33 *Chapter 46. Mental Health (Subchs. I – X)*

34

35 Subchapter I. Commitment, Examination, and Reports (§§ 1045 – 1053)

- 36 **1045.** Definitions
- 37 **1046.** Authority and Responsibility of the Commissioner of Health
- 38 **1047.** Behavioral Health Examiners
- 39 **1048.** Psychiatric or Psychological Reports
- 40 **1049.** Periodic Report and Information Requirements
- 41 **1050.** Videotape Record
- 42 **1051.** Return of Escaped Patients
- 43 **1052.** Duty to Report Prisoner’s Release to Police Commissioner
- 44 **1053.** Habeas Corpus Unimpaired

1 Subchapter II. Mental Competency (§§ 1054 – 1059)

- 2 **1054.** Determination of mental competency to stand trial or to undergo post-
3 release
4 **1055.** Hearing
5 **1056.** Admissibility of Finding of Competency
6 **1057.** Determination and Disposition
7 **1058.** Request for Discharge
8 **1059.** Discharge

9
10 Subchapter III. Not Guilty by Reason of Insanity (§§ 1060 - 1067)

- 11 **1060.** Determination of the Existence of Insanity at the Time of the Offense
12 **1061.** Hospitalization of a Person Found Not Guilty by Reason of Insanity
13 **1062.** Hearing on the Release
14 **1063.** The Burden of Proof
15 **1064.** Psychiatric or Psychological Examination and Report
16 **1065.** Determination and Disposition
17 **1066.** Conditional Release
18 **1067.** Discharge

19
20 Subchapter IV. Hospitalization of an Imprisoned person (§§ 1068 - 1072)

- 21 **1068.** Hospitalization of a Convicted Person Suffering from Behavioral Disorder,
22 **1069.** Mental Disease, or Defect
23 **1070.** Hearing
24 **1071.** Psychiatric and Psychological Examination and Report
25 **1072.** Determination and Disposition
26 **1073.** Discharge

27
28 Subchapter V. Hospitalization of Person Due for Release (§§ 1073 – 1077)

- 29 **1074.** Hospitalization of an Imprisoned Person Suffering from Behavioral Health
30 Challenge, Mental, Disease, or Defect
31 **1075.** Psychiatric or Psychological Examination and Report
32 **1076.** Hearing
33 **1077.** Determination and Disposition
34 **1078.** Discharge

35
36 Subchapter VI. Hospitalization of a Person Due for Release but Suffering from
37 Behavioral Health Challenges or Mental Health Disorders (§§ 1078 – 1083)

- 38 **1079.** Hospitalization of a Person Due for Release but Suffering from Behavioral
39 Health Challenges, Mental Health Disorders, Or Defects
40 **1080.** Psychiatric or Psychological Examination and Report
41 **1081.** Hearing
42 **1082.** Determination and Disposition
43 **1083.** Discharge
44 **1084.** Release to State of Certain Other Persons

1 Subchapter VII. Civil Commitment of a Sexually Dangerous Person (§§ 1084 –
2 1089)

- 3 **1085.** Civil commitment of a sexually dangerous person
4 **1086.** Psychiatric or Psychological Examination and Report
5 **1087.** Hearing
6 **1088.** Determination and Disposition
7 **1089.** Discharge
8 **1090.** Revocation of Conditional Discharge

9
10 Subchapter VIII. Civil Commitment and Rehabilitation of Individuals Suffering
11 from Addiction or Alcohol Use Disorder (§§ 1090 – 1095)

- 12 **1091.** Definitions
13 **1092.** Discretionary authority of court; examination, report, and determination by
14 court; termination of civil commitment
15 **1093.** Authority and responsibilities of the Commissioner of Health; institutional
16 custody; aftercare; maximum period of civil commitment; credit toward
17 sentence
18 **1094.** Civil commitment not a conviction; use of test results
19 **1095.** Delegation of functions by Commissioner of Health; use of Federal,
20 territorial, state and private facilities
21 **1096.** Absence of offer by the court to a defendant of an election or any
22 determination as to civil commitment, not reviewable on appeal or
23 otherwise

24
25 Subchapter IX. Civil Commitment of Persons Not Charged with Any Criminal
26 Offense (§§ 1096 – 1111)

- 27 **1097.** Definitions
28 **1098.** Preliminary proceedings—Petition for Treatment
29 **1099.** Judicial proceedings; advisement of patient, counsel retained physician's
30 authority, treatment program of commitment, withdrawal, duration,
31 confinement, post-confinement, and recommitment; examination of patient;
32 appointment of physicians, order of commitment, conduct and report of
33 examination, and copies to patient and counsel; return of patient for further
34 proceedings
35 **1100.** Hearings—Discharge of patient and dismissal of proceedings; notice of
36 time and place; service; issues of fact; demand for jury or judicial
37 determination
38 **1101.** Order of commitment for treatment to care and custody of Commissioner
39 of Health; reports of Commissioner of Health
40 **1102.** Period of commitment to care and custody of Commissioner of Health;
41 patient subject to Post-hospitalization program; release from confinement
42 **1103.** Release from confinement—Notice and return to committing court; placing
43 patient under care and custody of Commissioner of Health for post-
44 hospitalization treatment; recommendations of Commissioner of Health
45 **1104.** Petition for inquiry into health and general condition and necessity for

- 1 continuation of confinement; order for release from confinement and return
2 to court; placing patient under post-hospitalization treatment
3 **1105.** Criminal conviction or criminal appealation from determination of being
4 narcotic addict; criminal proceedings prohibited from using information
5 gained in addiction inquiry
6 **1106.** Evidence; examining physician a competent and compellable witness;
7 physician-patient privilege
8 **1107.** Subchapter inapplicable to persons with criminal charge pending, on
9 probation or with sentence unserved; consent to commitment of such
10 persons by authority with power over their custody
11 **1108.** Commitment to hospital of the Service dependent upon certification of
12 availability of facilities or personnel for treatment
13 **1109.** Compensation of physicians and counsel; source of funds
14 **1110.** Authority of Commissioner of Health—Delegation of functions
15 **1111.** Penalties; escape or rescue from custody
16 **1112.** Same; false statements
17

18 Subchapter X. Telepsychology or Telehealth (§§1112-1113)

- 19 **1113.** Telehealth, Telemedicine, and Telepsychology Defined
20 **1114.** Permission to Practice and Authorization
21

22 *Chapter 47. Intellectual and Developmental Disabilities (§§1114 –1119)*
23

- 24 **1115.** Purpose
25 **1116.** Territorial Protections for Individuals with Intellectual and Developmental
26 Disabilities
27 **1117.** Establishing Federal Policies and Initiatives for Services and Programs for
28 Individuals with Intellectual and Developmental Disabilities
29 **1118.** General powers and duties
30 **1119.** Administrative appropriations
31 **1120.** Standards for maintenance and operation
32

33 *Chapter 48. Behavioral Health for Children and Young Adults (§§ 1120 – 1123)*
34

- 35 **1121.** Maternal and child health services
36 **1122.** Services for children with physical disabilities
37 **1123.** Education of children with intellectual disabilities
38 **1124.** Application of the Children’s Policy
39
40
41
42

1 **Part V. Behavioral Health and Developmental**
2 **Disability Act (Chs. 45 - 48)**

3
4 *Chapter 45. Behavioral Health, Mental Health Disorders,*
5 *Developmental Disabilities, and Alcohol or Drug Dependency*
6 *(Subchs. I – III)*

7
8
9 Subchapter I. Community Behavioral Health Services (§§ 1000-1009)

10
11 **1000. Purpose**

- 12
13 (a) The purpose of this subchapter is to expand community behavioral health services,
14 encourage local participation in programs provided by community behavioral health
15 providers, obtain a better understanding of the need for community behavioral health
16 services and encourage implantation of community behavioral health services. To
17 promote and support the development and implementation of comprehensive
18 community support systems to ensure community integration and the maintenance of a
19 decent quality of life for persons who suffer from behavioral health challenges or
20 mental health disorders in each of the service areas in the Territory; and to strengthen
21 the capacity of families, natural networks, self-help groups, and other community
22 resources in order to improve the support for persons who suffer from behavioral health
23 challenges or mental health disorders.

24
25 **1001. Definitions**

- 26
27 (a) For purposes of this chapter and related chapters, unless the context otherwise
28 indicates:
- 29
30 (1) Act: means the Virgin Islands Behavioral Health and Developmental Disability Act
31 of 2020;
- 32
33 (2) Alcoholic: means a person who habitually lacks self-control as to the use of
34 alcoholic beverages, or uses alcoholic beverages to the extent that his health is
35 substantially impaired or endangered or his social or economic function is
36 substantially disrupted;
- 37
38 (3) “Alcohol Use Disorder (AUD) or Alcoholism”: means problem drinking that
39 becomes severe and is a chronic relapsing brain disease characterized by
40 compulsive alcohol use, loss of control over alcohol intake, and a negative
41 emotional state when not using. To be diagnosed with AUD, individuals must meet
42 certain criteria outlined in the Diagnostic and Statistical Manual of Mental

1 Disorders (DSM). To be diagnosed with alcoholism, individuals must meet any two
2 of the below criteria within the same 12-month period:

- 3 i. Using alcohol in higher amounts or for a longer time than originally
4 intended.
- 5 ii. Being unable to cut down on alcohol use despite a desire to do so.
- 6 iii. Spending a lot of time obtaining, using, and recovering from the
7 effects of alcohol.
- 8 iv. Cravings, or a strong desire to use alcohol.
- 9 v. Being unable to fulfill major obligations at home, work, or school
10 because of alcohol use.
- 11 vi. Continuing to abuse alcohol despite negative interpersonal or social
12 problems that are likely due to alcohol use.
- 13 vii. Giving up previously enjoyed social, occupational, or recreational
14 activities because of alcohol use.
- 15 viii. Using alcohol in physically dangerous situations (such as driving or
16 operating machinery).
- 17 ix. Continuing to abuse alcohol despite the presence of a psychological
18 or physical problem that is probably due to alcohol use.
- 19 x. Having a tolerance (i.e. needing to drink increasingly large or more
20 frequent amounts of alcohol to achieve the desired effect).
- 21 xi. Developing symptoms of withdrawal when efforts are made to stop
22 using alcohol.

23
24 (4) Agency: means a governmental or non-governmental person, firm, association or
25 corporation, and department;

26
27 (5) Approved private treatment facility: means a private agency meeting the standards
28 prescribed in section 1016 of this title and approved under section 1017 of this title,
29 which can cover or provide services for behavioral challenges, mental health,
30 developmental disabilities, alcoholism, and drug dependency;

31
32 (6) Approved public treatment facility: means a treatment agency operating under the
33 direction and control of the Department of Health or providing treatment under this
34 chapter through a contract with the Division under section 1046 of this title and
35 meeting the standards prescribed in section 1016 of this title and approved under
36 section 1017 of this title, which can cover or provide services for behavioral
37 challenges, mental health, developmental disabilities, alcoholism, and drug
38 dependency;

39
40 (7) Behavioral health: means the promotion of mental health, resilience and wellbeing;
41 the treatment of mental and substance use disorders; and the support of those who
42 experience and/or are in recovery from these conditions, along with their families
43 and communities. Behavioral health is the scientific study of the emotions,
44 behaviors, and biology relating to a person's mental well-being, their ability to
45 function in everyday life and their concept of self. A person struggling with his or
46 her behavioral health may face stress, depression, anxiety, relationship problems,

1 grief, addiction, ADHD or learning disabilities, mood disorders, or other
2 psychological concerns. Counselors, therapists, life coaches, psychologists, nurse
3 practitioners or physicians can help manage behavioral health concerns with
4 treatments such as therapy, counseling, or medication.
5

6 (8) Behavioral healthcare hospital: means a public or private facility or a behavioral
7 health center which is equipped to provide patient care and treatment for persons
8 who suffer from behavioral health challenges or mental health disorders;
9

10 (9) Behavioral health professional: means a licensed psychologist, psychiatrist,
11 psychiatric nurse, behavioral health counselor, or behavioral health or psychiatric
12 social worker, or in their absence, an emergency medical technician (EMT);
13

14 (10) Behavioral health services: means patient counseling, other psychological,
15 psychiatric, diagnostic or therapeutic services and other allied services;
16

17 (11) Case management services: means those services which assist an individual in
18 gaining access to and making effective use of the range of medical, psychological
19 and other related services available to them;
20

21 (12) Commissioner: means the Commissioner of the Department of Health;
22

23 (13) Community support system: means the entire complex of behavioral health,
24 rehabilitative, residential and other support services in the community to ensure
25 community integration and the maintenance of a decent quality of life for persons
26 who suffer from behavioral health challenges or mental health disorders;
27

28 (14) Department: means the Department of Health;
29

30 (15) Developmental Disability: means for the purposes of this chapter a severe, chronic
31 disability of an individual that can require behavioral, mental health, or other
32 similar service and is any of the following:
33

- 34 a. Is attributable to a mental or physical impairment or combination of
35 mental and physical impairments;
36
- 37 b. Results in functional limitations in three or more of the following areas of
38 major life activity;
 - 39 i. Self-care;
 - 40 ii. Receptive and expressive language;
 - 41 iii. Learning;
 - 42 iv. Mobility;
 - 43 v. Self-direction;
 - 44 vi. Capacity for independent living; and
 - 45 vii. Economic self-sufficiency.
46

1 c. Reflects the individual's need for a combination and sequence of special,
2 interdisciplinary, or generic services, supports, or other assistance that is of
3 lifelong or extended duration and is individually planned and coordinated,
4 except that such term, when applied to infants and young children means
5 individuals from birth to age 5, inclusive, who have developmental delay or
6 specific congenital or acquired conditions with a high probability of
7 resulting in developmental disabilities if services are not provided.
8

9 (16) Director: means the Director of the Division of Behavioral Health, Alcoholism, and
10 Drug Dependency Services;
11

12 (17) Division: means the Division of Behavioral Health, Alcoholism, and Drug
13 Dependency Services established under section 1011 of this title;
14

15 (18) Drug dependence or Drug Dependency: means a state of psychic or physical
16 dependence, or both, on a drug, arising in a person following administration of that
17 drug on a periodic or continuous basis. The characteristics of such a state will vary
18 with the agent involved, and these characteristics must always be made clear,
19 designating the particular type of drug dependence in each specific case, for
20 example, drug dependence of the alcohol type, morphine type, of the barbiturate
21 type or of the amphetamine-type; or the opioid type.
22

23 (19) Emergency service patrol: means a patrol established to transport a person during
24 Emergency Commitment under section 1020 or under any of the conditions
25 established by the Commissioner of Health;
26

27 (20) Forensic Services: means evaluating an individual's competency to stand trial and
28 mental state at the time of the offense;
29

30 (21) Homeless: means an individual or family who lacks a fix regular and adequate
31 nighttime residence, or if an individual or family sleeps in a shelter designated for
32 temporary living accommodations or in a place not adequate for human habitation;
33

34 (22) Incapacitated by alcohol: means a condition of intoxication caused by the use of
35 alcohol in which the person is unconscious or unable to speak coherently or unable
36 to control body movements in a coordinated and effective manner;
37

38 (23) Incompetent person: means a person who has been adjudged incompetent by the
39 Superior Court;
40

41 (24) Intellectually disabled: means having a disorder characterized by significantly
42 impaired intellectual and adaptive functioning as diagnosed by a qualified and
43 licensed mental health specialist;
44

45 (25) Intoxicated person: means a person whose mental or physical functioning is
46 substantially impaired as a result of the use of alcohol;

1
2 (26) Least restrictive form of transportation: means the vehicle used for transportation
3 and any restraining devices that may be used during transportation that impose the
4 least amount of restriction, taking into consideration the stigmatizing impact upon
5 the individual being transported;

6
7 (27) Licensed medical practitioner: means a person licensed under the laws of Virgin
8 Islands to practice medicine;

9
10 (28) Licensed clinical psychologist: means a person licensed under the laws of the
11 Virgin Islands as a psychologist and who practices clinical psychology;

12
13 (29) Likelihood of harm: means -

- 14
15 a. A risk of physical harm to the person as manifested by recent threats of, or
16 attempts at, suicide or serious self-inflicted harm;
- 17 b. A risk of physical harm to other persons as manifested by recent homicidal
18 or violent behavior or by recent conduct placing others in reasonable fear of
19 serious physical harm;
- 20 c. A reasonable certainty that the person will suffer severe physical or mental
21 harm as manifested by recent behavior demonstrating an inability to avoid
22 risk or to protect the person adequately from impairment or injury; or
- 23 d. If a person suffers from severe and persistent behavioral health challenges
24 or mental health disorders, in view of the person's treatment history, current
25 behavior and inability to make an informed decision, a reasonable
26 likelihood that the person's behavioral health will deteriorate and that the
27 person will in the foreseeable future pose a likelihood of serious harm as
28 defined in paragraphs (a), (b) or (c);

29
30 (30) Long-term behavioral health challenges or mental health disorders: means persons
31 who suffer certain mental or emotional disorders, such as organic brain syndrome,
32 schizophrenia, recurrent depressive and manic-depressive disorders, paranoid and
33 other psychoses, plus other disorders which may become chronic, that erode or
34 prevent the capacities in relation to 3 or more of the primary aspects of daily life,
35 such as personal hygiene and self-care, self-direction, interpersonal relationships,
36 social transactions, learning, recreation, and economic self-sufficiency. While these
37 persons may be at risk of facilitization, there is no requirement that these persons
38 are or have been residents of facilities providing behavioral health services;

39
40 (31) Medical practitioner or practitioner: means a licensed medical practitioner,
41 registered physician assistant, certified psychiatric clinical nurse specialist,
42 certified nurse practitioner or licensed clinical psychologist;

43
44 (32) Network: means organizations providing behavioral health services which were
45 awarded governmental funds or Medicaid;

46

- 1 (33) Patient: means a person under observation, care or treatment in a psychiatric facility
2 or residential care facility pursuant to this subchapter, a person receiving services
3 from an assertive community treatment team, a person receiving intensive
4 behavioral health management services from the Department or a person being
5 evaluated for emergency admission in a hospital;
6
- 7 (34) Persons who suffer from behavioral health challenges or mental health disorders:
8 means a person whose mental functions are impaired to interfere with his capacity
9 to meet the ordinary demands of life, the result of which is that such person's
10 thinking, mood, and behavior have become irrational or distorted from reality,
11 whether such condition has been caused by organic brain tissue damage or by
12 psychological causes. This includes, but not limited to those who are dually
13 diagnosed;
14
- 15 (35) Peace officer: means law enforcement officer, and shall include, but not limited to,
16 police officers, parole officers, correction officers, warden, prison guard, marshals,
17 pursuant to Title 5 V.I.C. § 3561 and 23 V.I.C. § 3;
18
- 19 (36) A person suffering from behavioral health challenges or mental health disorders:
20 means an individual having a psychiatric or other diseases that substantially impairs
21 that person's behavioral or mental health or creates a risk of suicide. A person with
22 developmental disabilities or a person diagnosed as a sociopath is not for those
23 reasons alone a person with a diagnosed behavioral health challenge or mental
24 health disorder. This includes those who are dually diagnosed;
25
- 26 (37) Private Facility: means a facility privately funded and not under the supervision of
27 the Virgin Islands Government which is equipped to provide inpatient and
28 outpatient care and treatment for the mentally ill;
29
- 30 (38) Progressive treatment program or programs; means a program of court-ordered
31 services provided to participants under the Progressive Treatment Program as
32 expressed in the Act (section 1033);
33
- 34 (39) Psychiatric facility: means public or private behavioral health facilities; or any
35 section of any public hospital designated for behavioral health/psychiatric care;
36
- 37 (40) Public Facility: means a facility funded by the Government of the Virgin Islands
38 and under the supervision of the Virgin Islands Government which is equipped to
39 provide inpatient care and treatment for persons who suffer from behavioral health
40 challenges, mental health disorders, substance use, and are in need of
41 developmental disability services;
42
- 43 (41) Residential care facility: means a licensed or approved boarding care, nursing care
44 or foster care facility which supplies supportive residential care to individuals due
45 to their chronic behavioral health challenge or mental health disorder;
46

1 (42) Severe and persistent behavioral health challenges or mental health disorders:
2 means a diagnosis of one or more qualifying mental health disorders or illnesses
3 plus a listed disability or functional impairment that has persisted continuously or
4 intermittently or is expected to persist for at least one year as a result of that disease
5 or disorder. The qualifying mental health disorders are schizophrenia,
6 schizoaffective disorder or other psychotic disorder, major depressive disorder,
7 bipolar disorder or a combination of mental disorders sufficiently disabling to meet
8 the criteria of functional disability. The listed disabilities or functional impairments,
9 which must result from a diagnosed qualifying mental health disorder, include
10 inability to adequately manage one's own finances, inability to perform activities
11 of daily living and inability to behave in ways that do not bring the attention of law
12 enforcement for dangerous acts or for acts that manifest the person's inability to
13 protect the person from harm;

14
15 (43) Sexual Act: means any act that results in sexual contact as defined in Title 14 V.I.C.
16 §1699 (d);

17
18 (44) Sexual Conduct: means conduct as defined Title 14 V.I.C. §1027(b) and Title 14
19 V.I.C. §1699 (c);

20
21 (45) A Student in Crisis: means a student who is suffering from anxiety or fear because
22 of the student experience or perceives a threat to their self-esteem or significant
23 relationship or role mastery;

24
25 (46) Treatment: means the broad range of emergency, outpatient, intermediate and
26 inpatient services and care, including diagnostic evaluation, medical, psychiatric,
27 psychological and social service care, vocational rehabilitation and career
28 counseling, which may be extended to persons;

29
30
31 **1002. Commissioner's Duties Regarding Community Behavioral Health Services**

32
33 (a) The Commissioner of Health shall be responsible for providing all-inclusive services
34 for people who suffer from behavioral health challenges or mental health disorders who
35 otherwise cannot be served by the community service networks. The Department may
36 develop contracts to deliver safety net services if the Department determines contracts
37 to be appropriate and cost-effective. The governmentally operated safety net must
38 include, but is not limited to:

- 39 1) Emergency hospital beds for people requiring medical stabilization, assessment
40 or treatment;
 - 41 2) Intermediate and long-term treatment for people who need long-term structured
42 care;
 - 43 3) Forensic services;
 - 44 4) Intensive case management;
 - 45 5) Residential Facility Services; and
 - 46 6) Other necessary services as determined by the Commissioner.
- 47

1 (b) The Commissioner of Health shall be responsible for providing technical assistance for
2 program development, promoting effective coordination with the Department of
3 Health, Department of Education, Bureau of Corrections, Police Department, Judiciary,
4 and Department of Human Services and other relevant departments or agencies to
5 develop new resources to improve the availability and accessibility of comprehensive
6 community support services to persons who suffer from behavioral health challenges
7 or mental health disorders. The Commissioner of Health shall also responsible for
8 ensuring the following:

- 9 1) Assessing service needs, monitoring service delivery related to these needs and
10 evaluating the outcomes of programs designed to meet these needs in order to
11 enhance the quality and effectiveness of community support services;
- 12 2) Preparing a report that describes the system of community support services in
13 the Territory. This report must include:
- 14 i. both existing service resources and deficiencies in the system of
15 services;
 - 16 ii. assessment of the roles and responsibilities of behavioral health
17 agencies, human services agencies, health agencies and similar
18 departments of the government, in order to suggest ways in which
19 these agencies and departments can better cooperate to improve the
20 service system for persons who suffer from behavioral health
21 challenges, mental health, or developmental disorders;
 - 22 iii. be prepared annually, and must be submitted to the joint standing
23 committee of the Legislature having jurisdiction over behavioral
24 health by December 15th of every even-numbered year;
 - 25 iv. interdepartmental coordination, including review by the
26 Commissioner of Health, the Department of Health, Department of
27 Education, Bureau of Corrections, Police Department, Judiciary, and
28 Department of Human Services, of the report to ensure
29 recommendations with respect to administrative and funding
30 improvements in the system of community support services to
31 persons who suffer from behavioral health challenges, mental health,
32 or developmental disorders are made;
 - 33 A. Participate with school administrative units in transition
34 planning for each student with a behavioral health challenge,
35 mental health, or developmental disorder; and
 - 36 B. assign appropriate staff as a transition contact person and as
37 a member of the transition planning team for each student,
38 who is receiving special education services, and who is a
39 minor or young adult, if it is determined appropriate by the
40 student's individualized education program team.

41
42 **1003. Cooperative planning required; grant recipients and Bureau of Correction**
43 **Authorities**

44
45 (a) Providers of Community Behavioral Health Services Cooperative Plan with Bureau of
46 Corrections:

1 As a condition for receipt of behavioral health funding pursuant to this Chapter,
2 providers of community behavioral health services to persons who suffer from
3 behavioral health challenges or mental health disorders must develop, with the Bureau
4 of Correction authorities, cooperative plans for the provision of services to those
5 persons under the custody and care of the Bureau of Corrections. These plans must
6 include at least the following:

- 7 1) Procedures for timely referral of persons who suffer from behavioral health
8 challenges or mental health disorders to community-based behavioral health
9 services;
- 10 2) Provision for the treatment and support of persons who suffer from behavioral
11 health challenges or mental health disorders at the correctional facilities and
12 commitment of funds within available resources; and
- 13 3) Procedures for referrals of individuals suffering from behavioral health
14 challenges or mental health disorders to local providers of comprehensive
15 behavioral health services following release from correctional facilities,
16 including mechanisms for developing comprehensive treatment plans before
17 the release, from correctional facilities, of persons who suffer from behavioral
18 health challenges or mental health disorders.

19
20 **(b) Ineligibility for Governmental Funds:**

21 Providers of community behavioral health services and other public providers of
22 comprehensive services to persons who suffer from behavioral health challenges or
23 mental health disorders that fail to participate in the development of plans to serve this
24 population, or to provide services to serve this population, are not eligible for
25 governmental funding.

26
27 **(c) Exclusion:**

28 A person or entity that applies for the award or renewal of a grant or contract for the
29 provision of behavioral health services must be a participating member of the
30 community service network, as established in §1004 Community Service Networks of
31 this Act.

32
33 **1004. Community Service Networks**

34
35 **(a) The Commissioner of Health Shall Establish and Oversee Community Service
36 Networks:**

37 Community Service Networks will be established on each island with the collective
38 responsibility to coordinate and ensure continuity of care within the delivery of
39 behavioral health services to behavioral health consumers under the authority of the
40 Department of Health. The community service networks must be established and
41 operated in accordance with standards adopted by the Department of Health to establish
42 and operate networks. Departmental oversight includes, but is not limited to,
43 establishing and overseeing protocols, quality assurance, writing and monitoring
44 contracts for service, establishing outcome measures and ensuring that each network
45 provides an integrated system of care. The Department of Health may adopt rules to
46 carry out this section. Rules adopted pursuant to this section are mandatory rules.

1 (b) Each network shall:
2

- 3 1) Ensure 24-hour access to a client’s community support services records for
4 better continuity of care during a psychiatric crisis;
5 2) Ensure continuity, accountability, and coordination regarding service
6 delivery;
7 3) Participate in the collection of uniform data pertaining to services;
8 4) In conjunction with the Department, conduct planning activities based on
9 data and client outcomes;
10 5) Develop techniques for identifying and providing services to clients at risk;
11 6) Enable, among other things, the sharing of confidential client information
12 to the extent necessary to protect the client’s health and safety when it is
13 determined the client has an urgent need for behavioral health services.
14 i. The network members shall share confidential client information,
15 even without a client’s consent, to the extent necessary to protect
16 the client’s health and safety in a period of urgent need for
17 behavioral health services when the client lacks the capacity to give
18 consent for the information sharing or when an exigency exists so
19 that the client’s health and safety is better protected if the
20 information is shared without a delay to obtain consent. A person or
21 entity participating in good faith in sharing information under this
22 paragraph is immune from civil liability that might otherwise result
23 from these actions, including, but not limited to, a civil liability that
24 might otherwise arise under local or federal laws or rules regarding
25 confidentiality of information. The Department shall adopt rules to
26 identify the limits and requirements to be implemented; and
27 7) Provide consolidated behavioral health crisis services for children and
28 adults through a memorandum of understanding among providers of
29 behavioral health services in the network that must include provisions to
30 ensure coordination, eliminate duplication, and provide a level of crisis
31 services established by the Department.
32

33 (c) Data collection:

34 The Commissioner of Health shall collect data to assess the capacity of the community
35 service networks, including, but not limited to, analyses of the utilization of mental
36 health services and the unmet needs of persons receiving publicly funded behavioral
37 health services.
38

39 **1006. Crisis Intervention Program**
40

41 (a) Crisis Intervention Program Established:

42 The Department of Health shall establish Crisis Intervention and Prevention services,
43 a community-based program to provide counseling, consultation, evaluation, treatment
44 and referral, education and training services, delivered by a crisis intervention team.
45 The program will be designed for persons with behavioral challenges, mental health
46 disorders, developmental disabilities, or alcohol and drug dependency who experience

1 a behavioral crisis that threatens their ability to live a full productive life due to
2 hospitalizations, law enforcement involvement, or placement in restrictive settings.
3 Persons will be supported by the Department of Health in the development of
4 behavioral assessments, individualized behavior treatment plans, and intensive
5 intervention with a focus on family coaching. The program shall provide the following
6 services:

- 7 1) **Emergency room services.** Crisis intervention and psychiatric emergency
8 services based in a hospital emergency room;
- 9 2) **Outreach services.** Outreach services and crisis intervention beyond the
10 hospital setting;
- 11 3) **Telephone hot-line services.** A community-based telephone crisis
12 intervention hot-line offering 24-hour, 7-days-a-week counseling,
13 consultation, evaluation, treatment and referral services.
- 14 4) **Telehealth Services.** delivery of health care services, through the use of
15 interactive real-time visual and audio or other electronic media for the
16 purpose of consultation and education concerning and diagnosis, treatment,
17 care management and self-management of an enrollee's physical and mental
18 health, and includes real-time interaction between the enrollee and the
19 telehealth provider, synchronous encounters, asynchronous encounters,
20 store, and forward transfers and telemonitoring.

21
22 **(b) Suicide Prevention and Other School Counseling Program:**

23 The Department of Health, shall, in cooperation with the Department of Education,
24 Department of Human Service, and the Police Department shall develop a suicide
25 prevention strategy and a model suicide prevention program, counseling for bullying,
26 cyberbullying, and peer pressure counseling to be presented in the elementary, junior,
27 and high schools in the Territory. The development of such a program must include the
28 preparation of relevant educational materials that must be distributed in the schools.

29
30
31 **1006. Crisis Intervention Team**

32
33 **(a) Established:**

34 A community-based crisis intervention team shall be established to provide crisis
35 intervention on a 24-hour, 7-days-a-week basis to persons who suffer from behavioral
36 health challenges or mental health disorders and to provide crisis intervention training
37 for emergency room personnel.

38
39 **(b) Qualifications:**

40 The team shall be comprised of qualified behavioral health professionals with training
41 and experience in assessment and intervention with persons who suffer from behavioral
42 health challenges or mental health disorders in a crisis. The team members shall have
43 a working knowledge of intake, case management, behavioral and mental health
44 systems, and local resources.

1 **1007. Behavioral Health Training**

2
3 **(a) Purpose:**

4 Law enforcement officers are most often the first responders in a behavioral health
5 emergency, and as such, it is essential that law enforcement officers recognize the signs
6 and symptoms of behavioral health challenges or mental health disorders and respond
7 more effectively and appropriately to individuals in crisis.
8

9 **(b) Law Enforcement Training:**

10 The Virgin Islands Police Department in conjunction with the Division of Behavioral
11 Health shall train law enforcement officers on how to address calls involving
12 behavioral or mental health crises. Law enforcement officers shall perform their regular
13 duties but shall be trained on how to respond more effectively and appropriately to
14 individuals in crisis. Law enforcement officers shall receive a minimum of forty (40)
15 hours of specialized training in psychiatric diagnoses, suicide intervention, substance
16 abuse issues, behavioral de-escalation, the role of the family in behavioral health
17 challenges or mental health disorders, behavioral health, and substance abuse laws, and
18 local resources and procedures for individuals in crisis.
19

20 **(c) Training for Education Personnel:**

21 Teachers, school psychologists, social workers, guidance counselors, and other school
22 personnel will be trained on early identification of potential behavioral health
23 challenges or mental health disorders.
24

25 **1008. Protective Custody**

26
27 **(a) Law Enforcement Officer's Power:**

28 If a law enforcement officer has probable cause to believe that a person may be
29 suffering from a behavioral health challenge or mental health disorder and that due to
30 that condition the person presents a threat of imminent and physical harm to that person
31 or to other persons or to property, law enforcement has the following authority:

- 32 1) The law enforcement officer shall take the person into protective custody; and
33 i. When formulating probable cause, the law enforcement officer may rely
34 upon information provided by a third-party informant if the officer
35 confirms that the informant has reason to believe, based upon the
36 informant's recent personal observations of or conversations with a
37 person, that the person may suffer from a behavioral health challenge or
38 mental health disorder and that due to that condition the person presents
39 a threat of imminent and physical harm to that person or to other persons
40 or property.
- 41 2) Shall deliver the person immediately for examination by a medical practitioner
42 as provided in sections 1020, 1021 and 1022 of this chapter for examination to
43 determine the individual's capacity.
44
45
46

1 **(b) Certification Not Required for Treatment:**

2 Pursuant to sections 1020, 1021 and 1022 of this chapter, if it is determined that the
3 person poses a danger of harm or injury to himself or others and that he is in need of
4 emergency treatment or may be committed to the custody of the Department of Health
5 by the Superior Court for observation, diagnosis, care, and treatment upon petition, the
6 psychiatrist shall so certify by filing a written certification to that effect. However, if a
7 certificate is not executed under sections 1020, 1021 and 1022, the medical practitioner
8 shall still treat the person, and if he/she feels that person is not a threat to himself or
9 others or property, the medical practitioner may release the person.

- 10 1) Notwithstanding the above and the discretion of the medical practitioner to
11 determine whether a certificate is required and executed, no person shall be
12 released who may be a threat to themselves or others or property.

13
14 **(c) Executed Certificate:**

15 If a certificate is filed and executed by the examiner under sections 1020, 1021 and
16 1022 of this chapter, the officer shall undertake forthwith to secure the endorsement of
17 a Superior Court judge under §1021 and 1022 and may detain the person for a period
18 of time not to exceed 72 hours as may be necessary to obtain that endorsement.

19
20 **(d) Detention Pending Judicial Determination:**

21 Notwithstanding any other provisions of this subchapter, a person, with respect to
22 whom an application for the issuance of an order for hospitalization has been filed, may
23 not be released or discharged during the pendency of the proceedings, unless:

- 24 1) The Superior Court orders release or discharge upon the request of the patient
25 or the patient's guardian, parent, spouse, next of kin, or attorney;
26 2) The Superior Court orders release or discharge upon the report of the applicant
27 that the person may be discharged with safety;
28 3) The Superior Court orders release or discharge upon a writ of habeas corpus
29 under 5 V.I.C. § 3810; or
30 4) Upon request of the Commissioner, the Superior Court orders the transfer of a
31 patient in need of more specialized treatment to another psychiatric facility.

32
33 **(e) When Release is Authorized Law Officers or Peace Officers Shall:**

- 34 1) Release the person from protective custody and, with the person's permission,
35 return the person forthwith to the person's place of residence;
36 2) Release the person from protective custody and, with the person's permission,
37 return the person forthwith to the place where the person was taken into
38 protective custody; or
39 3) If the person is also under arrest for a violation of the law, retain the person in
40 custody until the person is released in accordance with the law.

41
42 **1009. Sexual Activity with Recipient of Services Prohibited**

- 43
44 **(a)** A person who owns, operates or is an employee of any public or private facility,
45 residence, organization, or program that is operated, administered, licensed or funded
46 by the Department of Health shall not engage in any sexual act, with another person

1 or subject another person to sexual contact, if the other person, not the actor's spouse,
2 is a recipient or person being treated for behavioral health challenges or mental health
3 disorders, and who receives therapeutic, residential or habilitative services from that
4 entity or employee. Any person who violates this section shall be charged with
5 committing a felony.

6
7
8 Subchapter II. Divisions, Programs, Treatment, Patient Rights (§§ 1010-1040)
9

10 **1010. Declaration of Policy**
11

12 (a) In conformity with the purpose of the Virgin Islands Behavioral Health and
13 Developmental Disability Act of 2020, the Department of Health is responsible for the
14 direction of behavioral health and certain developmental disability programs in public
15 facilities and for the promotion and guidance of behavioral health, mental health, and
16 developmental disability programs within the Territory.

17
18 (b) The Act establishes policies and procedures by which persons with behavioral health
19 challenges, mental health disorders, or developmental disabilities may receive services.
20 The procedures are to be applied consistently with the principles of due process to make
21 voluntary and involuntary treatment available where the need is great and where the
22 absence of treatment could result in serious harm to the individual or to others.

23 (c) This Act applies to all involuntary treatment of persons who suffer from behavioral
24 health challenges or mental health disorders, whether inpatient or outpatient and for all
25 voluntary inpatient treatment of persons who suffer from behavioral health challenges
26 or mental health disorders. Persons who are developmentally or intellectually disabled,
27 senile, alcohol-dependent or drug dependent shall be afforded behavioral health
28 examinations or treatment if they are also diagnosed as suffering from behavioral health
29 challenges or mental health disorders, or if there is a reasonable probability that upon
30 examination such diagnosis will be established. Persons in treatment under the Act shall
31 be afforded necessary diagnostic or treatment procedures as defined in their treatment
32 plan for conditions of developmental or intellectual disability, senility, alcohol, or drug
33 abuse when it is determined that the absence of such procedures will be detrimental to
34 the progress of the person accomplishing the goals of treatment.
35

36 **1011. Division of Behavioral Health, Mental Health, Developmental Disability,**
37 **Alcoholism, and Drug Dependency Services; Director; Bureaus; Bureau chiefs**
38

39 (a) A Division of Behavioral Health, Mental Health, Developmental Disability,
40 Alcoholism, and Drug Dependency Services is established within the Department. The
41 Division shall be under the supervision of the Commissioner. The Division shall be
42 headed by a Director. The Director shall be a licensed medical practitioner in the field
43 of behavioral health or mental health or a qualified professional who has had a
44 minimum of five (5) years training and experience in handling medical-social problems
45 or the organization or administration of treatment services for persons who suffer from

1 medical-social challenges including, behavioral health challenges, mental health
2 disorders, alcoholism, drug dependency, and developmental disabilities.

- 3
4 (b) The Commissioner may establish such bureaus and appoint such chiefs to head such
5 bureaus as deemed appropriate for the efficient and effective functioning of the
6 Division.

7
8 **1012. Powers of the Director**

9
10 (a) The Director Shall with the Advice and Consent of the Commissioner:

- 11 1) Plan, establish and maintain treatment, education, training and prevention
12 programs as necessary or desirable in relation to Behavioral Health, Mental
13 Health, Developmental Disability, Alcoholism, and Drug Dependency;
- 14 2) Make contracts necessary or incidental to the performance of its duties and the
15 execution of its powers, including contracts with public and private agencies,
16 organizations and individuals to pay them for services rendered and furnished
17 to persons who suffer from behavioral health challenges, mental health
18 disorders, developmental disabilities, alcoholism, intoxication or drug
19 dependency;
- 20 3) Solicit and accept for use any gift of money or property made by will or
21 otherwise, and any grant of money, services, or property from the Federal
22 Government or the Territory or any private source, and do all things necessary
23 to cooperate with the Federal Government or any of its agencies in making an
24 application for any grant for services in any area concerning behavioral health
25 challenges, mental health disorders, developmental disabilities, alcoholism,
26 intoxication or drug dependency;
- 27 4) Administer or supervise the administration of provisions relating to persons
28 who suffer from behavioral health challenges, mental health disorders,
29 developmental disabilities, alcoholism, intoxication or drug dependency in any
30 Territorial plan submitted for Federal funding pursuant to Federal health,
31 welfare or treatment legislation;
- 32 5) Coordinate its activities and cooperate with behavioral health challenges,
33 mental health disorders, developmental disabilities, alcoholism, intoxication or
34 drug dependency in this Territory and other states or territories, and make
35 contracts and other joint or cooperative arrangements with Territorial, local, or
36 private agencies in this and other states for the treatment of persons who suffer
37 from behavioral health challenges, mental health disorders, developmental
38 disabilities, alcoholism, intoxication or drug dependency and for the common
39 advancement of behavioral health, mental health, developmental disabilities,
40 alcoholism, intoxication or drug dependency;
- 41 6) Do other acts and things necessary or convenient to execute the authority
42 expressly granted to it;
- 43 7) Provide treatment facilities for persons who suffer from behavioral health
44 challenges, mental health disorders, developmental disabilities, alcoholism,
45 intoxication or drug dependency; and

- 1 8) Establish health programs for the purpose of research into and aid of methods
2 of prevention, diagnosis, and treatment of behavioral health challenges, mental
3 health disorders, developmental disabilities, alcoholism, intoxication or drug
4 dependency; The programs shall include:
 - 5 i. Emergency treatment provided by a facility affiliated with or part of the
6 medical service of a general hospital;
 - 7 ii. Inpatient treatment;
 - 8 iii. Intermediate treatment; and
 - 9 iv. Outpatient and follow-up treatment.
- 10 9) Shall establish comprehensive and coordinate programs for the treatment of the
11 persons who suffer from behavioral health challenges, mental health disorders,
12 developmental disabilities, alcoholism, intoxication or drug dependency;
- 13 10) Supervise the administration of those services included in programs which are
14 not administered directly;
- 15 11) Provide such methods of administration as are necessary for the effective
16 operation of the program;
- 17 12) Extend and improve local health services for behavioral health challenges,
18 mental health disorders, developmental disabilities, alcoholism, intoxication or
19 drug dependency throughout the Virgin Islands;
- 20 13) Cooperate with the Federal Government through its appropriate agency or
21 instrumentality in developing, extending and improving behavioral health
22 challenges, mental health disorders, developmental disabilities, alcoholism,
23 intoxication or drug dependency services;
- 24 14) Investigate, by personal visit, complaints made by any patient or by any person
25 on behalf of a patient suffering from behavioral health challenges, mental health
26 disorders, developmental disabilities, alcoholism, intoxication or drug
27 dependency;
- 28 15) Visit each behavioral health, mental health, developmental disabilities,
29 alcoholism, intoxication or drug dependency treatment facility regularly to
30 review the commitment procedures of all new patients admitted between visits,
31 and review protocols and procedures related to certification of patients under
32 §1020, 1021 and 1022;
- 33 16) Keeps records and engage in research and the gathering of relevant statistics;
- 34 17) Require reports from the Director of any hospital or residential care facility
35 relating to the admission, examination, diagnosis, release or discharge of any
36 patient;
- 37 18) Prescribe the form of applications, records, reports, and medical certificates
38 provided for under this subchapter and prescribe the information required to be
39 contained in them; and
- 40 19) Become a member of the National Association of County Behavioral Health &
41 Developmental Disability Directors (“NACBHDD”)
 - 42 i. NACBHDD is an active partner in efforts to improve access to, funding
43 for, and quality of behavioral health services. Directors of the Virgin
44 Islands that are members of NACBHDD receive national assistance in
45 collaboration with other state partners on key issues including
46 protecting Medicaid coverage, ending the stigma of mental illness,

1 better treatment for veterans, achieving parity in insurance coverage for
2 behavioral health care, affordable housing and vocational training for
3 those with mental illness or developmental disabilities, and more.
4

5 **1013. Duties of the Division**
6

7 (a) The Division shall:
8

- 9 1) Develop, encourage and foster Territory-wide, regional and local plans and
10 programs for persons who suffer from behavioral health challenges or mental
11 health disorders, alcoholism and drug dependency, developmental disabilities,
12 and for the treatment of persons who suffer from behavioral health challenges
13 or mental health disorders, alcoholism, intoxication, and drug dependency, and
14 developmental disabilities in cooperation with public and private agencies,
15 organizations, and individuals and provide technical assistance and consultation
16 services for these purposes;
17
- 18 2) Coordinate the efforts and enlist the assistance of all public and private
19 agencies, organizations, and individuals interested in prevention of behavioral
20 health challenges or mental health disorders, alcoholism and drug dependency,
21 and developmental disabilities, and in the treatment of behavioral health
22 challenges or mental health disorders, alcoholic, intoxicated and drug
23 dependency, and developmental disabilities;
24
- 25 3) Cooperate and coordinate with the U.S. Virgin Islands Police Department
26 (V.I.P.D.), Bureau of Corrections, and Board of Parole in establishing and
27 conducting programs to provide treatment for persons in or on parole from
28 correctional institutions who suffer from behavioral health challenges or mental
29 health disorders, alcoholism, intoxication, and drug dependency, and
30 developmental disabilities;
31
- 32 4) Cooperate and coordinate with the Department of Education, the Board of
33 Education, schools, the courts, and other public and private agencies,
34 organizations and individuals in establishing programs for persons who suffer
35 from behavioral health challenges or mental health disorders, alcoholism and
36 drug dependency, and developmental disabilities, and for the treatment of
37 persons who suffer from behavioral health challenges or mental health
38 disorders, alcoholism, intoxication and drug dependency, developmental
39 disabilities, as well as preparing curriculum materials for students in crisis at
40 all levels in the schools of this Territory, (as defined in §1001(42));
41
- 42 5) Prepare, publish, evaluate and disseminate educational materials dealing with
43 the nature and effects of behavioral health challenges or mental health
44 disorders, alcohol, and drugs;
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- 6) Develop and implement, as an integral part of treatment programs, educational programs for use in the treatment of behavioral health challenges or mental health disorders, alcoholism, intoxication, and drug dependency, and developmental disabilities, which programs shall include the dissemination of information concerning the nature and effects of behavioral health challenges, mental health disorders, alcohol and drug dependency, and developmental disabilities;
- 7) Organize and foster training programs for all persons engaged in the treatment of persons who suffer from behavioral health challenges or mental health disorders, alcoholism, intoxication and drug dependency, and developmental disabilities;
- 8) Sponsor and encourage research into the causes and nature of behavioral health, alcoholism, drug dependency, and developmental disabilities, and treatment of persons who suffer from behavioral health challenges or mental health disorders, alcoholism, intoxication, drug dependency, and developmental disabilities, and serve as a clearinghouse for information relating to behavioral health, mental health disorders, alcoholism and drugs, and developmental disabilities;
- 9) Specify uniform methods for keeping statistical information by public and private agencies, organizations, and individuals, and collect and make available relevant statistical information, including the number of persons treated, frequency of admission and readmission, and frequency and duration of treatment;
- 10) Advise the Health Planning and Resource Development Agency, in the preparation of a comprehensive health plan for treatment of persons who suffer from behavioral health challenges or mental health disorders, alcoholism, intoxication, drug dependency, and developmental disabilities;
- 11) Review all Territorial health, welfare, and treatment plans to be submitted for Federal legislation, and advise the Health Planning and Resource Development Agency on provisions to be included relating to behavioral health challenges or mental health disorders, alcoholism, intoxication, drug dependency, and developmental disabilities;
- 12) Assist, in the development of and coordination with alcoholic and drug education and treatment programs for employees of the Government of the United States Virgin Islands and businesses and industries in this Territory, and shall include occupational and employee assistance programs;
- 13) Utilize the support and assistance of interested persons in the community, particularly recovered alcoholics and drug dependent persons, to encourage alcoholics and drug dependent persons voluntarily to undergo treatment;

- 1
2 14) Cooperate with the Attorney General, Director of the Office of Highway Safety,
3 the Superior Court and the Police Commissioner in establishing and conducting
4 programs designed to deal with the problems of persons operating motor
5 vehicles while intoxicated or under the influence of drugs;
6
7 15) Encourage general hospitals and other appropriate health facilities to admit
8 without discrimination persons who suffer from behavioral health challenges or
9 mental health disorders, alcoholism, intoxication, drug dependency, and
10 developmental disabilities, to provide them with adequate and appropriate
11 treatments;
12
13 16) Encourage all health and disability insurance programs to include alcoholism
14 and drug dependency as a covered illness; and
15
16 17) Submit to the Commissioner, the Governor and the Legislature not later than
17 January 15 of each year, an annual report covering the activities of the Division.
18
19 18) Shall provide for adequate and appropriate treatment for persons admitted under
20 sections §1019 through 1022 of this title who suffer from behavioral health
21 challenges, or mental health disorders, alcoholism, intoxication, drug
22 dependency, and developmental disabilities. Treatment may not be provided at
23 a correctional institution except for inmates.
24
25 19) Shall maintain, supervise and control all facilities operated by or subject to
26 policies of the Department. The Administrator/Director of each facility shall
27 make an annual report of its activities to the Director in the form and manner
28 the Director specifies.
29
30 20) Coordinate all appropriate public and private resources to utilize in all
31 programs.
32
33 21) Shall prepare, publish and distribute annually a current list of all approved
34 public and private treatment facilities.
35
36 22) May contract for the use of any facility as an approved public treatment facility
37 if the Director, subject to the approval of the Commissioner, considers this to
38 be an effective and economical course to follow.
39

40 **1014. Interdepartmental Coordinating Committee**

- 41
42 (a) An Interdepartmental Coordinating Committee is hereby established and shall be
43 composed of the Commissioners of Health, Education, Human Services, Police
44 Commissioner, Director of Vocational Rehabilitation and other appropriate agencies
45 and the Director as the Governor deems appropriate. The Committee shall meet at least
46 twice annually at the call of the Commissioner of Health, who shall be its Chairman.

1 The Committee shall provide for the coordination of, and exchange of information on,
2 all programs relating to behavioral health disorders, alcoholism, drug dependency,
3 homelessness, and developmental disabilities, and shall act as a permanent liaison
4 among the departments engaged in activities affecting behavioral health disorders,
5 alcoholism, drug dependency, homelessness, and developmental disabilities. The
6 Committee shall assist the Commissioner and Director in formulating a comprehensive
7 plan for the prevention of behavioral health disorders, alcoholism, drug dependency,
8 homelessness, developmental disabilities, and for treatment of persons who suffer from
9 behavioral health challenges or mental health disorders, alcoholism, intoxication, drug
10 dependency, homelessness, and developmental disabilities.

11
12 **(b)** In exercising its coordinating functions, the Committee shall assure that:

- 13
14 1) The appropriate governmental agencies provide all necessary medical,
15 social, treatment and educational services for persons who suffer from
16 behavioral health challenges or mental health disorders, alcoholics,
17 intoxication, drug dependency, homelessness, and developmental
18 disabilities;
- 19
20 2) The several governmental agencies shall cooperate in the use of facilities
21 and in the treatment of persons who suffer from behavioral health
22 challenges or mental health disorders, alcoholics, intoxication, drug
23 dependency, homelessness, and developmental disabilities; and
- 24
25 3) All governmental agencies shall adopt approaches, such as employee
26 assistance programs, to prevent and treat behavioral health challenges or
27 mental health disorders, alcoholics, intoxication, drug dependency,
28 homelessness, and developmental disabilities, consistent with the policies
29 of this chapter.
- 30
31 4) Shall coordinate all private agencies that receive federal or local funds to
32 make certain that there is no duplication of services.
- 33
34 5) Shall set the rules, regulations, and purpose of private agencies that receive
35 federal or local funds.

36
37
38 **1015. Citizens Advisory Council on Behavioral Health, Alcoholism, Drug**
39 **Dependency, and Developmental Disabilities**

40
41 **(a)** Behavioral Health Council of the Virgin Islands:

42 In order to promote high-quality adult behavioral health services, this section
43 establishes the Behavioral Health and Development Disabilities Council of the Virgin
44 Islands (referred to henceforth as “the Council”) to provide an effective, independent
45 consumer voice in an advisory capacity in the development of public policy and
46 resource allocation. The council will consist of a total of seven members appointed by
47 the Commissioner with the consent of the Governor, composed of - three members

1 appointed from the island of St. Croix, three members appointed from the island of St.
2 Thomas, and one member from the island of St. John. A chairperson shall be chosen
3 from among the seven members. Each shall serve for a term of two years; however, the
4 Governor may reappoint the members or remove them for cause.
5

6 **(b)** The Council exists as an independent public instrumentality to provide guidance and
7 advice from consumers of behavioral health and development disability services
8 provided or funded by the Government, including guidance and advice regarding the
9 delivery of effective and appropriate behavioral health and developmental disability
10 services consistent with the Territory's comprehensive behavioral health and
11 developmental disability services plan.
12

13 **(c)** Exercise of the powers conferred by this section is an essential governmental function.
14 The Council must be considered as a public entity for the purpose of completing its
15 task. However, the Council is not considered an agency of the Government for the
16 purposes of budgeting, accounts, control, auditing, contracting, and purchasing.
17

18 **(d)** As it pertains to the delivery of behavioral health services the Council shall:
19

20 i. Advise the Department, the Governor and other executive branch
21 Departments.

22 1. This duty includes advising the Department on the review, analysis,
23 and evaluation of behavioral health programs, homelessness
24 policies, developmental disability treatment, procedures, and service
25 delivery systems administered or funded by the Government
26 including unmet needs, quality assurance, and quality
27 improvements.

28 ii. Assist the Department in program design and implementation, including
29 assessment of the quality of services, delivery systems, and the prioritization
30 of programming;

31 iii. Provide consumers with a recognized mechanism for collaboration with the
32 Government, including addressing issues with persons and entities that
33 provide services through contracts with the Department;

34 iv. Provide input regarding programs, evaluations, public policies and resource
35 allocation, and address issues and concerns that arise territory-wide;

36 v. Identify, research and respond to issues of importance to consumers,
37 including requesting information and data to facilitate informed decision
38 making;

39 vi. Interact with other Government Departments, community entities and other
40 organizations;

41 vii. Provide budget requests to fund the Council to the Department for each
42 biennial budget and each supplemental budget; and

43 viii. Make annual and interim recommendations to the Government and provide
44 by May 31st of each year a report to the Governor. The report must include
45 analysis of public programs, policies and procedures, legislative and
46 regulatory proposals and recommendations for action by the Government.

1
2 **(e) Council Criteria:**

- 3 i. Employees of the Council are not Government employees; however, they
4 are immune from civil liability for acts that they perform in good faith within
5 the scope of their duties for the Council;
6 ii. Members of the Council will be paid a stipend for participating in Council
7 meetings from the Council's budget in an amount consistent with that of
8 other Boards of the Virgin Islands Government. Council members may be
9 reimbursed for reasonable and necessary expenses actually incurred,
10 including but not limited to costs incurred for travel upon approval by the
11 Commissioner;
12 iii. Council members may engage in advocacy regarding legislative and
13 regulatory initiatives; and
14 iv. Provide interim reports to the Governor and respond to written responses
15 from the Department.
16

17 **(f) No later than September 30th of each year, the Commissioner shall provide a written**
18 **response to the Council's annual report to the chair of the Council and the Governor.**
19 **The response must:**

- 20 i. Address the actions that the Department plans to take or proposes to
21 implement with regard to the recommendations contained in the Council's
22 annual report and any interim reports, address the reasons for declining to
23 take or propose action; and
24 ii. Include a report on progress in implementing actions detailed in prior
25 Department written reports under this subsection.
26

27 **(g) Funding for the Council shall be included as part of the Governor's proposed budget**
28 **for the Department. The Commissioner may accept on behalf of the Council; gifts,**
29 **grants and other funds and contributions for use in performing the duties of the Council**
30 **as long as such gifts, grants, funds, and contributions are in accordance with local and**
31 **federal laws prohibiting conflicts of interest.**
32

33 **1016. Standards for Public and Private Treatment Facilities; Enforcement**
34 **Procedures; Penalties**
35

36 **(a) The Division shall utilize standards established by the Joint Commission on**
37 **accreditation for approved treatment facilities that must be met for a treatment facility**
38 **to be approved as a public or private treatment facility, and establish the fees to be**
39 **charged by the Division for the required inspections of such facilities. The standards to**
40 **be applied shall only be for the health standards to be met and standards of treatment**
41 **to be afforded, patients.**
42

43 **(b) The Division periodically shall inspect approved public and private treatment facilities**
44 **at reasonable times and in a reasonable manner.**
45

- 1 (c) Each approved public and private treatment facility shall file with the Division, on
2 request, data, statistics, schedules and information the Division reasonably requires. An
3 approved public or private treatment facility that without good cause fails to furnish
4 any data, statistics, schedules, or information as requested, or files fraudulent return
5 thereof, shall be removed from the list of approved treatment facilities by the
6 Commissioner upon certification by the Director.
7
- 8 (d) After holding a hearing, the Commissioner may suspend, revoke, limit, or restrict
9 approval, or refuse to grant approval, for failure to meet its standards.
10
- 11 (e) The Superior Court may restrain any violation of this section, review any denial,
12 restriction, or revocation of approval, and grant other relief required to enforce its
13 provisions.
14
- 15 (f) Upon petition of the Division and after a hearing held upon reasonable notice to the
16 facility, the Superior Court may issue a warrant to an officer or employee of the
17 Division authorizing him to enter and inspect at reasonable times and examine the
18 books and accounts of, any approved public or private treatment facility refusing to
19 consent to inspection or examination by the Division, or which the Division has
20 reasonable cause to believe is operating in violation of this chapter.
21
- 22 (g) Persons diagnosed with behavioral health challenges, mental health disorders, or
23 developmental disabilities in private behavioral health facilities that contract with the
24 Department under this subsection are entitled to the same rights and remedies as
25 patients in public behavioral health facilities as conferred by the constitution, laws,
26 regulations, and rules of the Virgin Islands and of the United States.
- 27 i. Before contracting with and approving the admission of involuntary patients to
28 a private behavioral health treatment facility, the Department shall require the
29 facility to:
- 30 1. Comply with all applicable regulations;
31 2. Demonstrate the ability of the facility to comply with judicial decrees
32 related to services already being provided by the facility; and
33 3. Coordinate and integrate care with other community-based services.
- 34 ii. The Director of a private behavioral health treatment facility shall provide
35 notice to the Department and such additional information that may be requested
36 by the Department when a person who was involuntarily admitted to the facility
37 has died, attempted suicide or sustained a serious injury resulting in significant
38 impairment of physical condition. For the purposes of this paragraph,
39 "significant impairment" includes serious injuries resulting from burns,
40 lacerations, bone fractures, hematoma and injuries to internal organs whether
41 self-inflicted or inflicted by another person. The notice must be provided within
42 24 hours of occurrence and must include the name of the person; the name,
43 address and telephone number of that person's legal guardian, conservator or
44 legal representative and parents if that person is a minor; a detailed description
45 of the occurrence and any injuries or impairments sustained; the date and time
46 of the occurrence; the name, street address, mailing address and telephone

1 number of the facility; and the name and job title of the person providing the
2 notice.

3 **1017. Acceptance for Treatment; Rules**
4

5 (a) The Commissioner shall adopt and may amend and repeal rules for acceptance of
6 persons into the treatment program, considering available treatment resources and
7 facilities, for the purpose of early and effective treatment of behavioral health
8 challenges, mental health disorders, alcoholism, intoxication, drug dependency, and
9 developmental disabilities. In establishing the rules, the Commissioner shall be guided
10 by the following standards:

- 11 i. If possible, a patient shall be treated on a voluntary rather than an involuntary
12 basis;
- 13 ii. A patient shall be initially assigned or transferred to outpatient or intermediate
14 treatment unless he is found to require inpatient treatment;
- 15 iii. A person shall not be denied treatment solely because he has withdrawn from
16 treatment against medical advice on a prior occasion or because he has relapsed
17 after earlier treatment;
- 18
- 19 iv. An individualized treatment plan shall be prepared and maintained on a current
20 basis for each patient; and
- 21 v. Provision shall be made for a continuum of coordinated treatment services so
22 that a person who leaves a facility or a form of treatment will have and utilize
23 other appropriate treatments.
24

25 **1018. Voluntary Treatment of Person Suffering from Behavioral Health Challenges,**
26 **Mental Health Disorders, Alcoholism, Intoxication, Drug Dependency, and**
27 **Developmental Disabilities**
28

29 (a) Any persons suffering from alcoholism, or persons suffering from behavioral health
30 challenges or mental health disorders, drug dependency, and developmental disabilities
31 may apply for voluntary treatment directly to an approved public treatment facility or
32 hospital. If the proposed patient is a minor or an incompetent person, a parent, a legal
33 guardian, or another legal representative may make the application. A minor may
34 apply; however, the facility must notify the parents or guardians within 8 hours of
35 application.
36

37 (b) Subject to rules adopted by the Commissioner, the Administrator/Director in charge of
38 an approved public treatment facility may determine who shall be admitted for
39 treatment. If a person is refused admission to an approved public treatment facility, the
40 Administrator, subject to rules adopted by the Commissioner, shall refer the person to
41 another approved public treatment facility for treatment if possible and appropriate.
42 The Administrator/Director cannot refuse treatment to a person who is a danger to
43 themselves or others or to property.
44

45 (c) If a patient receiving inpatient care leaves an approved public treatment facility, he
46 shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it

1 appears to the Administrator/Director in charge of the treatment facility that the patient
2 is diagnosed with alcoholism, behavioral health challenges, any mental health
3 disorders, drug dependency, or developmental disabilities, and requires help, the
4 Division shall arrange for assistance in obtaining supportive services and residential
5 facilities.

6
7 (d) If a patient leaves an approved public treatment facility, with or against the advice of
8 the Administrator/Director in charge of the facility, the Division may make reasonable
9 provision for transportation to another facility or to the patient's home. If no home
10 exists, the patient shall be referred to the Department of Human Services. If the patient
11 is a minor or incompetent, the request for discharge from an inpatient facility shall be
12 made by a parent, legal guardian or another legal representative.

13
14
15 (e) A patient admitted is free to leave the psychiatric facility at any time after admission
16 within 24 hours of the patient's request unless an application for admission of the person
17 under sections 1021 or 1022 is initiated within that time.

18 i. At the time of admission, the Director of the psychiatric facility shall cause
19 every patient admitted under §1020 to be informed of:

- 20 1. The patient's status as an informally admitted patient; and
- 21 2. The patient's freedom to leave the psychiatric facility under this
22 section.

23
24 (f) If in the opinion of the treating medical practitioner, the person appears to be a threat
25 to himself or others or to property, the person will not be allowed to leave the hospital
26 or facility, and the person will be treated pursuant to 1021.

27
28 **1019. Treatment and services for behavioral health challenges or mental health**
29 **disorders, intoxicated, drug dependency, and developmental disabilities**

30
31 (a) A person suffering from behavioral health challenges, mental health disorders,
32 intoxication, drug dependency, or developmental disabilities may come voluntarily to
33 an approved public treatment facility or hospital for emergency treatment. A person in
34 need of help who is diagnosed with behavioral health challenges, any developmental
35 disability, mental health disorder, or found to be intoxicated or under the influence of
36 drugs in a public place, can receive assistance if the patient consents to the proffered
37 help. The patient may be assisted by law enforcement officers, hospitals or any
38 behavioral health personnel, in a private home, an approved public treatment facility,
39 an approved private treatment facility, or other health facilities.

40
41 (b) A person who comes voluntary and appears to be a threat to themselves or others or to
42 property or to be incapacitated by alcohol or drugs shall be taken into protective
43 custody by the hospital or an appropriate facility and shall be subject to the provision
44 of sections 1021 or 1022.

1 (c) A person who comes voluntarily or is brought to an approved public treatment facility
2 or hospital shall be examined by a licensed medical practitioner or a behavioral health
3 professional as soon as possible. They may then be admitted as a patient or referred to
4 another health facility. The referring approved public treatment facility shall arrange
5 for the patient's transportation.
6

7 (d) A person who by medical, psychiatric or other examination is found to be suffering
8 from a behavioral health disorder or to be incapacitated by alcohol or drugs at the time
9 of admission or to have suffered such a disturbance or become so incapacitated at any
10 time after admission, may not be detained at the facility (1) once the patient is no longer
11 suffering from behavioral health challenges or mental health disorders or incapacitated
12 by alcohol or drugs, or (2) if the patient remains in a disturbed condition or
13 incapacitated by alcohol or drugs for more than forty-eight hours after admission as a
14 patient unless committed under section §1020 or 1021 or 1022 of this title. A person
15 may consent to remain in the facility as long as the medical practitioner or behavioral
16 health professional in charge believes remaining within the facility is appropriate.
17

18 (e) A person who is not admitted to an approved public treatment facility, or hospital, and
19 who is not referred to another health facility, and has no funds, may be taken to a private
20 home. If the patient has no home, the approved public treatment facility shall refer the
21 patient to the Department of Human Services.
22

23 (f) If a patient is admitted to an approved public treatment facility or hospital, the patient's
24 family or next of kin shall be notified as promptly as possible. If an adult patient who
25 is not incapacitated requests that there be no notification, the patient's request shall be
26 respected.
27

28 (g) The police or other law enforcement officers who act in compliance with this section
29 are acting in the course of their official duty and are not criminally or civilly liable for
30 their actions while acting in compliance with this chapter during the course of their
31 official duties.
32

33 (h) If the medical practitioner or behavioral health specialist in charge of the approved
34 public treatment facility determines it is for the patient's benefit, the patient shall be
35 encouraged to agree to further diagnosis and appropriate voluntary treatment.
36

37 (i) A person who in the opinion of the treating medical practitioner, appears to be a threat
38 to themselves or others or a threat to property, shall be committed pursuant to §1020
39 and/or 1021.
40

41 **1020. Emergency commitment**

42 (a) A person diagnosed with a behavioral health challenge or mental health disorder,
43 intoxication, drug dependency or developmental disability who (1) has threatened,
44 attempted, or inflicted physical harm on themselves or another person, and/or damaged
45 or attempted to damage property, or (2) is incapacitated by alcohol or drugs, shall be
46 committed to a hospital or an approved public treatment facility for emergency

1 treatment. A refusal to undergo treatment does not constitute evidence of a lack of
2 judgment as to the need for treatment.

3
4 **(b)** The treating medical practitioner, behavioral health professional, spouse, guardian, or
5 relative of the person to be committed, or any other responsible person with personal
6 knowledge of the person sought to be committed, may make a written application under
7 oath for commitment under this section, directed to the Administrator/Director of the
8 approved public treatment facility or hospital. The application shall state facts
9 establishing reasonable grounds to believe that the person sought to be committed is
10 incapacitated by drugs or alcohol or is diagnosed with a behavioral health challenge,
11 mental health disorder, or developmental disability, such that immediate emergency
12 commitment and treatment is necessary to avoid a danger of physical harm or injury to
13 their person, or to others, or there is a risk of damage to property.

14
15 **(c)** Upon such written application, a doctor or behavioral health professional shall
16 immediately undertake an evaluation of such a person, whether in the field, in the home,
17 or in the public treatment facility or hospital. If it is determined by the behavioral health
18 professional, after such evaluation and observation that the person does, in fact, pose a
19 danger of physical harm or injury to themselves, or to others, or of damage to property,
20 such person shall be committed for examination and emergency treatment.

21
22 i. In this event, the Administrator/Director or behavioral health professional
23 of the approved public treatment facility may request that a law
24 enforcement officer take the person to an approved treatment facility or
25 hospital for emergency examination and/or treatment by a licensed
26 psychiatrist, and if one is not readily available, then by a medical
27 practitioner.

28
29 **(d)** A person taken to a facility or hospital for emergency examination and/or treatment shall
30 be examined by a medical practitioner within two hours of arrival at the treatment facility
31 in order to determine if the person is in need of immediate treatment and severely
32 suffering from alcoholism or drug dependency, and/or exhibiting behavioral, mental
33 health, or developmental disability challenges.

34
35 **(e)** If it is determined that the person poses a danger of harm or injury to themselves or others
36 and needs emergency treatment, the psychiatrist shall so certify by filing a written
37 certification to that effect which, certification shall be placed in the person's record.

- 38
39 i. Pursuant to such certification, such a person may be detained at the
40 treatment facility for up to 48 hours.
41 ii. However, a psychiatrist may extend such period of detention for an
42 additional three (3) days (72 hours) for a maximum of five (5) days, not
43 including holidays and weekends, if, in judgment, such extension is
44 deemed medically advisable.
45 iii. After the expiration of the five (5) day maximum period, any further
46 detention of such person shall be obtained by Court order only pursuant

1 to section 1021 of this chapter. Any person committed under this section
2 may be transferred to another appropriate public or private treatment
3 facility until discharged under this subsection, and pursuant to section
4 1023 of this chapter.
5

6 (f) The Administrator/Director in charge of an approved public treatment facility shall refuse
7 an application if the application and certificate fail to sustain the grounds for
8 commitment. However, failure to complete the application shall not be reasons for a
9 person not to be admitted pursuant to this chapter.
10

11 (g) When on the advice of the medical staff it is determined that the grounds for commitment
12 no longer exist, the Administrator/Director shall discharge a person committed under this
13 section.
14

- 15 i. No person committed under this section may be detained in any treatment
16 facility for more than five (5) days, not including holidays and weekends.
- 17 ii. If a petition for involuntary commitment under §1021 of this Chapter has
18 been filed within five (5) days and the Administrator/Director in charge
19 of an approved public treatment facility finds that grounds for emergency
20 commitment still exist, the person may be detained until the petition has
21 been heard and determined, but no longer than ten (10) days after filing
22 the petition.
23

24 (h) A copy of the written application for commitment and of the medical practitioner's
25 certificate and a written explanation of the person's right to counsel shall be given to the
26 individual under evaluation within twenty-four hours after a commitment by the
27 Administrator. The Administrator/Director shall provide a reasonable opportunity for the
28 individual subject to evaluation to consult counsel.
29

30 (i) The hospitals of the Territorial Healthcare Facilities System shall dedicate at least ten
31 (10) beds for persons diagnosed with behavioral health challenges or mental health
32 disorders.
33

34 **1021. Involuntary Commitment of Persons Diagnosed with Behavioral Health**
35 **Challenges or Mental Health Disorders, Alcoholic and Drug Dependency, and**
36 **Developmental Disability, or Dual Diagnose into a Behavioral Health Treatment**
37 **Facility or Hospital**
38

39 (a) A person may be committed to the custody of the Department of Health by the Superior
40 Court for observation, diagnosis, care, and treatment upon the petition of a spouse or
41 guardian, a relative, the certifying/treating medical practitioner, behavioral health
42 professional, community member or the Administrator/Director or supervisor in charge
43 of any approved public treatment facility. A refusal to undergo treatment does not
44 constitute evidence of a lack of judgment as to the need for treatment. Opinions of the
45 examiner may be based on personal observation or on history and information from
46 other sources considered reliable by the examiner.

1
2 **(b)** The petition shall allege that the person is behaviorally or developmentally challenged,
3 or an alcoholic or drug dependent individual who habitually lacks self-control due to a
4 disturbed condition or to the use of alcoholic beverages or drugs and that said individual
5 has done any one of the following:

- 6
7 i. has threatened, attempted, or inflicted physical harm on themselves or
8 others, and/or damaged or attempted to damage property, and that unless
9 committed is likely to continue to inflict physical harm to themselves or
10 others and/or damage property; or
11 ii. is incapacitated by alcohol or drugs.
12

13 **(c)** The petition shall be accompanied by a certificate of a medical practitioner or
14 behavioral health professional who has examined the person within two days before
15 submission of the petition unless the person whose commitment is sought has refused
16 to submit to a medical examination, in which case the fact of refusal shall be alleged in
17 the petition. The certificate shall set forth the medical practitioner or behavioral health
18 professional's findings in support of the allegations of the petition which shall include
19 but not limited to the following:

- 20 i. Whether the person is diagnosed with a behavioral health challenge,
21 mental health disorder, or developmental disability;
22
23 ii. Whether a person is suffering from severe and persistent behavioral,
24 mental, or developmental health disorder;
25
26 iii. When the establishment of a progressive treatment plan under section
27 §1033 Progressive Treatment Program is applicable;
28
29 iv. Whether the person's clinical needs may be met by an order under the
30 Progressive Treatment Program to participate in a progressive treatment
31 program.
32
33 v. Whether the person poses a likelihood of serious harm
34
35 vi. When involuntary treatment is at issue, whether the need for such
36 treatment meets the criteria of subsection) b);
37
38 vii. Whether adequate community resources are available for care and
39 treatment of the person's behavioral, mental, and developmental health
40 challenges or drug or alcohol dependency; and
41
42 viii. The patient's recent actions and behavior, due to the patient's diagnosis
43 or history of behavioral, mental, and developmental health disorders or
44 drug or alcohol dependency; and
45

1 ix. Based on the evaluations of the above, the individual's treatment plan
2 to be followed by the psychiatric facility staff.
3

4 **(d)** Upon filing the petition, the court shall appoint counsel for the person and set a date
5 for a hearing no later than five (5) days after the date the petition was filed. A copy of
6 the petition and of the notice of the hearing, including the date fixed by the court, shall
7 be served on the petitioner, the Director of Behavioral Health, the person whose
8 commitment is sought and their attorney, next of kin other than the petitioner, a parent
9 or legal guardian if the person is a minor, the Administrator/Director in charge of the
10 approved public treatment facility to which the person has been committed for
11 emergency care, and any other person the court believes advisable. A copy of the
12 petition and certificate shall be delivered to each person notified.
13

14 i. A notice received by the judge or magistrate shall be considered by the
15 judge as grounds sufficient forthwith to issue a warrant for the
16 commencement of the judicial proceedings provided in this chapter.
17

18 **(e)** At the time of certifying the person suffering from behavioral, mental, or
19 developmental health disorders or drug or alcohol dependency challenges in
20 accordance with the provisions of subsections of this section, the judge shall establish
21 by endorsement on the warrant the date and time for trial. The trial of any action under
22 the provisions of this chapter shall be in the Superior Court without a jury unless
23 counsel for the person suffering from behavioral mental or developmental health
24 disorders, and/or drug or alcohol dependency, requests a jury. The Attorney General's
25 Office shall represent the People in these matters.
26

27 **(f)** If information in writing and under oath or a petition is given to the judge or magistrate
28 of the Superior Court indicating that any person before the judicial division suffers
29 from behavioral, mental, or developmental health disorders or drug or alcohol
30 dependency and that the welfare of themselves, others, or property are in danger and
31 requires that the person be placed in restraint, any such judge or magistrate, upon
32 evaluation of all relevant information, shall issue a warrant for the apprehension of such
33 person forthwith.
34

35 **(g)** The warrant provided for in this section shall be in the name of People of the Virgin
36 Islands and shall be directed to the marshal or other law enforcement officers of the
37 court issuing the warrant. Upon court order, law enforcement officers shall immediately
38 take into custody the person alleged to be suffering from a behavioral, mental, or
39 developmental health disorders, and/or drug or alcohol dependency, and bring the said
40 person before the court pursuant to the warrant issued. If it appears to the judge who
41 issued the warrant that the person is behaviorally or developmentally challenged, the
42 judge shall appoint an attorney to represent said person and shall order said person to
43 the care and custody of the Commissioner of Health, for such restraint and treatment,
44 pending commencement of and during the judicial proceedings provided for herein,
45 and in such manner and place as in the opinion of the Commissioner is necessary.

1 However, no such restraint and treatment shall be for a period in excess of fifteen (15)
2 days without the order of the court issuing the warrant.

- 3
- 4 **(h)** Persons diagnosed with behavioral, mental, or developmental health disorders, and/or
5 drug or alcohol dependency, and conducting themselves in a manner that in the case of
6 a sane person would constitute disorderly conduct, as defined in section 622 or 625, of
7 Title 14 of the Virgin Islands Code, may be arrested by any law enforcement officers,
8 who shall immediately bring said person before the magistrate or a judge of the
9 Superior Court. If it appears to any such judge that the person is apparently suffering
10 from behavioral, mental, or developmental health disorders, and/or drug or alcohol
11 dependency, the procedure outlined in subsection (a) of this section shall apply.
- 12
- 13 **(i)** Prior to the commencement of the hearing, the court shall inform the person whose
14 commitment is sought of their right to contest the application, be represented by
15 counsel at every stage of any proceedings relating to commitment, and have counsel
16 appointed by the court or provided by the court if the assistance of counsel is requested.
17 If the court believes that the person needs the assistance of counsel, the court shall
18 require, by appointment if necessary, said counsel. The person whose commitment is
19 sought shall be informed of their right to be examined by a medical practitioner or
20 behavioral health professional of their choice. If the person is unable to obtain a medical
21 practitioner or behavioral health professional and requests examination by a licensed
22 medical practitioner or behavioral health professional, the court shall employ a licensed
23 medical practitioner or behavioral health professional for that purpose. Should an order
24 of involuntary commitment be entered, that person is prohibited from possessing or
25 having under their control a firearm pursuant to Title 23 V.I.C. §456a(4).
- 26
- 27 **(j)** At the hearing, the court shall review all relevant testimony, including, if possible, the
28 testimony of at least one licensed medical practitioner or a behavioral health
29 professional who has examined the person whose commitment is sought. The
30 individual subject to the hearing or examination, and all other persons to whom notice
31 is required to be sent, must be afforded an opportunity to appear at the hearing to testify
32 and to present and cross-examine witnesses. The court may, in its discretion, receive
33 the testimony of any other person and may subpoena any witness. The person must be
34 afforded an opportunity to be represented by counsel, and, if neither the person nor
35 others provide counsel, the court shall appoint counsel for the person.
- 36
- 37 **(k)** The subject of the hearing or examination shall be present unless the court believes that
38 their presence is likely to be injurious to him or disruptive to the court's proceedings.
39 The court shall examine the person in open court, or if advisable, shall examine the
40 person out of court. If the person has refused to be examined by a licensed medical
41 practitioner or behavioral health professional, said person shall be given an opportunity
42 to be examined by a court-appointed licensed medical practitioner or behavioral health
43 professional. If said person refuses and there is sufficient evidence to believe that the
44 allegations of the petition are true, or if the court believes that more medical evidence
45 is necessary, the court may make a temporary order committing said person to the

1 Department of Health for a period of not more than five (5) days for purposes of a
2 diagnostic examination.

3
4 **(l)** A stenographic or electronic record must be made of the proceedings in all judicial
5 hospitalization hearings,

- 6
7 i. The record, and all notes, exhibits, and other evidence are confidential.
8 ii. The record, and all notes, exhibits, and other evidence must be retained
9 as part of the Superior Court records for a period of 5 years from the
10 date of the hearing.
11

12 **(m)** The hearing shall be closed to the public and kept confidential and a report of the
13 proceedings shall not be released to the public or press, except by permission of the
14 person or the person's counsel and with approval of the Superior Court Judge presiding
15 over the matter, except that the court may order a public hearing on the request of the
16 person or the person's counsel.
17

18 **(n)** The Court shall make an order of commitment to the Department, after hearing all
19 relevant evidence, and if all of the following have been established by clear and
20 convincing evidence:

- 21 i. the results of any diagnostic examination by the Department have been
22 obtained;
23 ii. the court finds grounds for involuntary commitment have been established
24 by clear and convincing proof;
25 iii. evidence supports that the person's recent actions and behavior, are due
26 to the person's behavioral, mental, or developmental disability health
27 disorders and/or alcohol or drug dependency challenges;
28 iv. the patient poses a likelihood of harm to themselves, others, or to property;
29 and
30 v. that after full consideration of less restrictive treatment settings, services,
31 and programs, inpatient hospitalization is determined to be the best
32 available means for the treatment of the person.
33 vi. That inpatient hospitalization is the best available means for the treatment
34 of the patient; and
35 vii. That the court is satisfied with the individual treatment plan offered by the
36 behavioral health and developmental disability facility to which the
37 applicant seeks the patient's involuntary commitment.
38

39 **(o)** The court may not order the commitment of a person unless it determines that the
40 Department is able to provide adequate and appropriate treatment for said person, and it is
41 established that their treatment is likely to be beneficial.
42

43 **(p)** If the Superior Court makes the findings in subsections (n) but is not satisfied with the
44 individual treatment plan as offered, it may continue the case for not longer than ten (10)
45 days, pending reconsideration and resubmission of an individual treatment plan by the
46 behavioral health and developmental disability facility.

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2(q) If the Superior Court makes the findings in §1033, Progressive Treatment Program, the court may issue an order under §1038 Progressive Treatment Program requiring the person to participate in a progressive treatment program.

6(r) A person committed under this section shall remain in the custody of the Department for treatment for either a time established by the court or for an indefinite period, in which latter case the person's commitment shall be subjected to close periodic judicial scrutiny designed to protect the said person from prolonged and unnecessary commitment.

11(s) Notwithstanding any other provisions of this subchapter, a person, with respect to whom an application for the issuance of an order for hospitalization has been filed, may not be released or discharged during the pendency of the proceedings, unless:

- i. The Superior Court orders release or discharge upon the request of the patient or the patient's guardian, parent, spouse or next of kin;
- ii. The Superior Court orders release or discharge upon the report of the subject of the hearing and examination, and determines that the person may be discharged safely;
- iii. The Superior Court orders release or discharge upon a writ of habeas corpus under 5 V.I.C. § 3810; or
- iv. Upon request by the Commissioner, the Superior Court may order the transfer of a patient in need of more specialized treatment to another facility.

(t) The Department shall provide for adequate and appropriate treatment of a person committed to its custody. The Department may transfer any person committed to its custody from one approved public treatment facility to another if the transfer is medically advisable.

(u) A person committed to the custody of the Department for treatment shall be discharged at any time before the end of the period for which they have been committed, if the commitment for a time certain has been ordered by the court and if any of the following conditions are met:

- i. In the case of a person suffering from behavioral, mental, developmental disability health disorders, and/or alcoholism, intoxication, and drug dependency, if committed on the grounds of likelihood of infliction of physical harm upon themselves or another, the condition of release will show that the patterns of behavioral or developmental health disturbances and/or alcohol and drug consumption are
 - 1. under control,
 - 2. that the individual is no longer drug dependent,
 - 3. or that the likelihood no longer exists of their infliction of physical harm upon themselves or another.

1 ii. In the case of a person suffering from behavioral, mental, developmental
2 disability health disorders, and/or alcoholism, intoxication, and drug
3 dependency committed on the grounds of the need of treatment and
4 incapacity, the condition of release will show that

- 5 1. the incapacity no longer exists,
- 6 2. further treatment will not be likely to bring about significant
7 improvement in the person's condition,
- 8 3. or treatment is no longer adequate or appropriate.

9
10 (v) If a private treatment facility agrees with the request of a competent patient or parent,
11 sibling, adult child, or guardian to accept the patient for treatment, the
12 Administrator/Director of the public treatment facility may transfer the said patient to
13 the private treatment facility.

14
15 (w) A person committed under this chapter may at any time seek to be discharged from the
16 commitment by writ of habeas corpus.

17
18 **1022. Involuntary Treatment with Medication.**

19
20 (a) Except for involuntary treatment ordered pursuant to the provisions of §1021 or for
21 emergency purposes under §1020, involuntary treatment or medication of a patient at
22 a designated private facility, hospital or a public behavioral health treatment facility
23 who is an involuntarily committed patient under the provisions of this subchapter may
24 be ordered and administered only in conformance with the provisions of this section.
25 For the purposes of this section, involuntary treatment is limited to medication for the
26 treatment of persons who suffer from behavioral health challenges or mental health
27 disorders and laboratory testing and medication for the monitoring and management of
28 side effects.

29
30 (b) If the patient's primary treating physician proposes a treatment that the physician, in
31 the exercise of professional judgment, believes is in the best interest of the patient and
32 if the patient lacks clinical capacity to give informed consent to the proposed treatment
33 or medication and the patient is unwilling or unable to comply with the proposed
34 treatment, the patient's primary treating physician shall request in writing a court order
35 for the involuntary treatment of medication. The request must be made to the Court.
36 The request must include the following information:

- 37 i. The name of the patient, the patient's diagnosis and the unit in which
38 the patient is hospitalized;
- 39 ii. The date that the patient was committed to the facility and the period of
40 the court-ordered commitment;
- 41 iii. A statement by the primary treating physician that the patient lacks the
42 capacity to give informed consent to the proposed treatment. The
43 statement must include documentation of a second opinion, stating that
44 the patient lacks that capacity, and must be given by a professional
45

- 1 qualified to issue such an opinion, who does not provide direct care to
2 the patient but who may work for the facility;
- 3 iv. A description of the proposed course of treatment, including specific
4 medications, routes of administration, and dose ranges. A proposal of
5 alternative medications or routes of administration if any, and the
6 circumstances under which any proposed alternative would be used;
 - 7 v. A description of how the proposed treatment will benefit the patient and
8 ameliorate identified signs and symptoms of the patient's illness,
9 disorder or challenge;
 - 10 vi. A listing of the known or anticipated risks and side effects of the
11 proposed treatment and how the prescribing physician will monitor,
12 manage and minimize the risks and side effects;
 - 13 vii. Documentation of any underlying medical condition of the patient that
14 contraindicates the proposed treatment; and
 - 15 viii. Documentation of any advance health-care directive that gives any
16 declaration regarding the medical treatment of any disorders or
17 illnesses.

18
19 (c) The court order for treatment under this section remains in effect for 120 days or until
20 the end of the period of commitment, whichever is sooner unless altered by:

- 21 i. An agreement to a different course of treatment by the primary treating
22 physician and patient;
- 23 ii. By modification or vacation of the order from the Commissioner or the
24 Commissioner's designee, for a patient at a designated private
25 behavioral health treatment facility.

26 27 **1023. Transfer to Other Facilities**

28
29 (a) The Commissioner may transfer, or authorize the transfer of, a patient from one hospital
30 to another within the Territory if the Commissioner determines that it would be
31 consistent with the medical or psychiatric needs of the patient to do so.

- 32 i. Before a patient is transferred, the Commissioner shall give written
33 notice of the transfer to the patient's guardian, the patient's parents or
34 spouse or, if none of the above exist or can be located, to the patient's
35 next of kin or friend, except that if the Director of the hospital to which
36 the patient is currently admitted has reason to believe that notice to any
37 of these individuals would pose risk of harm to the person, then notice
38 may not be given to that individual.
- 39 ii. In making all such transfers, the Commissioner shall give due
40 consideration to the relationship of the patient to the patient's family,
41 guardian or friends, in order to maintain relationships and encourage
42 visits beneficial to the patient.

43
44 (b) Upon receipt of a confirmation that a facility is available for the care or treatment of
45 any involuntarily hospitalized person and that the person is eligible for care and

1 treatment in a hospital or facility of the agency, the Director or Commissioner of Health
2 shall notify the court and may request the person be transferred for hospitalization.

3
4 **1024. Hospitalization Outside of the Territory**
5

6 (a) If a person ordered to be hospitalized under §1021 or §1022 hereunder is eligible for
7 hospital care or treatment by any agency or facility in the United States, the court, upon
8 receipt of a confirmation from the agency or facility, showing what facilities are
9 available and that the person is eligible for care or treatment in the facility, may order
10 the person to be placed in the custody of the agency for hospitalization.

11
12 (b) A person admitted under this section to any psychiatric facility operated inside or
13 outside of the Territory is subject to the rules of the agency or facility but retains all
14 rights to release and undergo periodic court review granted by this subchapter.

15
16 (c) The Director of any psychiatric facility in which the person is hospitalized has, with
17 respect to the person, the powers to make decisions regarding detention, custody,
18 transfer, conditional release or discharge of patients, subject to the approval of the
19 Commissioner

20
21 (d) Every order of hospitalization issued under this section is conditioned on the retention
22 of jurisdiction in the courts of the Virgin Islands to, at any time:

- 23
24 i. Inquire into the behavioral health challenge, mental health disorder,
25 developmental disability, or alcohol and drug dependency of a person
26 hospitalized; and
27 ii. Determine the necessity for continuance of the person's hospitalization.

28
29 **1025. Protective Custody**

30 (a) If a law enforcement officer, which includes members of the Virgin Islands Police
31 Department, Superior Court Marshals, or Territorial Peace Officers, has probable cause
32 to believe that a person may be suffering from behavioral health challenge, mental
33 health disorder, developmental disability, or alcohol and drug dependency and that due
34 to that condition the person presents a threat of harm to that person or to other persons
35 or to property, the law enforcement officer shall immediately take the person into
36 protective custody and deliver the person immediately for examination by a medical
37 practitioner to a hospital or appropriate behavioral health treatment facility for
38 examination.

- 39 i. Said person is to remain in the custody of law enforcement until
40 admitted into either the hospital or the behavioral health treatment
41 facility.

42
43 (b) When formulating probable cause, the law enforcement officer may rely upon
44 information provided by a third-party informant if the officer confirms that the
45 informant has reason to believe, based upon the informant's recent personal
46 observations of or conversations with a person, that the person may be suffering from

1 a behavioral health challenge, mental health disorder, developmental disability, or
2 alcohol and drug dependency and that due to that condition the person presents a threat
3 of imminent and physical harm to that person or to other persons.
4

5 (c) The law enforcement officers detaining the person and taking them to an approved
6 public treatment facility is taking the person into protective custody and shall make
7 every reasonable effort to protect said person's health and safety.
8

- 9 i. In taking the person into protective custody, the detaining officer may
10 take reasonable steps to protect themselves.
11 ii. A taking into protective custody under this section is not an arrest, and
12 statutory and case law pertaining to arrest shall not apply to protective
13 custody.
14 iii. No entry or other records shall be made to indicate that the person has
15 been arrested or charged with a crime.
16

17 (d) If a person is taken into protective custody and the treating physician finds that the
18 person is not in need of emergency commitment, the physician shall treat the person
19 and:

- 20 i. Release the person from protective custody and, with the person's
21 permission, return the person forthwith to the person's place of
22 residence; or
23 ii. Release the person from protective custody and, with the person's
24 permission, return the person forthwith to the place where the person
25 was taken into protective custody; or
26 iii. If the person is also under arrest for a separate violation of the law, retain
27 the person in custody until the person is released in accordance with the
28 law.
29

30 (e) If a person is taken into protective custody and the treating physician finds that the
31 person is a threat to themselves, others, or to property, the treating physician shall
32 certify the person and retain that person pursuant to sections 1020 or 1021.
33

34 **1026. Expense of Transportation** 35

36 (a) The expense of conveying all indigent patients to a behavioral health hospital shall be
37 borne by the Government of the United States Virgin Islands and shall be paid upon
38 sworn account of the officer or person performing such service, showing in detail the
39 actual expense incurred in the transportation.

- 40 i. The Interdepartmental Coordinating Committee shall establish policies
41 and procedures for review of expenses for transportation and set forth
42 in an agreement how funding for said transportation shall be
43 apportioned from the relevant agencies responsible for public services
44 to the patient.
45 ii. In addition, the following agencies shall work together to apply, to
46 federal and other applicable sources, for funding to cover expenses for

1 such transportation: Interdepartmental Coordinating Committee
2 Commissioner of Health, Director and Division of Behavioral Health,
3 Mental Health, Developmental Disability, Alcoholism, and Drug
4 Dependency Services.
5

6 (b) In case any public patient is possessed of property sufficient for his support, or if any
7 person legally liable for his support possesses property, the government of the Virgin
8 Islands shall be entitled to reimbursement for such transportation out of the estates of
9 such person or the property of the person legally liable for his support, which may be
10 recovered by the Government of the Virgin Islands in a civil action in the Superior
11 Court of the Virgin Islands.
12

13 (c) The expense of conveying to their homes public patients discharged from the
14 behavioral health hospital, and the necessary clothing furnished to them at the time of
15 their discharge, shall be paid by the Government of the United States Virgin Islands.

- 16 i. The Interdepartmental Coordinating Committee shall establish policies
17 and procedures for review of the expenses above and set forth in an
18 agreement how funding for said transportation shall be apportioned
19 from the relevant agencies responsible for public services to the patient.
20 ii. In addition, the following agencies shall work together to apply, to
21 federal and other applicable sources, for funding to cover expenses for
22 such expenses: Interdepartmental Coordinating Committee
23 Commissioner of Health, Director and Division of Behavioral Health,
24 Mental Health, Developmental Disability, Alcoholism, and Drug
25 Dependency Services.
26

27 (d) The Government of the Virgin Islands, in cases provided for in this section, shall in no
28 instance recover more than the actual cost of the support of any person suffering from
29 a behavioral health challenge, mental health disorder, developmental disability, or
30 alcohol and drug dependency. The confirmation of the Commissioner of Health as to
31 the amount due shall be sufficient evidence to authorize the court to render judgment,
32 provided, that this amount shall be based upon the daily subsistence of all patients in
33 the hospital.
34

35 **1027. Maintenance of patients** 36

37 (a) All indigent patients shall be kept and maintained at the expense of the Government of
38 the United States Virgin Islands.
39

40 (b) All non-indigent patients shall be kept and maintained at the expense of the government
41 of the United States Virgin Islands in the first instance, but in such cases, the
42 Government shall be entitled to reimbursement in the manner provided in section 1026
43 of this chapter.
44

45 (c) All non-indigent patients shall be kept and maintained at the mental hospital at their
46 own expense or the expense of their relatives or friends. For board and room of such

1 patients, the Commissioner of Health may charge a rate not in excess of the actual cost
2 thereof. At the time of the admission of any non-indigent patient into the mental
3 hospital, his/her cost shall be paid monthly in advance.
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8 **1028. Care of Persons Diagnosed with Behavioral Health Challenges, Mental Health**
9 **Disorders, Developmental Disabilities, and Alcohol or Drug Dependency by Relative**
10 **or Friend; Bond**
11

12 (a) No warrant shall be issued to convey a person to the behavioral health hospital suffering
13 from behavioral health challenges, mental health disorders, developmental disabilities,
14 and alcohol or drug dependency, if some relative or friend agrees, will undertake before
15 the judge of the Superior Court, to assume that person's care and restraint, and will
16 execute a bond in the sum to be fixed by the judge.
17

18 (b) Conditions:

- 19 i. the bond must be made payable to the Government of the Virgin Islands;
- 20 ii. to be approved by the judge two or more good and sufficient sureties
21 are required;
- 22 iii. the party giving such a bond must ensure that they will restrain and take
23 proper care of the person suffering from behavioral health challenges,
24 mental health disorders, developmental disabilities, and alcohol or drug
25 dependency so long as their behavioral health and mental unsoundness
26 continue;
- 27 iv. the bond shall cease from the moment that the guardian of such person
28 shall deliver him voluntarily to law enforcement officers or another
29 proper person/department/facility that can take the individual into
30 custody according to law; and
- 31 v. the bond shall be filed with and constitute a part of the record of the
32 proceedings and may be sued and recovered upon by any party injured,
33 in his own name.
34

35 (c) The judge may waive said bond if reasonable cause exists.
36

37 **1029. Conditional release**
38

39 (a) Notwithstanding the provisions of section 1021 of this chapter, a person committed
40 under section 1020 of this chapter or section 1021 may be conditionally released when,
41 in the opinion of the attending psychiatrist or behavioral health specialist familiar with
42 the patient's case history, the clinical needs of such person do not require active
43 inpatient care and treatment but may still require follow-up care and monitoring upon
44 approval of the Court.
45

1 **(b)** The conditional release of any person committed under sections 1020 or 1021 shall be
2 in accordance with a written service plan prepared by a psychiatrist, psychologist or
3 attending physician and behavioral health specialists familiar with the case history of
4 the person to be conditionally released and in cooperation with appropriate social
5 services officials. In causing such a plan to be prepared, the Administrator/Director of
6 the treatment facility shall take steps to assure that the persons to be conditionally
7 released are

- 8
9 i. interviewed,
10 ii. provided with an opportunity to actively participate in the development
11 of such a plan,
12 iii. and are advised of whatever services might be available to them through
13 the Division of Behavioral Health, Alcoholism, and Drug Dependency
14 and the Departments of Health and Human Services.
15

16 **(c)** The written service plan prepared pursuant to this section shall include, but shall not be
17 limited to, the following:
18

- 19 i. a statement of the patient's need, if any, for supervision, whether by a
20 family member or other third-party custodian, medication, after-care
21 services, and a schedule of appointments, if any, to be kept with a
22 psychiatrist, any other physician, or behavioral health specialist;
23 ii. a specific recommendation of the type of residence in which the patient
24 is to live and a listing of the services available to the patient in such
25 residence;
26 iii. a listing of organizations, facilities, including those of the Department,
27 and individuals who are available to provide services in accordance with
28 the identified needs of the patient; and
29 iv. assistance in finding employment following conditional release.

30 **(d)** The Administrator/Director of the treatment facility is authorized to revoke the
31 conditional release granted under this section, after consultation with the staff of the
32 Division of Behavioral Health, Alcoholism, and Drug Dependency and a psychiatrist,
33 psychologist, or attending physician, whenever it appears that the person has failed to
34 comply with any condition of release such as:
35

- 36 i. taking of medication and keeping scheduled appointments or,
37 ii. upon facts or evidence showing a need for emergency treatment or for
38 immediate re-commitment because of the likelihood of harm to
39 themselves or others, presented by a family member, relative,
40 behavioral health professional, or another responsible person.
41

42 **(e)** The Court shall rule upon the request for conditional release along with the service
43 treatment plan for release, prior to the release.
44

1 (f) The Department and Commissioner of Police Department must be notified five (5) days
2 prior to the conditional release being granted and made aware of any and all conditions
3 the Court has imposed.
4

5 **1030. Return from Unauthorized Absence**
6

7 (a) If any patient committed under sections 1020 or 1021 leaves the grounds of the
8 behavioral health treatment facility without authorization of the Director of the
9 psychiatric facility or the Director's designee, or refuses to return to the psychiatric
10 facility from a community pass when requested to do so by the Director or the Director's
11 designee, law enforcement officer shall, upon request of the Director or the Director's
12 designee, assist in the return of the patient to the facility.
13

14 (b) Convalescent Status Authority:

- 15 i. The Director of a public or private behavioral health treatment facility
16 may release an improved patient on convalescent status when the
17 Director believes that the release is in the best interest of the patient and
18 that the patient does not pose a likelihood of harm to themselves or
19 others or threat to property.
20 ii. Before releasing an involuntarily committed patient, the Director must
21 first submit a plan for continued responsibility, obtain the approval of
22 the Commissioner, and receive an order approving such release from the
23 Superior Court.
24 iii. Release on convalescent status may include provisions for continuing
25 responsibility to and by the psychiatric facility, including a plan of
26 treatment on an outpatient basis.
27

28 (c) Before releasing on convalescent status under this section, the Director of a mental
29 health facility shall make a good faith attempt to notify, by telephone, personal
30 communication or letter, of the intent to release the patient on the convalescent status
31 and of the plan of treatment, if any, and notice of this plan must be delivered to:

- 32 i. The parent or guardian of a minor patient;
33 ii. The legal guardian of an adult incompetent patient, if any is known; or
34 iii. The spouse or adult next of kin of an adult competent patient, if any is
35 known, unless the patient requests in writing that the notice not be given.
36

37 (d) If the Director of the behavioral health treatment facility to which the patient is
38 currently admitted has reason to believe that notice to any of the individuals listed in
39 this paragraph (c) would pose a risk of harm to the patient, then the notice may not be
40 given to that individual.

- 41 i. The behavioral health treatment facility is not liable when good faith
42 attempts to notify the parents, spouse or guardian has failed.
43

44 (e) Before releasing a patient on convalescent status, the Director of the behavioral health
45 treatment facility shall advise the patient, orally and in writing, of the terms of the
46 patient's convalescent status, the treatment available while the patient is on

1 convalescent status and, if the patient is a voluntary patient, of the patient's right to
2 request termination of the status and, if involuntarily committed, the means by which
3 and conditions under which re-hospitalization may occur.

4 i. Before a patient has spent a year on convalescent status, and at least once
5 a year thereafter, the Director of the behavioral health treatment facility
6 shall re-examine the facts relating to the hospitalization of the patient
7 on convalescent status.
8

9 **(f)** Discharge from convalescent status is governed as follows:

10 i. If the Director of the behavioral health treatment facility determines that,
11 in view of the condition of the patient, convalescent status is no longer
12 necessary the Director shall discharge the patient and make a report of
13 the discharge to the Commissioner.

14 ii. The Director shall terminate the convalescent status of a voluntary patient
15 within 10 days after the day the Director receives from the patient a
16 request for discharge from convalescent status.

17 iii. Discharge from convalescent status occurs upon the expiration of the
18 period of involuntary commitment.
19

20 **(g)** Re-hospitalization: Re-hospitalization of patients under this section is governed as
21 follows:

22 i. If prior to discharge, there is reason to believe that it is in the best interest
23 of an involuntarily committed patient on convalescent status to be re-
24 hospitalized, or if an involuntarily committed patient on convalescent
25 status poses a likelihood of serious harm, the Commissioner, or the
26 Director of the behavioral health treatment facility with the approval of
27 the Commissioner, may issue an order for the immediate re-
28 hospitalization of the patient.

29 ii. If the order is not voluntarily complied with, an involuntarily committed
30 patient on convalescent leave may be returned to the behavioral health
31 treatment health facility if the following conditions are met:

- 32 1. An order is issued pursuant to (g)(i) of this section;
- 33 2. The order is brought before a Superior Court Judge; and
- 34 3. Based upon clear and convincing evidence that return to the
35 behavioral health treatment facility is in the patient's best
36 interest, or that the patient poses a likelihood of serious harm,
37 the Superior Court Judge approves return to the psychiatric
38 facility.

39 iii. After approval by the Superior Court Judge, a law enforcement officer
40 may take the patient into custody and arrange for transportation of the
41 patient in accordance with the provisions of §1021 Involuntary
42 Commitment. This paragraph does not preclude the use of protective
43 custody by law enforcement officers pursuant to §1025 Protective
44 Custody.
45

1 **(h) Notice of change of status:** Notice of the change of convalescent status of patients is
2 governed as follows:

- 3 i. If the convalescent status of a patient in a behavioral health treatment
4 facility is to be changed, either because of a decision of the Director of
5 behavioral health or because of a request made by a voluntary patient,
6 the Director of the facility shall immediately make a good faith attempt
7 to notify the following individuals, by telephone, personal
8 communication or letter, of the contemplated change:
- 9 1. The parent or guardian of a minor patient;
 - 10 2. The guardian of an adult incompetent patient, if any is known;
 - 11 or
 - 12 3. The spouse or adult next of kin of an adult competent patient,
13 unless the patient requests in writing that the notice not be given.
- 14 ii. If the Director of the facility to which the patient is currently admitted
15 has reason to believe that notice to any of the individuals listed above
16 paragraph would pose a risk of harm to the person, then the notice may
17 not be given to that individual.
- 18 iii. If the change in convalescent status is due to the request of a voluntary
19 patient, the Director of the facility shall give the required notice within
20 10 days after the day the Director receives the request.
- 21 iv. The facility is not liable when good faith attempts to notify the parents,
22 spouse or guardian has failed.
- 23

24 **1031. Patients' Rights**

25

26 **(a)** Every patient in a behavioral health and developmental disability facility or residential
27 care facility is entitled to exercise all civil rights, including, but not limited to, the right
28 to civil service status, the right to vote, rights relating to the granting, renewal,
29 forfeiture or denial of a license, permit, privilege or benefit pursuant to any law, the
30 right to enter into contractual relationships and the right to manage the patient's
31 property, unless:

- 32 i. The Director of the behavioral health and developmental disability
33 facility or residential care facility determines that it is necessary for the
34 medical welfare of the patient to impose restrictions on the exercise of
35 these rights and, if restrictions are imposed, the restrictions and the
36 reasons for them must be made a part of the clinical record of the patient;
- 37 ii. A patient has been adjudicated incompetent and has not been restored
38 to legal capacity; or
- 39 iii. The exercise of these rights is specifically restricted by other statutes or
40 rules, but not solely because of the fact of admission to behavioral health
41 and developmental disability facility or residential care facility.
- 42

43 **(b)** Every patient is entitled to humane care and treatment and, to the extent that facilities,
44 equipment, and personnel are available, to medical care and treatment in accordance
45 with the highest standards accepted in medical practice.

46

1 (c) Restraint, including any mechanical means of restricting movement, and seclusion,
2 including isolation by means of doors that cannot be opened by the patient, may not be
3 used on a patient unless the Director of the behavioral health and developmental
4 disability facility or residential care facility or the Director's designee determines that
5 either is required by the medical needs of the patient.

6 i. The Director of the psychiatric facility or facility shall record and make
7 available for inspection every use of mechanical restraint or seclusion
8 and the reasons for its use.

9 ii. The limitation of the use of seclusion in this section does not apply to
10 maximum security installations.

11
12 (d) Every patient is entitled to communicate by sealed envelopes with the Department, a
13 member of the clergy of the patient's choice, the patient's attorney and the court that
14 ordered the patient's hospitalization if any.

15
16 (e) Every patient is entitled to communicate by mail in accordance with the rules of the
17 psychiatric facility.

18
19 (f) Every patient is entitled to receive visitors unless expressly prohibited by the patient's
20 medical condition, except that the patient may be visited by a member of the clergy of
21 the patient's choice or the patient's attorney at any reasonable time.

22 23 **1032. Visitation and communication of patients**

24
25 (a) Subject to reasonable rules regarding hours of visitation, which the Director may adopt,
26 with the approval of the Commissioner, patients in any approved treatment facility shall
27 be granted opportunities for adequate consultation with counsel, and for continuing
28 contact with family and friends consistent with an effective treatment program.

29
30 (b) Neither mail nor other communication to or from a patient in any approved treatment
31 facility may be intercepted, read, or censored unless the Director, Administrator or
32 another person in a position of authority has cause to believe that the mail or other
33 communication contains contraband, information regarding an unlawful event or
34 activity or otherwise warrants interception, in which case the mail or other
35 communication shall be forwarded to the Department of Justice for appropriate action.

36
37 i. The Director may adopt reasonable rules regarding the use of telephones
38 by patients in approved treatment facilities.

39 40 **1033. Progressive Treatment Program**

41
42 (a) The superintendent or Director of a behavioral health and developmental disability
43 treatment facility, the Commissioner, a medical practitioner, a law enforcement officer,
44 attorney, or the legal guardian of the patient who is the subject of the application may
45 obtain an order from the Superior Court to admit a patient to a progressive treatment
46 program upon the following conditions:

- 1 i. The patient suffers from a severe or persistent behavioral health
- 2 challenge, mental health disorder, developmental disability, and alcohol
- 3 or drug dependency;
- 4 ii. The patient poses a likelihood of serious harm to themselves, others, or
- 5 property;
- 6 iii. The patient has the benefit of a suitable individualized treatment plan;
- 7 iv. Licensed and qualified community providers are available to support the
- 8 treatment plan;
- 9 v. The patient is unlikely to follow the treatment plan voluntarily;
- 10 vi. Court-ordered compliance will help to protect the patient from
- 11 interruptions in treatment, relapses or deterioration of behavioral or
- 12 mental health; and
- 13 vii. Compliance will enable the patient to survive safely in a community
- 14 setting without posing a likelihood of serious harm.
- 15

16 **(b)** The application must be accompanied by a certificate of a medical practitioner
17 providing the facts and opinions necessary to support the application. The certificate
18 must indicate that the examiner's opinions are based on one or more recent
19 examinations of the patient or upon the examiner's recent personal treatment of the
20 patient.

- 21 i. Opinions of the examiner may be based on personal observation and
- 22 must include a consideration of history and information from other
- 23 sources considered reliable by the examiner when such sources are
- 24 available.
- 25 ii. The application must include a proposed individualized treatment plan
- 26 and identify one or more licensed and qualified community providers
- 27 willing to support the plan.
- 28 iii. The applicant must also provide a written statement certifying that a
- 29 copy of the application and the accompanying documents have been
- 30 given personally to the patient and that the patient and the patient's
- 31 guardian or next of kin, if any, have been notified of:
 - 32 1. The patient's right to retain an attorney or to have an attorney
 - 33 appointed;
 - 34 2. The patient's right to select or to have the patient's attorney select
 - 35 an independent examiner; and
 - 36 3. How to contact the Superior Court.
- 37

38 **(c)** Upon receipt by the Superior Court of the application or any motion relating to the
39 application, the court shall cause written notice of a hearing to be mailed within two
40 (2) days to the applicant, to the patient, and to the following persons if known:

- 41 i. to anyone serving as the patient's guardian and to the patient's spouse, a
- 42 parent or an adult child, if any.
- 43 ii. If no immediate relatives are known or can be located, notice must be
- 44 mailed to a person identified as the patient's next of kin or a friend, if
- 45 any are known.

- 1 iii. If the applicant has reason to believe that notice to any individual would
- 2 pose a risk of harm to the patient, notice to that individual may not be
- 3 given.
- 4 iv. A docket entry is sufficient evidence that notice under this subsection
- 5 has been given.
- 6 v. If the patient is not hospitalized, the applicant shall serve the notice of
- 7 hearing upon the patient personally and provide proof of service to the
- 8 court.
- 9

10 **(d) Examinations under this section are governed as follows.**

- 11 i. Upon receipt by the Superior Court of the application and the
- 12 accompanying documents specified in subsections (a) and (b), and at
- 13 least 3 days after the person who is the subject of the examination is
- 14 notified by the applicant of the proceedings and of that person's right to
- 15 retain counsel, or to select an examiner, the court shall cause the person
- 16 to be examined by a medical practitioner.
 - 17 1. If the person under examination or the counsel for that person
 - 18 selects a qualified examiner who is reasonably available, the
 - 19 court shall give preference to choosing that examiner.
- 20 ii. The examination must be held at the behavioral health and
- 21 developmental disability facility, a crisis center, an Assertive
- 22 Community Treatment (ACT) team facility or at another suitable place
- 23 not likely to have a harmful effect on the behavioral health of the patient.
 - 24 1. The ACT team treats patients with severe mental illness who are
 - 25 noncompliant with outpatient treatment and, therefore, are high
 - 26 users of inpatient and emergency services. The ACT team is a
 - 27 multidisciplinary team that provides individualized services to
 - 28 each client by going into the community or the client's home.
- 29 iii. The examiner shall report to the court on:
 - 30 1. Whether the patient is a mentally ill person;
 - 31 2. Whether the patient is suffering from a severe and persistent
 - 32 behavioral health challenge, mental health disorder,
 - 33 developmental disability, and alcohol or drug dependency; and
 - 34 3. Whether the patient poses a likelihood of serious harm.
- 35

36 **(e) Hearings under this section are governed as follows.**

- 37 i. The Superior Court shall hold a hearing on the application or any
- 38 subsequent motion not later than 14 days from the date when the
- 39 application or motion is filed. For good cause shown, on a motion by
- 40 any party or by the court on its own motion, the hearing may be
- 41 continued for a period not to exceed 21 additional days. If the hearing
- 42 is not held within the time specified, or within the specified continuance
- 43 period, the court shall dismiss the application or motion. In computing
- 44 the time periods set forth in this paragraph, the Rules of Civil Procedure
- 45 apply.

- 1 ii. The hearing must be conducted in as informal a manner as may be
2 consistent with the orderly procedure and in a physical setting not likely
3 to harm the behavioral health of the patient. The applicant shall transport
4 the patient to and from the place of the hearing. If the patient is released
5 following the hearing, the patient must be transported to the patient's
6 place of residence if the patient so requests.
- 7 iii. The court shall conduct the hearing in accordance with the accepted
8 rules of evidence. The patient, the applicant, and all other persons to
9 whom notice is required to be sent must be afforded an opportunity to
10 appear at the hearing to testify and to present and cross-examine
11 witnesses. The court may, in its discretion, receive the testimony of any
12 other person and may subpoena any witness.
- 13 iv. The patient must be afforded an opportunity to be represented by
14 counsel, and, if neither the patient nor others provide counsel, the court
15 shall appoint counsel for the patient.
- 16 v. At the time of the hearing, the applicant shall submit to the court expert
17 testimony to support the application and to describe the proposed
18 individual treatment plan. The applicant shall bear the expense of
19 providing witnesses for this purpose.
- 20 vi. The court may consider but is not bound by a living will or durable
21 power of attorney executed by the patient and may receive testimony
22 from the patient's guardian or attorney in fact.
- 23 vii. A stenographic or electronic record must be made of the proceedings.
24 The record and all notes, exhibits and other evidence are confidential
25 and must be retained as part of the Superior Court records for a period
26 of 2 years from the date of the hearing.
- 27 viii. The hearing shall be closed to the public and is confidential and a report
28 of the proceedings may not be released to the public or press, except by
29 permission of the patient or the patient's counsel and with approval of
30 the Superior Court Judge presiding over the matter, except that the court
31 may order a public hearing on the request of the patient or patient's
32 counsel.
- 33 ix. Except as provided in this subsection, the provisions of §1021
34 (Involuntary Hospitalization) apply to expenses and the right of appeal.
- 35

36 **(f)** After notice, examination, and hearing, the court may issue an order effective for a
37 period of up to 12 months directing the patient to follow an individualized treatment
38 plan and identifying incentives for compliance and potential consequences for
39 noncompliance.

40

41 **(g)** To ensure compliance with the treatment plan, the court may:

- 42 i. Order that the patient be committed to the care and supervision of an
43 ACT team [as defined in subsection (d)(ii)(1) of this section] or other
44 outpatient facilities with such restrictions or conditions as may be
45 reasonable and necessary to ensure plan compliance;

- 1 ii. Endorse an application for admission to a facility under §1020 or 1021
2 conditioned on receiving a certificate from a medical practitioner that
3 the patient has failed to comply with an essential requirement of the
4 treatment plan; and
5 iii. Order that any present or conditional restrictions on the patient's liberty
6 or control over the patient's assets or affairs be suspended or ended upon
7 achievement of the designated goals under the treatment plan.
8

9 **(h)** In addition to any conditional remedies contained in the court's order, if the patient fails
10 to comply with the treatment plan, the applicant may file with the court a motion for
11 enforcement supported by a certificate from a medical practitioner identifying the
12 circumstances of noncompliance. If after notice and hearing the court finds that the
13 patient has been noncompliant and that the patient presents a likelihood of serious harm
14 to anyone, the court may authorize emergency hospitalization under §1020, if the
15 practitioner's certificate supporting the motion complies with §1020. Nothing in this
16 section precludes the use of protective custody by law enforcement officers under
17 §1025 and Involuntary Commitment under §1021.
18

19 **(i)** For good cause shown, any party to the application may move to dissolve or modify an
20 order or to extend the term of the treatment plan for an additional term of up to one
21 year.
22

23 **1034. Support of Person Adjudged Behaviorally Challenged Or Diagnosed With** 24 **Mental Health Disorders** 25

26 **(a)** If it is found that a defendant is possessed of property and adjudged behaviorally
27 challenged or diagnosed with mental health disorder, developmental disability, and
28 alcohol or drug dependency under this chapter, or that some other person is legally
29 liable for the adjudged support, the judge may, from time to time, upon request of the
30 Commissioner of Health, cite the guardian of the defendant, or another person legally
31 liable for his support. Said individuals, if cited, must appear at the time fixed in the
32 citation, and show cause as to why the Government of the United States Virgin Islands
33 should not have judgment for the amount due it for the support and maintenance of
34 such person.

- 35 i. If sufficient cause is not shown, judgment may be entered against the
36 guardian or such other person for the amount found to be due to the
37 Government. The judgment may be enforced as in other cases.
38

39 **(b)** The Attorney General shall appear and represent the Government in all proceedings
40 under this section.
41

42 **(c)** The Government of the Virgin Islands, in cases provided for in this Chapter, shall in
43 no instance recover more than the actual cost of the support of any person suffering
44 from behavioral health challenges, or diagnosed with a mental health disorder,
45 developmental disability, and alcohol or drug dependency. The certificate of the
46 Commissioner of Health as to the amount due shall be sufficient evidence to authorize

1 the court to render judgment, provided, that this amount shall be based upon the daily
2 subsistence of all patients in the hospital.

3
4 **1035. Discharge**

5
6 **(a)** The Director of a behavioral health and developmental disability treatment facility
7 shall, as often as practicable, but no less than every 30 days, examine or cause to be
8 examined every patient to determine that patient's status and need for continuing
9 hospitalization.

10
11 **(b)** The Director of the facility shall discharge, or cause to be discharged, any patient when:
12 i. Conditions justifying hospitalization no longer exist;
13 ii. The patient is transferred to another hospital for treatment for that patient's
14 behavioral challenge or mental health disorder or physical condition;
15 iii. The patient is absent from the facility unlawfully for a period of 90 days;
16 iv. Notice is received that the patient has been admitted to another hospital, inside
17 or outside of the Territory, for treatment for that patient's behavioral
18 challenge or mental health disorder or physical condition; or
19 v. Although lawfully absent from the facility, the patient is admitted to another
20 facility or hospital, inside or outside the Territory, for treatment of that
21 patient's behavioral health challenge or mental health disorder or physical
22 condition, except that, if it is the opinion of the Director of the facility that
23 the patient will directly reenter the facility within the foreseeable future, the
24 patient need not be discharged.

25
26 **(c)** The Director of the facility may discharge, or cause to be discharged, any patient even
27 though the patient is suffering from a behavioral health challenge, mental health
28 disorder, developmental disability, and alcohol or drug dependency and appropriately
29 hospitalized in the behavioral health developmental disability treatment facility, if:
30 i. The patient and either the guardian, spouse or adult next of kin of the patient
31 request that patient's discharge; and
32 ii. In the opinion of the Director of the facility, the patient does not pose a
33 likelihood of serious harm to anyone due to that patient's behavioral health
34 challenge, mental health disorder, developmental disability, and alcohol or
35 drug dependency.

36
37 **(d)** A behavioral health treatment facility may not discharge a person committed under
38 §1021 solely because the person is placed in the execution of a sentence at the Bureau
39 of Correction in the county jail.

40
41 **(e)** The notice of discharge is governed as follows.
42 i. When a patient is discharged under this section, the Director of the facility
43 shall immediately make a good faith attempt to notify the following people,
44 by telephone, personal communication or letter, that the discharge has taken
45 or will take place:
46 1. The parent or guardian of a minor patient;

- 1 2. The guardian of an adult incompetent patient, if any is known; or
2 3. The spouse or adult next of kin of an adult competent patient, if any
3 is known, unless the patient requests in writing that the notice not be
4 given or unless the patient was transferred from or will be returned
5 to a state correctional facility.

6 ii. If the Director of the facility to which the patient is currently admitted has
7 reason to believe that notice to any of the individuals listed above would
8 pose a risk of harm to the person, then the notice may not be given to that
9 individual.

10 iii. The facility is not liable when good faith attempts to notify the parents, spouse
11 or guardian has failed.

12
13 **(f)** If a person participates in the progressive treatment program under §1033 Progressive
14 Treatment Plan, the time period of a commitment under this section terminates on entry
15 into the progressive treatment program.

16
17 **(g)** Discharge planning must include inquiries and documentation of those inquiries into
18 access by the patient to firearms and notification to the patient, the patient's family,
19 and any other caregivers that possession, ownership or control of a firearm by the
20 person to be discharged is prohibited pursuant to Title 23 V.I.C. §456a(4). As used in
21 this subsection, "firearm" has the same meaning as Title 23 V.I.C. §451(d).

22
23 **1036. Notification to Bureau of Corrections and Police Commissioner**

24
25 **(a)** When a person who is hospitalized in a psychiatric facility under the provisions of this
26 chapter is discharged pursuant to the parameters and requirements set in section 1035,
27 the Director of the facility to which the patient is being discharged shall notify the
28 Police Commissioner and/or Bureau of Corrections (if applicable) of the patients
29 discharge at least ten (10) days before the patient's release.

30
31 **1037. Records of Persons Who Suffer from Behavioral, Mental, or Developmental**
32 **Disability Health Disorders and Alcoholism, Intoxication and Drug Dependents**

33
34 **(a)** The registration and other records of treatment facilities shall remain confidential and
35 are privileged to the patient.

36
37 **(b)** Notwithstanding subsection (a) of this section, the Director may make available
38 information from patients' records for purposes of research into the causes and
39 treatment of behavioral, mental, or developmental disability health disorders, and
40 alcoholism, intoxication, and drug dependency. Information under this subsection shall
41 not be published in a way that discloses patients' names or other identifying
42 information.

1 **1038. Prohibited Acts: Penalty**

- 2
- 3 (a) A person is guilty of causing unwarranted hospitalization if he willfully causes the
- 4 unwarranted hospitalization of any person under this chapter.
- 5
- 6 (b) A person is guilty of causing a denial of rights if he willfully causes the denial to any
- 7 person of any of the rights accorded to him by this chapter.
- 8
- 9 (c) Causing unwarranted hospitalization or causing a denial of rights is a felony punishable
- 10 by up to five (5) years of imprisonment, a fine of \$5000.00 or both.
- 11
- 12
- 13
- 14

15 **1039. Criminal Laws Limitations**

- 16
- 17 (a) The Legislature of the Virgin Islands may not adopt or enforce local law, ordinance,
- 18 resolution or rules having the force of law that includes being mentally disturbed,
- 19 drinking, being a common drunkard, being found in an intoxicated condition or being
- 20 found under the influence of drugs as a criminal offense.
- 21
- 22 (b) Nothing in this chapter affects any law, ordinance, resolution, or rule against drunken
- 23 driving, driving under the influence of alcohol or driving under the influence of drugs,
- 24 or other similar offense involving the operation of a vehicle, aircraft, boat, machinery,
- 25 or other equipment, or regarding the sale, purchase, dispensing, possessing, or use of
- 26 alcoholic beverages or drugs at stated times and places or by a particular classes of
- 27 persons.
- 28

29 **1040. Severability; Inconsistency with Other Provisions**

- 30
- 31 (a) If any provision of this chapter or the application thereof to any person or circumstances
- 32 is held invalid, the invalidity does not affect other provisions or applications of the
- 33 chapter which can be given effect without the invalid provision or application, and to
- 34 this end the provisions of this chapter are severable.
- 35
- 36 (b) Whenever any provision of this chapter conflicts or is inconsistent with any other
- 37 provision of this Chapter, the provisions of this chapter shall govern to the extent there
- 38 is conflict or inconsistency.
- 39
- 40
- 41

42 Subchapter III. Behavioral Health, Mental Health, Developmental Disability, Alcohol or

43 Substance Abuse Facility (§§ 1041-1044)

44

1 **1041. Establishment of a Behavioral Health, Mental Health, Developmental**
2 **Disability, Alcohol or Substance Abuse Treatment Facility**

3
4 (a) The Governor of the Virgin Islands shall establish at least one public Behavioral
5 Health, Mental Health, Developmental Disability, Alcohol or Substance Abuse
6 Treatment Facility in the Virgin Islands; comprising of a long-term residential facility,
7 transitional care facility, and day treatment center. The behavioral health and
8 developmental disability treatment facility shall house those committed under Sections
9 1018 through 1022, and Chapter 45 through 48. The facility shall also house acute
10 patients and those who suffer from behavioral challenges, mental health disorders,
11 developmental disabilities, and alcohol or drug dependency.

12
13 (b) The Governor with the advice and consent of the Legislature shall appoint a Director
14 to head said facility. The Director shall serve at the pleasure of the governor.

15
16 (c) The budget for the facility shall fall under that of the Executive Branch in a line item,
17 but pursuant to 32 V.I.C. §517(c) the following portions of the Casino Revenue Fund
18 will be designated and fund the establishment and services of the Behavioral Health,
19 Mental Health, Developmental Disability, Alcohol or Substance Abuse Treatment
20 Facility:

- 21 i. Fifteen (15%) percent to hospitals and health
- 22 ii. One (1%) for gambling education and education programs
- 23 iii. Five (5%) to the University of the Virgin Islands

24
25 (d) The Director of the Behavioral Health, Mental Health, Developmental Disability,
26 Alcohol or Substance Abuse Treatment Facility shall have the following duties:

- 27 i. Shall receive for observation, diagnosis, care, and treatment any
28 person whose admission is applied for under §1019 Admission or
29 §1020 if the certifying examination conducted pursuant to §1020, was
30 completed no more than 2 days prior to the date of admission;
 - 31 ii. Shall receive for observation, diagnosis, care, and treatment any
32 person whose admission is applied for under §1021 or is ordered to the
33 facility by court order, in the public behavioral health and
34 developmental disability treatment facility;
 - 35 iii. work with a wide variety of stakeholders: physicians, nurses, social
36 workers, administrative staff, patients, families, and partnered social
37 services;
 - 38 iv. coordinate between multiple departments in order to keep the facility
39 running as efficiently as possible;
 - 40 v. manage internal responsibilities of a behavioral health director,
41 including managing the administrative and clinical operations of their
42 facility; and
 - 43 vi. manage external responsibilities including, focusing on outreach,
44 collaboration, and compliance.
- 45

1 (e) The Director of the Behavioral Health, Mental Health, Developmental Disability,
2 Alcohol or Substance Abuse Treatment Facility must meet the following
3 responsibilities and hold the minimum qualifications discussed below:

4 i. Responsibilities:

- 5 1. Aligning budgets with a facility's public and private income
6 streams
- 7 2. Ensuring compliance with federal, state, and local regulations
- 8 3. Designing and implementing programs of development and
9 marketing
- 10 4. Working with senior leadership to determine strategic goals
- 11 5. Developing systems to hire, train, and manage staff
- 12 6. Coordinating with other behavioral health services in the
13 community
- 14 7. Overseeing the transition to new IT systems

15 ii. Qualifications/Minimum Required Skills & Knowledge:

- 16 1. Undergraduate degree - in a relevant area covering technical
17 knowledge of behavioral health such as psychology, social
18 work, or public health; and
- 19 2. Master's degree - in a relevant area covering advanced
20 technical knowledge of behavioral health and focuses on either
21 the administrative side or the services side of the profession,
22 such as a master's in public health (MPH) or a master's in
23 healthcare administration (MHA); or
- 24 3. Eligible candidates need to be either a registered nurse (RN) or
25 clinical physician (MD), or hold a doctorate (PhD) in an area
26 like social work or psychology; and
- 27 4. Have a minimum of five (5) years of experience in the field.

28
29 **1042. Persons Who May Be Admitted into The Behavioral Health, Mental Health,
30 Developmental Disability, Alcohol or Substance Abuse Treatment Facility**

31
32 (a) The following persons may be admitted into the Behavioral Health, Mental Health,
33 Developmental Disability, Alcohol or Substance Abuse Treatment Facility as patients

34 i. All persons who have been adjudged by the Superior Court and ordered
35 to be conveyed to the behavioral health treatment facility and who are
36 indigent. Such patients shall be known as public patients.

- 37 1. A determination of indigence shall include a review of the
38 patient's financial ability at the time of admission and whether
39 that individual is homeless or lacks the ability to provide
40 payment due to other necessary expenses

41
42 (b) All persons who may be certified to be suffering from behavioral health challenges,
43 mental health disorders, developmental disabilities, and alcohol or drug dependency,
44 according to the provisions of this chapter, and who are maintained at the behavioral
45 health and developmental disability treatment facility at their own expense or at the
46 expense of their relatives or friends, shall be known as private patients.

1
2 (c) Private patients shall be entitled to any extra considerations contracted for with the
3 Virgin Islands through the Commissioner of Health.
4

5 **1043. Rules and regulations**
6

7 (a) The Commissioner of Health may adopt all necessary regulations, not in conflict with
8 this chapter, for the admission, care, and discharge of patients in the behavioral health
9 and developmental disability treatment facility and all other contracted, private or
10 public facilities treating behavioral health challenges, mental health disorders,
11 developmental disabilities, and alcohol or drug dependency.
12

13 (b) The rules shall include, but are not limited to:

- 14 i. Establishment of the right to have the treatment and related services
15 provided in the least restrictive appropriate setting;
- 16 ii. Establishment of the right to an individualized treatment or service plan, to
17 be developed with the participation of the client;
- 18 iii. Standards for informed consent to treatment, including reasonable standards
19 and procedure for determining when to treat a client absent informed
20 consent, consistent with applicable law, except that involuntary treatment
21 of involuntarily hospitalized or incapacitated persons who are unwilling or
22 unable to comply with treatment is allowed solely in accordance with the
23 provisions of this Act;
- 24 iv. Standards for participation in experimentation and research;
- 25 v. Standards pertaining to the use of seclusion and restraint;
- 26 vi. Establishment of the right to appropriate privacy and to a humane treatment
27 environment;
- 28 vii. Establishment of the right to the confidentiality of records and procedures
29 pertaining to a patients' right to access their behavioral health or
30 developmental disability, and alcohol or drug dependency care records;
- 31 viii. Establishment of the right to receive visitors and to communicate by
32 telephone and mail;
- 33 ix. Procedures to ensure that persons are notified of their rights;
- 34 x. The right to assistance in protecting a right or advocacy service in the
35 exercise or protection of a right;
- 36 xi. Provisions for a fair, timely and impartial grievance procedure for the
37 purpose of ensuring appropriate administrative resolution of grievances
38 with respect to infringement of rights; and
- 39 xii. To the extent that resources are available, the establishment of the rights of
40 long-term mentally ill clients containing the following requirements:
 - 41 1. The right to a service system that employs culturally normative and
42 valued methods and settings;
 - 43 2. The right to the coordination of the disparate components of the
44 community service system;

- 1 3. The right to individualized developmental programming which
2 recognizes that each long-term mentally ill individual is capable of
3 growth or slowing of deterioration;
- 4 4. The right to a continuum of community services allowing a gradual
5 transition from a more intense level of service; and
- 6 5. The right to the maintenance of natural support systems, such as
7 family and friends of the long-term mentally ill individual and
8 formal and informal networks of mutual and self-help.

9
10 **1043. Funding sources.**

11
12 **(a)** The Commissioner may receive and use for the purposes of community behavioral
13 health, developmental disability, and alcohol or drug dependency services, and for the
14 purposes of this Act and the services provided in Chapters 45 through 48, money
15 appropriated by the Government of the Virgin Islands, grants by the Federal
16 government, gifts from individuals and gifts from any other sources.

17
18 **(b)** The Commissioner may make grants of funds to any other governmental agencies,
19 community behavioral health, mental health disorders, developmental disabilities, and
20 alcohol or drug dependency service providers, or persons that apply for the funds, to
21 be used in the conduct of its behavioral health, mental health disorders developmental
22 disabilities, and alcohol or drug dependency services.

- 23 i. The programs granted funds by the Commissioner shall provide for
24 adequate standards of professional services in accordance with local and
25 federal law.
- 26 ii. The Commissioner may require the person or entity applying for funds
27 to produce evidence that appropriate governmental and other funding
28 sources have been sought to assist in the financing of its behavioral
29 health services.
- 30 iii. After negotiation with the person or entity applying for funds, the
31 Commissioner may execute a contract or agreement to provide
32 behavioral health services that reflect the commitment of governmental
33 and other funds to assist in the financing of the behavioral health, mental
34 health disorders developmental disabilities, and alcohol or drug
35 dependency services.
- 36 iv. The Commissioner must assure, through program monitoring and
37 auditing activities that services are provided by the community
38 behavioral health, mental health disorders developmental disabilities,
39 and alcohol or drug dependency services for which distribution of the
40 funds are committed by contract or agreement.
- 41 v. It shall be the prerogative of the person or entity providing services to
42 apportion other governmental funds in an appropriate manner in
43 accordance with its priorities, service contracts and applicable
44 provisions of local and federal law.
- 45 vi. The Commissioner shall award all new contracts pursuant to applicable
46 local law.

- 1 vii. The Commissioner shall establish a procedure to obtain assistance and
2 advice from consumers of behavioral health, mental health disorders
3 developmental disabilities, and alcohol or drug dependency services
4 regarding the selection of contractors when funding is requested.
5 viii. A contract pursuant to this Act is subject to renewal and must be
6 reviewed yearly if the Department determines that:
7 1. The community behavioral health service provider has breached
8 the existing contract;
9 2. The community behavioral health provider has failed to correct
10 deficiencies cited by the Department;
11 3. The community behavioral health provider is inefficient or
12 ineffective in the delivery of services and is unable or unwilling
13 to improve its performance within a reasonable time; or
14 4. The community behavioral health provider cannot or will not
15 respond to a reconfiguration of service delivery requested by the
16 Department.
17
18
19
20

21 *Chapter 46. Mental Health (Subchs. I – X)*

22
23 Subchapter I. Commitment, Examination, and Reports (§§ 1045 – 1053)

24
25 **1045. Definitions**

26
27 **(a) As used in this chapter:**

- 28
29 (1) Bodily Injury: includes but is not limited to:
30 (i) A physical injury which means the impairment of physical condition
31 and includes, but is not limited to, any skin bruising, bleeding,
32 malnutrition, burn, bone fracture, soft tissue swelling, subdural
33 hematoma, injury to any internal organ, or any physical condition that
34 threatens a person's health or welfare; or
35 (ii) Serious emotional injury or serious mental injury which means that
36 which creates a risk of death, or which causes serious or protracted
37 impairment of mental or emotional health; or
38 (iii) Serious physical injury means that which creates a risk of death, or
39 which causes serious or permanent disfigurement, or which causes
40 serious impairment of health, or loss or protracted impairment of the
41 function of any bodily organ or limb, or sexual abuse.
42
43 (2) Crime or offense as defined by (Title 14 Section 1): means an act committed
44 or omitted in violation of a law of the Virgin Islands or of the United States
45 and punishable by
46 (i) imprisonment; or
47 (ii) fine; or

- (iii) removal from office; or
- (iv) disqualification to hold and enjoy any office of honor, trust, or profit.

(3) Hearing: means any judicial procedure providing for determination of mental competency, commitment to a facility, discharge or release from a facility

(4) Property: includes both real and personal property or any interest therein, and means anything that may be the subject of ownership.

(5) Psychiatric or Psychological Examination: this means a psychiatric or psychological examination ordered pursuant to this chapter, which shall be conducted by a licensed or certified psychiatrist or psychologist.

(6) Sexually Dangerous Person: means a person who has engaged or attempted to engage in sexually violent conduct or child molestation and who is sexually dangerous to others;

(7) Sexually Dangerous to Others with Respect to a Person: this means that the person suffers from a behavioral health challenge or mental health disorder, abnormality, or disorder as a result of which he would have serious difficulty in refraining from sexually violent conduct or child molestation if released.

(8) Suitable Facility: means a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant;

(9) The Rehabilitation Program: includes but is not limited to:

- (i) educational training that will assist the person in understanding the society to which he will return and that will assist him in understanding the impact and consequences of his offense and its impact on society;
- (ii) vocational training that will assist the person in contributing to, and in participating in, the society to which he will return;
- (iii) drug, alcohol, and sex offender treatment programs, and other treatment programs that will assist the individual in overcoming a psychological or physical dependence, or any condition that makes the individual dangerous to others; and
- (iv) organized physical sports and recreation programs;

1046. Authority and Responsibility of the Commissioner of Health.

(a) The Commissioner of Health:

- i. may apply for the civil commitment, of a person committed to his custody pursuant to section 1061, 1078, 1084, 1092, or 1100
- ii. shall, before placing a person in a facility pursuant to the provisions of section 1061, 1068, 1073, 1078, 1084, 1092, or 1100 consider the suitability of the facility's rehabilitation programs in meeting the needs of the person; and

- 1 iii. may contract with a State, a political subdivision, a locality, or a private
2 agency for the confinement, hospitalization, care, or treatment of, or the
3 provision of services to, a person committed to his custody pursuant to
4 this chapter;
5 iv. shall consult with the Attorney General and Bureau of Correction in the
6 general implementation of the provisions of this chapter and in the
7 establishment of standards for facilities used in the implementation of
8 this chapter.
9

10 **1047. Behavioral Health Examiners**
11

- 12 (a) If the court finds it appropriate, the Court may order for a Defendant to be examined
13 by more than one examiner. Each examiner shall be designated by the court, except if
14 the examination is ordered under sections 1073, 1078, or 1084.
15
16 (b) Upon the request of the defendant, an additional examiner may be selected by the
17 defendant.
18
19 (c) For the purposes of an examination pursuant to an order under section 1048, 1070,
20 1074, 1079, or 1085 the court may commit the person to be examined to the custody of
21 the Bureau of Corrections for placement in a suitable facility for a reasonable period,
22 but not to exceed thirty (30) days, and under section 1060, 1061, 1078, or 1084, for a
23 reasonable period, but not to exceed forty-five (45) days.
24
25 (d) Unless impracticable, the psychiatric or psychological examination shall be conducted
26 in a suitable facility closest to the court. The director of the facility may apply for a
27 reasonable extension, but not to exceed fifteen (15) days under section 1047, 1068, or
28 1073, and not to exceed thirty days under section 1219, 1061, 1078, or 1084. The Court
29 may grant additional time upon a showing of good cause that the additional time is
30 necessary to observe and evaluate the defendant.
31

32 **1048. Psychiatric or Psychological Reports**
33

- 34 (a) At least 30 days prior to the date of any Hearing provided for herein, the court shall
35 order that a psychiatric or psychological examination of the defendant is conducted and
36 that a psychiatric or psychological report be filed with the court.
37
38 (b) A psychiatric or psychological report ordered pursuant to this chapter shall be prepared
39 by the examiner designated to conduct the psychiatric or psychological examination.
40 The psychiatric or psychological report shall be filed with the court with copies
41 provided to the counsel for the person examined and to the attorney for the
42 Government, and shall include:
43 (1) the person's history and present symptoms;
44 (2) a description of the psychiatric, psychological, and medical tests that were
45 employed and their results;
46 (3) the examiner's findings; and

- 1 **(4)** the examiner's opinions as to diagnosis, prognosis, as well as:
2 i. if an examination is ordered under Subchapter II, information regarding
3 whether the person is suffering from a mental disease or defect
4 rendering him mentally incompetent to the extent that he is unable to
5 understand the nature and consequences of the proceedings against him
6 or to assist properly in his defense;
7 ii. if the examination is ordered under sections 1057, 1060, or 1064
8 whether the person was insane at the time of the offense charged;
9 iii. if the examination is ordered under section 1061 or 1078, whether the
10 person is suffering from a mental disease or defect as a result of which
11 his release would create a risk of bodily injury to another person or
12 serious damage to property of another;
13 iv. if the examination is ordered under section 1084, whether the person is
14 a sexually dangerous person;
15 v. if the examination is ordered under section 1068 or 1073, whether the
16 person is suffering from a mental disease or defect as a result of which
17 he is in need of custody for care or treatment in a suitable facility; or
18 vi. if the examination is ordered as a part of a presentence investigation,
19 any recommendation the examiner may have as to how the mental
20 condition of the defendant should affect the sentence.

21 **1049. Periodic Report and Information Requirements.**

- 22
23 **(a)** The director of the facility in which a person is committed pursuant to—
24 **(1)** section 1053, shall prepare semiannual reports; and
25 **(2)** sections 1061, 1068, 1073, 1078, or 1084 shall prepare annual reports
26
27 **(d)** These reports shall address the mental condition of the person and recommendations
28 concerning the need for his continued commitment. The reports shall be submitted to
29 the court that ordered the person's commitment to the facility and copies of the reports
30 shall be submitted to such other persons as the court may direct.
31
32 **(e)** The director of the facility in which a person is committed pursuant to section 1054,
33 1061, 1068, 1073, 1078, or 1084 shall inform such person of any rehabilitation
34 programs that are available for persons committed in that facility.
35

36 **1050. Videotape Record.**

- 37
38 **(a)** The Court sua sponte or upon written motion of, defense counsel or the Attorney
39 General, may order a videotape record made of the defendant's testimony or interview
40 upon which the periodic report is based pursuant to sections 1049 and 1050.
41
42 **(b)** Said videotape records shall be submitted to the court along with the periodic report.
43

44 **1051. Return of Escaped Patients**

1 (a) If any person confined in the behavioral health treatment hospital or institution shall
2 escape therefrom, law enforcement officers or officers within the Division of
3 Behavioral Health and Developmental Disabilities shall apprehend, and return
4 individuals to the Behavioral Health and Developmental Disabilities Facility.
5

6 **1052. Duty to Report Release of Defendant to Police Commissioner**
7

8 (a) The commissioner of the Virgin Islands Police Department shall be notified 60 days
9 prior to the release of any patient or request to be notified of a patient's release ten (10)
10 days after a request for release has been filed.
11

12 **1053. Habeas Corpus Unimpaired**
13

14 (a) Nothing contained in section 1054, 1061, 1078, or 1084 precludes a person who is
15 committed under either of such sections from establishing by writ of habeas corpus the
16 illegality of his detention.
17
18
19
20
21

22 Subchapter II. Mental Competency (§§ 1054 – 1059)
23

24 **1054. Determination of Mental Competency to Stand Trial: Post-release proceedings**
25

26 (a) At any time after the start of a prosecution for a criminal offense and prior to the
27 sentencing of the defendant, or at any time after the commencement of probation or
28 supervised release and prior to the completion of the sentence, the defendant, his
29 attorney, the Attorney General, may file a motion for a hearing to determine the mental
30 competency of the defendant, or the Court may order a competency hearing *sua sponte*.
31

32 (b) The court shall grant the motion, or shall order such a hearing, if there is reasonable
33 cause to believe that the defendant may presently be suffering from a mental disease or
34 defect rendering him mentally incompetent to the extent that he is unable to understand
35 the nature and consequences of the proceedings against him or to assist properly in his
36 defense.
37

38 **1055. Hearing**
39

40 (a) At a hearing ordered by the Court to determine the competency of the person, the person
41 whose mental condition is the subject of the hearing shall be represented by counsel
42 and, if he is financially unable to obtain representation, counsel shall be appointed for
43 him.
44

1 (b) His attorney shall be afforded an opportunity to call witnesses to testify, to present
2 evidence, to subpoena witnesses on his behalf, and to confront and cross-examine
3 witnesses who appear at the hearing.
4

5 (c) The burden shall be upon the People to prove the Defendant competent by a
6 preponderance of the evidence.
7

8 **1056. Admissibility of Finding of Competency.**

9

10 (a) A finding by the court that the defendant is mentally competent to stand trial will not
11 prejudice the defendant in raising the issue of his insanity as a defense to the offense
12 charged and will not be admissible as evidence in a trial for the offense charged.
13

14 **1057. Determination and Disposition**

15

16 (a) If, after the hearing, the court finds by a preponderance of the evidence that the
17 defendant is presently suffering from a mental disease or defect rendering him mentally
18 incompetent to the extent that he is unable to understand the nature and consequences
19 of the proceedings against him or to assist properly in his defense, the court shall
20 commit the defendant to the custody of the Director of Behavioral Health.
21

22 (b) Upon court order the Director of Behavioral Health shall hospitalize the defendant for
23 treatment in a suitable facility for the following periods:

24 i. for such a reasonable period of time, not to exceed four months, as is
25 necessary to determine whether there is a probability that in the foreseeable
26 future he will attain the capacity to permit the proceedings to go forward; or

27 1. for an additional reasonable period of time (whichever is earlier)
28 when:

29 A. the mental condition is so improved that trial may proceed if
30 the court finds that there is a probability that within such
31 additional period of time he will attain the capacity to permit
32 the proceedings to go forward; or

33 B. the pending charges against him are disposed of according to
34 law;
35

36 ii. If at the end of the time period specified, it is determined that the defendant's
37 mental condition has not so improved as to permit the proceedings to go
38 forward, the defendant is subject to civil commitment procedures pursuant
39 to sections 1021, 1078, or 1084.
40

41 **1058. Request for Discharge.**

42

43 (a) Regardless of whether the director of the facility in which a person is committed has
44 filed a certificate pursuant to the provisions of sections 1054, 1068, 1073, 1078, or
45 1084, or section 1061, counsel for the person or his legal guardian may, at any time
46 during such person's commitment, file with the court that ordered the commitment a

1 motion for a hearing to determine whether the person should be discharged from such
2 facility.

- 3 i. A motion may be filed within one hundred and eighty (180) days of the
4 court's determination that the person should continue to be committed.
- 5 ii. A copy of the motion shall be sent to the director of the facility in which the
6 person is committed and to the Attorney General Office.

7
8 **1059. Discharge**

- 9
- 10 (a) When the Director of the facility in which a defendant is hospitalized determines that
11 the defendant has recovered to such an extent that he is able to understand the nature
12 and consequences of the proceedings against him and to assist properly in his defense,
13 he shall promptly file a certificate to that effect with the clerk of the court that ordered
14 the commitment.
15
 - 16 (b) The clerk shall send a copy of the certificate to the defendant's counsel and to the
17 Attorney General. The court shall hold a hearing, conducted pursuant to section 1055
18 to determine the competency of the defendant.
19
 - 20 (c) If, after the hearing, the court finds by a preponderance of the evidence that the
21 defendant has recovered to such an extent that he is able to understand the nature and
22 consequences of the proceedings against him and to assist properly in his defense, the
23 court shall order his immediate discharge from the facility in which he is hospitalized
24 and placed in the custody of the Bureau of Corrections.
25
 - 26 (d) The Court shall be notified within 48 hours of the Defendant being placed in custody
27 and shall set the date for trial or other proceedings.
28
29

30 Subchapter III. Not Guilty by Reason of Insanity (§§ 1060 - 1067)

31
32 **1060. Determination of the Existence of Insanity at the Time of the Offense**

- 33
- 34 (a) Upon the filing of a notice, as provided in Virgin Islands Rules of Criminal Procedure,
35 that the defendant intends to rely on the defense of insanity, the court *sua sponte*, or
36 upon motion of the Attorney General, shall order that a psychiatric or psychological
37 examination of the defendant be conducted and that a psychiatric or psychological
38 report be filed with the court, pursuant to the provisions of section 1048.
39
 - 40 (b) A person giving said notice is entitled to a jury trial. However, the Defendant may
41 voluntarily and knowingly waive his rights to a jury trial.
42
 - 43 (c) The burden of proof will be on the People of the Virgin Islands to prove beyond a
44 reasonable doubt that the Defendant is criminally liable that his unlawful act was not a
45 product of behavioral health challenges or mental health disorders. At the conclusion
46 of the trial, pursuant to Title 14 Section 14(4) of the Virgin Islands Code, the court shall

1 advise the jury that the prosecution has the burden of proving beyond a reasonable
2 doubt that the person is not guilty by reason of insanity, if the person is diagnosed with
3 a behavioral health challenge or mental health disorder, and committed the act charged
4 against them as a consequence of such behavioral or mental health disorders. The jury
5 shall also be advised that the Defendant would face mandatory commitment
6 proceedings if he is found not guilty by reason of insanity.

7
8 **(d)** If a jury is impaneled as provided in section 1060(b) of this title, the following oath
9 shall be administered: "You and each of you do solemnly swear or affirm that upon all
10 the issues about to be submitted to you in the matter of the People of the Virgin Islands
11 of the United States against the defendant, you will render a true verdict according to
12 the evidence, So help you, God."

13
14 **(e)** In a proceeding under this subchapter, the testimony of the two or more qualified
15 physicians licensed or permitted to practice in the Virgin Islands shall be heard,
16 together with such other proper evidence as is presented by either party. After all the
17 evidence is heard, the judge shall submit the matter to the jury to determine the
18 following special issues:

- 19
20 i. Is the defendant of unsound mind?
21 ii. If you answer the foregoing question in the affirmative is it necessary,
22 that he should be placed under restraint as a mentally ill person?
23

24 **(f)** The verdict of the jury - The jury shall return plain answers in writing to the issues
25 named in section 1060(e) of this title, but if they find the first issue in the negative they
26 need not determine further, and the defendant shall be discharged.

27
28 **(g)** Special Verdict - If the issue of insanity is raised by notice as provided in Rule 12.2 of
29 the VI Rules of Criminal Procedure on motion of the defendant or of the attorney for
30 the Government, or on the court's own motion, the jury shall be instructed to find, or,
31 in the event of a nonjury trial, the court shall find the defendant –

- 32 i. guilty;
33 ii. not guilty; or
34 iii. not guilty only by reason of insanity.
35

36 **(h)** Entry of judgment

- 37 i. Upon return of a verdict agreed upon by five members of the jury
38 finding that the defendant is of unsound mind and that it is necessary
39 that he be placed under restraint, judgment shall be entered adjudging
40 the defendant to be mentally ill and ordering him to be conveyed to a
41 private or a public hospital for restraint and treatment.
42 ii. The special issues submitted to the jury, with the answers thereto, shall
43 be incorporated in the judgment.
44

45 **1061. Hospitalization of a Person Found Not Guilty by Reason of Insanity**
46

1 (a) If a person is found not guilty by reason of insanity, that individual shall be committed
2 to the care and custody of the Commissioner of Health and Division of Behavioral
3 Health, Mental Health, Developmental Disability, Alcoholism, and Drug Dependency,
4 to be placed in a suitable facility for custody, care, and treatment from which he will
5 not be discharged until the court is satisfied that he has regained his capacity for
6 judgment, discretion, and control of the conduct of his affairs and social relations.

7
8 (b) Where any person has been confined in a forensic unit in a suitable facility as provided
9 in subsection (a) of this section or otherwise in accordance with the law, and the
10 superintendent or head of that forensic unit certifies:

- 11
12 i. that such person has regained his capacity for judgment, discretion, and
13 control of the conduct of his affairs and social relations,
14 ii. that, in the opinion of the superintendent or head, such person will not in
15 the reasonable future be dangerous to himself or others, or property,
16 iii. and in the opinion of the Director or head, the person is entitled to discharge
17 from the forensic unit, and such certificate is filed with the clerk of the court
18 in which the person was tried, and a copy thereof served on the Attorney
19 General,

20
21 such certificate shall be sufficient to authorize the court to order the discharge of the
22 person so confined from further hospitalization; but the court in its discretion may, or
23 upon objection of the Attorney General shall, after due notice, hold a hearing at which
24 evidence as to mental condition of the person so confined may be submitted, including
25 the testimony of one or more psychiatrists from, said forensic unit.

26
27 (c) Evidence may be submitted upon deposition or interrogatories in the case of any
28 forensic unit located more than 100 miles from the Virgin Islands. The court shall
29 weigh the evidence and, if the court finds that such person has regained his capacity for
30 judgment, discretion, and control of the conduct of his affairs and social relations and
31 will not in the reasonable future be dangerous to himself or others, the court shall order
32 such person discharged from further confinement in said forensic unit. If the court does
33 not so find, the court shall order such person returned to the forensic unit.

34
35 **1062. Hearing on the Release**

36
37 (a) A hearing shall take place no later than forty (40) days following the release pursuant
38 to §1061(a). At a hearing ordered pursuant to this chapter the person whose mental
39 condition is the subject of the hearing shall be represented by counsel and, if he is
40 financially unable to obtain representation, counsel shall be appointed for him. The
41 person shall be afforded an opportunity to testify, to present evidence, to subpoena
42 witnesses on his behalf, and to confront and cross-examine witnesses who appear at the
43 hearing.

44
45 **1063. The Burden of Proof.**

1 (a) In a hearing pursuant to this section, a person found not guilty only by reason of insanity
2 of an offense involving bodily injury to, or serious damage to the property of, another
3 person, or involving a risk of such injury or damage, has the burden of proving by clear
4 and convincing evidence that his release would not create a risk of bodily injury to
5 another person or serious damage of property of another due to a present mental disease
6 or defect. With respect to any other offense, the person has the burden of such proof by
7 a preponderance of the evidence.
8

9 **1064. Psychiatric or Psychological Examination and Report.**

10
11 (a) Prior to the date of the hearing, the court shall order that a psychiatric or psychological
12 examination of the defendant is conducted and that a psychiatric or psychological
13 report be filed with the court, pursuant to the provisions of section 1048.
14

15 **1065. Determination and Disposition.**

16
17 (a) If, after the hearing, the court fails to find by the standard specified in subsection 1063
18 of this section that the person's release would not create a risk of bodily injury to
19 another person or serious damage of property of another due to a present mental disease
20 or defect, the court shall commit the person to the custody of the Bureau of Corrections
21 or in an approved facility under the supervision of BOC and the Commissioner of
22 Health. The Bureau of Corrections shall hospitalize the person for treatment in a
23 suitable facility until—
24

- 25 i. the person's mental condition is such that his release, or his conditional
26 release under a prescribed regimen of medical, psychiatric, or psychological
27 care or treatment, would not create a risk of bodily injury to another person
28 or serious damage to property of another;
29

30 **1066. Conditional Release**

31
32 (a) Where, in the judgment of the Director or head of such forensic unit a person confined
33 pursuant to the provisions of 1061, is not in such condition as to warrant his discharge,
34 but is in a good condition to be conditionally released under supervision, and a
35 certificate is filed and served, such certificate shall be sufficient to authorize the court
36 to order the release of such person under such conditions as the court shall see fit.
37

38 (b) Provided, that the provisions of section 1062 as to hearing prior to discharge shall also
39 apply to conditional releases, and, if, after a hearing and weighing the evidence, the
40 court shall find the condition of such person warrants his conditional release, the court
41 shall order his release under such conditions as the court shall see fit, or, if the court
42 does not so find, the court shall order such person returned to an appropriate and
43 designated forensic unit
44

- 45 i. in the case of a person confined to a forensic unit outside the Virgin Islands,
46 the order of conditional release shall include a provision that such

1 conditional release under supervision shall be effected in the place in which
2 the person was tried and within the jurisdiction of the court.
3

4 **1067. Discharge.**
5

6 (a) When the director of the facility in which an acquitted person is hospitalized determines
7 that the person has recovered from his mental disease or defect to such an extent that
8 his release, or his conditional release under a prescribed regimen of medical,
9 psychiatric, or psychological care or treatment, would no longer create a risk of bodily
10 injury to another person or serious damage to property of another, he shall promptly
11 file a certificate to that effect with the clerk of the court that ordered the commitment.

12 i. The clerk shall send a copy of the certificate to the person's counsel and to
13 the attorney for the Government.

14 ii. The court shall order the discharge of the acquitted person or, on the motion
15 of the attorney for the Government or on its own motion, shall hold a
16 hearing, conducted pursuant to the provisions of section 1062 to determine
17 whether he should be released. If, after the hearing, the court finds by the
18 standard specified in section 1065 or 1066 that the person has recovered
19 from his mental disease or defect to such an extent that –

20 1. his release would no longer create a risk of bodily injury to another
21 person or serious damage to property of another, the court shall
22 order that he be immediately discharged; or

23 2. his conditional release under a prescribed regimen of medical,
24 psychiatric, or psychological care or treatment would no longer
25 create a risk of bodily injury to another person or serious damage to
26 property of another, the court shall—

27 a. order that he be conditionally discharged under a prescribed
28 regimen of medical, psychiatric, or psychological care or
29 treatment that has been prepared for him, that has been
30 certified to the court as appropriate by the director of the
31 facility in which he is committed, and that has been found by
32 the court to be appropriate; and

33 b. order, as an explicit condition of release, that he comply with
34 the prescribed regimen of medical, psychiatric, or
35 psychological care or treatment.
36

37 (b) The court at any time may, after a hearing employing the same criteria referenced
38 herein, modify or eliminate the regimen of medical, psychiatric, or psychological care
39 or treatment.
40

41 (c) Revocation of Conditional Discharge - The director of a medical facility responsible
42 for administering a regimen imposed on an acquitted person conditionally discharged
43 under section 1066 shall notify the Attorney General and the court having jurisdiction
44 over the person of any failure of the person to comply with the regimen.

45 ii. Upon such notice, or upon other probable cause to believe that the person
46 has failed to comply with the prescribed regimen of medical, psychiatric, or
47 psychological care or treatment, the person may be arrested, and, upon

1 arrest, shall be taken without unnecessary delay before the court having
2 jurisdiction over him.

- 3 iii. The court shall, after a hearing, determine whether the person should be
4 remanded to a suitable facility on the ground that, in light of his failure to
5 comply with the prescribed regimen of medical, psychiatric, or
6 psychological care or treatment, his continued release would create a risk of
7 bodily injury to another person or serious damage to property of another.

8
9 (d) Limitations on Furloughs - An individual who is hospitalized under this section after
10 being found not guilty only by reason of insanity of an offense for which creates a
11 burden of proof of clear and convincing evidence, may leave temporarily the premises
12 of the facility in which that individual is hospitalized only—

- 13 i. with the approval of the committing court, upon notice to the Attorney
14 General and such individual, and after opportunity for a hearing;
15 ii. in an emergency; or
16 iii. when accompanied by a law enforcement officer

17
18
19
20
21
22 Subchapter IV. Hospitalization of an Imprisoned person (§§ 1068 - 1072)

23
24 **1068. Hospitalization of a Convicted Person Suffering From Behavioral Disorder,
25 Mental Disease, or Defect**

26
27 (a) A defendant found guilty of an offense, or the Attorney General, may, within ten days
28 after the defendant is found guilty, and prior to the time the defendant is sentenced, file
29 a motion for a hearing on the present mental condition of the defendant if the motion
30 is supported by information indicating that the defendant may presently be suffering
31 from a behavioral disorder, mental disease, or defect for the treatment of which he is in
32 need of custody for care or treatment in a suitable facility.

33
34 (b) The court shall grant the motion, or at any time prior to the sentencing of the defendant
35 shall order such a hearing on its own motion, if it is of the opinion that there is
36 reasonable cause to believe that the defendant may presently be suffering from a
37 behavioral disorder, mental disease, or defect for the treatment of which they are in
38 need of custody for care or treatment in a suitable facility.

39
40 **1069. Hearing.**

41
42 (a) The person whose mental condition is the subject of the hearing shall be represented
43 by counsel and, if he is financially unable to obtain representation, counsel shall be
44 appointed for him. The person shall be afforded an opportunity to testify, to present
45 evidence, to subpoena witnesses on his behalf, and to confront and cross-examine

1 witnesses who appear at the hearing. The burden shall be upon the People to prove the
2 Defendant competent by a preponderance of the evidence.

3
4 **1070. Psychiatric or Psychological Examination and Report.**

5
6 (a) Prior to the date of the hearing, the court may order that a psychiatric or psychological
7 examination of the defendant is conducted and that a psychiatric or psychological
8 report be filed with the court, pursuant to the provisions of section 1048.

9
10 (b) In addition to the information required to be included in the psychiatric or
11 psychological report pursuant to the provisions of section 1048, if the report includes
12 an opinion by the examiners that the defendant is presently suffering from a behavioral
13 disorder, mental disease, or defect, but that it is not such as to require his custody for
14 care or treatment in a suitable facility, the report shall also include an opinion by the
15 examiner concerning the sentencing alternatives that could best accord the defendant
16 the kind of treatment he does need.

17
18 **1071. Determination and Disposition.**

19
20 (a) If, after the hearing, the court finds by a preponderance of the evidence that the
21 defendant is presently suffering from a behavioral disorder, mental disease, or defect
22 and that he should, in lieu of being sentenced to imprisonment, be committed to a
23 suitable facility for care or treatment, the court shall commit the defendant to the
24 custody of the Bureau of Corrections. The Bureau of Corrections shall hospitalize the
25 defendant for care or treatment in a suitable facility. Such a commitment constitutes a
26 provisional sentence of imprisonment to the maximum term authorized by law for the
27 offense for which the defendant was found guilty.

28
29 **1072. Discharge.**

30
31 (a) When the director of the facility in which the defendant is hospitalized determines that
32 the defendant has recovered from his mental disease or defect to such an extent that he
33 is no longer in need of custody for care or treatment in such a facility, he shall promptly
34 file a certificate to that effect with the clerk of the court that ordered the commitment.
35 If at the time of the filing of the certificate, the provisional sentence imposed has not
36 expired, the court shall proceed finally to sentencing and may modify the provisional
37 sentence.

38
39 (b) The clerk shall send a copy of the certificate to the defendant's counsel and to the
40 attorney for the Government.

41
42
43 Subchapter V. Hospitalization of Person Due for Release (§§ 1073 – 1077)

44
45 **1073. Hospitalization of an Imprisoned Person Suffering from Behavioral Health**
46 **Challenge, Mental Disease, or Defect**

- 1
- 2 (a) If a person serving a sentence of imprisonment objects either in writing or through his
3 attorney to being transferred to a suitable facility for care or treatment, an attorney for
4 the Government, at the request of the director of the facility in which the person is
5 imprisoned, may file a motion with the court for the district in which the facility is
6 located for a hearing on the present mental condition of the person. The court shall
7 grant the motion if there is reasonable cause to believe that the person may presently
8 be suffering from a behavioral health challenge, mental disease, or defect for the
9 treatment of which he is in need of custody for care or treatment in a suitable facility.
10 A motion filed under this subsection shall stay the transfer of the person pending
11 completion of procedures contained in this section.
- 12 (b) The Court shall set a date for a hearing no longer than fourteen (14) days after the filing
13 of the motion; and shall provide written notice to all relevant parties.

14

15 **1074. Psychiatric or Psychological Examination and Report**

16

- 17 (a) Prior to the date of the hearing, the court may order that a psychiatric or psychological
18 examination of the person may be conducted and that a psychiatric or psychological
19 report be filed with the court, pursuant to the provisions of section 1048.
- 20
- 21
- 22

23 **1075. Hearing**

24

- 25 (a) The person whose mental condition is the subject of the hearing shall be represented
26 by counsel and, if he is financially unable to obtain representation, counsel shall be
27 appointed for him. The person shall be afforded an opportunity to testify, to present
28 evidence, to subpoena witnesses on his behalf, and to confront and cross-examine
29 witnesses who appear at the hearing. The burden shall be upon the People to prove the
30 Defendant competent by a preponderance of the evidence.
- 31

32 **1076. Determination and Disposition**

33

- 34 (a) If, after the hearing, the court finds by a preponderance of the evidence that the person
35 is presently suffering from a behavioral health challenge, mental disease, or defect and
36 is in need of custody for care or treatment in a suitable facility, the court shall commit
37 the person to the custody of the Attorney General.
- 38
- 39 (b) The Attorney General shall hospitalize the person for treatment in a suitable facility
40 until he is no longer in need of such custody for care or treatment or until the expiration
41 of the sentence of imprisonment, whichever occurs earlier.
- 42

43 **1077. Discharge**

44

- 45 (a) When the director of the facility in which the person is hospitalized determines that the
46 person has recovered from the behavioral health challenge, mental disease, or defect to

1 such an extent that he is no longer in need of custody for care or treatment in such a
2 facility, he shall promptly file a certificate to that effect with the clerk of the court that
3 ordered the commitment. If at the time of the filing of the certificate, the term of
4 imprisonment imposed upon the person has not expired, the court shall order that the
5 person be re-imprisoned until the expiration of his sentence of imprisonment.

- 6
7 (b) The clerk shall send a copy of the certificate to the person's counsel and to the attorney
8 for the Government.
9

10
11 Subchapter VI. Hospitalization of a Person Due for Release but Suffering from
12 Behavioral Health Challenges, Mental Health Disorders, or Defects (§§ 1078 – 1083)
13

14 **1078. Hospitalization of a Person Due for Release but Suffering from Behavioral**
15 **Health Challenges, Mental Health Disorders, Or Defects**

- 16
17 (a) The director shall transmit a certificate to the clerk of the court if the director of a
18 facility in which a person is hospitalized certifies that a person in the custody of the
19 Bureau of Corrections whose sentence is about to expire, or who has been committed
20 to the custody of the Division of Behavioral Health, or against whom all criminal
21 charges have been dismissed solely for reasons related to the mental condition of the
22 person, is presently suffering from a behavioral health challenge, mental disease, or
23 defect as a result of which his release would create a risk of bodily injury to another
24 person or serious damage to property of another and no suitable arrangements for
25 custody and care of the person are available.
26

- 27 (b) The court shall order a hearing to determine whether the person is presently suffering
28 from a behavioral health challenge, mental disease, or defect as a result of which his
29 release would create a risk of bodily injury to another person or serious damage to
30 property of another. A certificate filed under this subsection shall stay the release of the
31 person pending completion of procedures contained in this section.
32

- 33 (c) The clerk shall send a copy of the certificate to the person, and to the Attorney General.
34 If the person was committed pursuant to sections 1057, 1065, 1071, 1076, or 1087 a
35 copy of the certificate shall be sent to the clerk of the court that ordered the
36 commitment.
37

38 **1079. Psychiatric or Psychological Examination and Report**
39

- 40 (a) Prior to the date of the hearing, the court may order that a psychiatric or psychological
41 examination of the defendant is conducted and that a psychiatric or psychological
42 report be filed with the court, pursuant to the provisions of section 1048.
43

44 **1080. Hearing**
45

1 (a) At the hearing ordered pursuant to this chapter the person whose mental condition is
2 the subject of the hearing shall be represented by counsel and, if he is financially unable
3 to obtain representation, counsel shall be appointed for him. The person shall be
4 afforded an opportunity to testify, to present evidence, to subpoena witnesses on his
5 behalf, and to confront and cross-examine witnesses who appear at the hearing. The
6 burden shall be upon the People to prove the Defendant competent by a preponderance
7 of the evidence.
8

9 **1081. Determination and Disposition**

10
11 (a) If, after the hearing, the court finds by clear and convincing evidence that the person is
12 presently suffering from a behavioral health challenge, mental disease, or defect as a
13 result of which his release would create a risk of bodily injury to another person or
14 serious damage to property of another, the court shall commit the person to the custody
15 of the Attorney General.
16

17 (b) The Attorney General shall release the person to the Bureau of Corrections or to the
18 appropriate official of the State in which the person is domiciled or was tried if such
19 State will assume responsibility for his custody, care, and treatment. The Attorney
20 General shall make all reasonable efforts to cause such a State to assume such
21 responsibility.
22

23 i. If notwithstanding such efforts, neither such State will assume such
24 responsibility, the Attorney General shall hospitalize the person for
25 treatment in a suitable facility, until—

- 26 1. such a State will assume such responsibility; or
- 27 2. the person's mental condition is such that his release or his
28 conditional release under a prescribed regimen of medical,
29 psychiatric, or psychological care or treatment would not create
30 a risk of bodily injury to another person or serious damage to
31 property of another; whichever is earlier.
32

33 (c) The Attorney General shall continue periodically to exert all reasonable efforts to cause
34 such a State to assume such responsibility for the person's custody, care, and treatment.
35

36 **1082. Discharge**

37
38 (a) When the director of the facility in which a person is hospitalized pursuant to section
39 1081 determines that the person has recovered from his behavioral health challenge,
40 mental disease, or defect to such an extent that his release would no longer create a risk
41 of bodily injury to another person or serious damage to property of another, he shall
42 promptly file a certificate to that effect with the clerk of the court that ordered the
43 commitment.
44

45 (b) The clerk shall send a copy of the certificate to the person's counsel and to the attorney
46 for the Government.

1
2 **(c)** The court shall order the discharge of the person or, on the motion of the attorney for
3 the Government or on its own motion, shall hold a hearing, conducted pursuant to the
4 provisions of section 1080 to determine whether he should be released. If, after the
5 hearing, the court finds by a preponderance of the evidence that the person has
6 recovered from the behavioral health challenge, mental disease, or defect to such an
7 extent that:

- 8 i. the release of the individual would no longer create a risk of bodily injury
9 to another person or serious damage to property of another, then the court
10 shall order that he be immediately discharged; or
11 ii. if the individual is conditionally released under a prescribed regimen of
12 medical, psychiatric, or psychological care or treatment and would no
13 longer create a risk of bodily injury to another person or serious damage to
14 property of another, the court shall—
15 1. order that they be conditionally discharged under a prescribed
16 regimen of medical, psychiatric, or psychological care or treatment
17 that has been prepared for them, that has been certified to the court
18 as appropriate by the director of the facility in which they are
19 committed, and that has been found by the court to be appropriate;
20 and
21 2. order, as an explicit condition of release, that they comply with the
22 prescribed regimen of medical, psychiatric, or psychological care or
23 treatment.
24

25 **(f)** The court may at any time, after a hearing employing the same criteria referenced above,
26 modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.
27

28 **(g)** Revocation of Conditional Discharge - The director of a medical facility responsible for
29 administering a regimen imposed on a person conditionally discharged under subsection
30 (c) shall notify the Attorney General and the court of any failure of the person to comply
31 with the regimen.

- 32 ii. Upon such notice, or upon other probable cause to believe that the person
33 has failed to comply with the prescribed regimen of medical, psychiatric,
34 or psychological care or treatment, the person may be arrested, and, upon
35 arrest, shall be taken without unnecessary delay before the court having
36 jurisdiction over him.
37 iii. The court shall, after a hearing, determine whether the person should be
38 remanded to a suitable facility on the ground that, in light of his failure to
39 comply with the prescribed regimen of medical, psychiatric, or
40 psychological care or treatment, his continued release would create a risk
41 of bodily injury to another person or serious damage to property of another.
42
43
44

45 Subchapter VII. Civil Commitment of a Sexual Dangerous Person (§§ 1084 – 1089)
46

1 **1084. Civil commitment of a sexually dangerous person**

- 2
- 3 (a) In relation to a person who is in the custody of the Bureau of Corrections, or who has
- 4 been committed to the custody of the Division of Behavioral Health or against whom
- 5 all criminal charges have been dismissed solely for reasons relating to the mental
- 6 condition of the person, the Attorney General or any individual authorized by the
- 7 Attorney General or the Director of the Bureau of Prisons may certify that the person
- 8 is a sexually dangerous person, and transmit the certificate to the clerk of the court for
- 9 the district in which the person is confined.
- 10
- 11 (b) The clerk shall send a copy of the certificate to the person, and to the attorney for the
- 12 Government, and, if the person was committed pursuant to section 1061, to the clerk
- 13 of the court that ordered the commitment.
- 14
- 15 (c) The court shall order a hearing to determine whether the person is a sexually dangerous
- 16 person. A certificate filed under this subsection shall stay the release of the person
- 17 pending completion of procedures contained in this section.
- 18
- 19
- 20

21 **1085. Psychiatric or Psychological Examination and Report.**

- 22
- 23 (a) Prior to the date of the hearing, the court may order that a psychiatric or psychological
- 24 examination of the defendant is conducted and that a psychiatric or psychological
- 25 report be filed with the court, pursuant to the provisions of section 1048.
- 26

27 **1086. Hearing.**

- 28
- 29 (a) At a hearing ordered pursuant to this chapter the person whose mental condition is the
- 30 subject of the hearing shall be represented by counsel and, if he is financially unable to
- 31 obtain representation, counsel shall be appointed for him. The person shall be afforded
- 32 an opportunity to testify, to present evidence, to subpoena witnesses on his behalf, and
- 33 to confront and cross-examine witnesses who appear at the hearing. The burden shall
- 34 be upon the People to prove the Defendant competent by a preponderance of the
- 35 evidence.
- 36

37 **1087. Determination and Disposition.**

- 38
- 39 (a) If after the hearing, the court finds by clear and convincing evidence that the person is
- 40 a sexually dangerous person, the court shall commit the person to the custody of the
- 41 Attorney General.
- 42
- 43 (b) The Attorney General shall release the person to the Bureau of Corrections or to the
- 44 appropriate official of the State in which the person is domiciled or was tried if such
- 45 State will assume responsibility for his custody, care, and treatment. The Attorney

1 General shall make all reasonable efforts to cause such a State to assume such
2 responsibility.

- 3
4 (c) If notwithstanding such efforts, neither such State will assume such responsibility, the
5 Attorney General shall place the person for treatment in a suitable facility, until—
6 i. such a State will assume such responsibility; or
7 ii. the person's condition is such that he is no longer sexually dangerous to
8 others, or will not be sexually dangerous to others if released under a
9 prescribed regimen of medical, psychiatric, or psychological care or
10 treatment; whichever is earlier.

11
12 **1088. Discharge.**

13
14 (a) When the Director of the facility in which a person is placed determines that the
15 person's condition is such that he is no longer sexually dangerous to others, or will not
16 be sexually dangerous to others if released under a prescribed regimen of medical,
17 psychiatric, or psychological care or treatment, he shall promptly file a certificate to
18 that effect with the clerk of the court that ordered the commitment.

- 19 i. The clerk shall send a copy of the certificate to the person's counsel and
20 to the attorney for the Government.

21
22 (b) The court shall order the discharge of the person or, on the motion of the attorney for
23 the Government or on its own motion, shall hold a hearing, conducted pursuant to the
24 provisions of section 1086 to determine whether he should be released. If, after the
25 hearing, the court finds by a preponderance of the evidence that the person's condition
26 is such that—

- 27 i. they will not be sexually dangerous to others if released unconditionally,
28 the court shall order that he be immediately discharged; or
29 ii. they will not be sexually dangerous to others if released under a
30 prescribed regimen of medical, psychiatric, or psychological care or
31 treatment, the court shall—
32 1. order that he be conditionally discharged under a prescribed
33 regimen of medical, psychiatric, or psychological care or
34 treatment that has been prepared for him, that has been certified
35 to the court as appropriate by the Director of the facility in which
36 he is committed, and that has been found by the court to be
37 appropriate; and
38 2. order, as an explicit condition of release, that he comply with the
39 prescribed regimen of medical, psychiatric, or psychological
40 care or treatment.

41 (c) The court at any time may, after a hearing employing the same criteria, modify or
42 eliminate the regimen of medical, psychiatric, or psychological care or treatment.

43
44 **1089. Revocation of Conditional Discharge.**

- 1 (a) The director of a facility responsible for administering a regimen imposed on a person
2 conditionally discharged under this subchapter shall notify the Attorney General and
3 the court of any failure of the person to comply with the regimen.
4
- 5 (b) Upon such notice, or upon other probable cause to believe that the person has failed to
6 comply with the prescribed regimen of medical, psychiatric, or psychological care or
7 treatment, the person may be arrested, and, upon arrest, shall be taken without
8 unnecessary delay before the court having jurisdiction over him.
9
- 10 (c) The court shall, after a hearing, determine whether the person should be remanded to a
11 suitable facility on the ground that he is sexually dangerous to others in light of his
12 failure to comply with the prescribed regimen of medical, psychiatric, or psychological
13 care or treatment.
14
- 15 (d) If the director of the facility in which a person is hospitalized or placed pursuant to this
16 chapter certifies to the Court that a person, against whom all charges have been
17 dismissed for reasons not related to the mental condition of the person, is a sexually
18 dangerous person, the Court shall release the person to the appropriate Division of
19 Behavioral Health for civil commitment.
20
21
22

23 Subchapter VIII. Civil Commitment and Rehabilitation of Individuals Suffering from
24 Addiction or Alcohol Use Disorder (§§ 1090 – 1095)
25

26 **1090. Definitions**
27

28 As used in this subchapter:
29

- 30 (a) “Addict”: means any individual who habitually uses any narcotic drugs as defined by
31 section 593(1) of Title 19, so as to endanger the public morals, health, safety, or
32 welfare, or who is so far addicted to the use of such narcotic drugs or opioids as to have
33 lost the power of self-control with reference to his addiction.
34
- 35 (b) “Alcohol Use Disorder (AUD) or Alcoholism”: means problem drinking that becomes
36 severe and is a chronic relapsing brain disease characterized by compulsive alcohol
37 use, loss of control over alcohol intake, and a negative emotional state when not using.
38 To be diagnosed with AUD, individuals must meet certain criteria outlined in the
39 Diagnostic and Statistical Manual of Mental Disorders (DSM). To be diagnosed with
40 alcoholism, individuals must meet any two of the below criteria within the same 12-
41 month period:
42 i. Using alcohol in higher amounts or for a longer time than originally
43 intended.
44 ii. Being unable to cut down on alcohol use despite a desire to do so.
45 iii. Spending a lot of time obtaining, using, and recovering from the effects
46 of alcohol.
47 iv. Cravings, or a strong desire to use alcohol.

- v. Being unable to fulfill major obligations at home, work, or school because of alcohol use.
- vi. Continuing to abuse alcohol despite negative interpersonal or social problems that are likely due to alcohol use.
- vii. Giving up previously enjoyed social, occupational, or recreational activities because of alcohol use.
- viii. Using alcohol in physically dangerous situations (such as driving or operating machinery).
- ix. Continuing to abuse alcohol despite the presence of a psychological or physical problem that is probably due to alcohol use.
- x. Having a tolerance (i.e. needing to drink increasingly large or more frequent amounts of alcohol to achieve the desired effect).
- xi. Developing symptoms of withdrawal when efforts are made to stop using alcohol.

(c) "Commissioner": means the Commissioner of Health.

(d) "Conviction" and "convicted": means the final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere, but does not include a final judgment which has been expunged by pardon, reversed, set aside or otherwise rendered nugatory.

(e) "Crime of violence": includes voluntary manslaughter, murder, rape, mayhem, kidnapping, robbery, arson, burglary, extortion accompanied by threats of violence, assault with a dangerous weapon or assault with intent to commit any offense punishable by imprisonment for more than one year or an attempt or conspiracy to commit any of the foregoing offenses.

(f) "Eligible individual": means any individual who is charged with an offense against the Government of the Virgin Islands, but does not include:

1. an individual charged with a crime of violence.
2. an individual charged with unlawfully importing, selling, or conspiring to import or sell, a narcotic or opioid drug.
3. an individual against whom there is pending a prior charge of a felony which has not been finally determined, or who is on probation, or who sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served; Provided, That an individual on probation, parole, or mandatory release shall be included if the authority authorized to require his return to custody consents to his commitment.
4. an individual who has been convicted of any felony on two or more occasions.
5. an individual who has been civilly committed under this subchapter, or any State proceeding because of narcotic or opioid addiction on three or more occasions.

(g) "Felony" means any offense in violation of a law of the Virgin Islands classified as a felony under section 2(b)(1) of Title 14 of the Virgin Islands Code.

1
2 **(h)** "Treatment": means confinement and treatment in an institution and under supervised
3 aftercare in the community and includes, but is not limited to, medical, educational,
4 social, psychological, and vocational services, corrective and preventive guidance and
5 training, and other rehabilitative services designed to protect the public and benefit the
6 addict by correcting their antisocial tendencies and ending their dependence on
7 addicting drugs or opioids and their susceptibility to addiction.
8

9 **1091. Discretionary Authority of Court; Examination, Report, and Determination**
10 **by Court; Termination of Civil Commitment**
11

12 **(a)** If the Superior Court of the Virgin Islands has reason to believe that an eligible
13 individual is an addict or suffering from AUD, the court may advise him at his first
14 appearance or thereafter at the sole discretion of the court that the prosecution of the
15 criminal charge will be held in abeyance if he elects to submit to an immediate
16 examination to determine whether he is an addict or suffering from AUD and is likely
17 to be rehabilitated through treatment.
18

19 **(b)** In offering an individual an election, the court shall advise him that if he elects to be
20 examined, he will be confined during the examination for a period not to exceed sixty
21 (60) days; that if he is determined to be an addict or suffering from AUD which is likely
22 to be rehabilitated, he will be civilly committed to the Commissioner of Health or
23 Behavioral Health Examiner/Director for treatment if:
24

- 25 i. They do not voluntarily withdraw from the examination or any
26 treatment which may follow;
- 27 ii. The treatment lasts for so long as the Commissioner may determine, but
28 in no event for more than thirty-six (36) months;
- 29 iii. During treatment, they will be confined in an institution and, at the
30 discretion of the Commissioner of Health, he may be conditionally
31 released for supervised aftercare treatment in the community;
- 32 iv. They successfully complete treatment
33

34 **(c)** If all the above is completed to the satisfaction of the court, the charges will be
35 dismissed, but if the defendant fails to complete treatment, prosecution on the charge
36 can be resumed.
37

38 **(d)** An individual, upon being advised that they may elect to submit to an examination,
39 shall be permitted a maximum of five (5) days within which to make their election,
40 which election shall be in writing and shall contain a waiver of the right to release on
41 bail or upon their own recognizance.

- 42 i. The time for election may only be extended upon a showing that a timely
43 election could not have been made, and an individual shall be barred
44 from an election after the prescribed period.
45

- 1 (e) An individual who elects civil commitment shall be placed in the custody of the
2 Commissioner of Health, as the court directs, for an examination by the Commissioner
3 of Health, or such other qualified medical personnel as shall be designated by the
4 Commissioner during a period not to exceed thirty (30) days.
5 i. This period may be extended by the Commissioner of Health for an
6 additional thirty days, upon notice to the court and the United States
7 Attorney or the Attorney General, whichever shall be charged with the
8 prosecution of the complaint.
9
- 10 (f) The Commissioner of Health shall report to the court the results of the examination and
11 recommend whether the individual should be civilly committed. A copy of the report
12 shall be made available to the individual and the Attorney General.
13
- 14 (g) If the court, acting on the report and other competent information coming to its
15 attention, determines that the individual is not an addict or is an addict not likely to be
16 rehabilitated through treatment, the individual shall be held to answer the abeyant
17 charge.
18
- 19 (h) If the court determines that the individual is an addict or suffering from AUD and is
20 likely to be rehabilitated through treatment, the court shall commit him to the custody
21 of the Commissioner of Health for treatment, except that no individual shall be
22 committed under this subchapter if the Commissioner of Health certifies that adequate
23 facilities or personnel for treatment are unavailable.
24
- 25 (i) Whenever an individual is committed to the custody of the Commissioner of Health for
26 treatment under this subchapter the criminal charge against him shall be continued
27 without a final disposition and shall be dismissed if the Commissioner of Health
28 certifies to the court that the individual has successfully completed the treatment
29 program.
30 i. On receipt of such certification, the court shall discharge the individual
31 from custody and dismiss the charges against them.
32 ii. If prior to such certification the Commissioner of Health determines that
33 the individual cannot be further treated as a medical problem, he shall
34 advise the court. The court shall thereupon terminate the commitment,
35 and the pending criminal proceeding shall be resumed.
36
- 37 (j) An individual committed for examination or treatment shall not be released on bail or
38 on his own recognizance.
39
- 40 (k) Any person who escapes or attempts to escape while committed to institutional custody
41 for examination or treatment, or any person who rescues or attempts to rescue or
42 instigates, aids, or assists the escape or attempts to assist the escape of such a person,
43 shall be subject to the penalties provided in sections 661 through 663 of Title 14, Virgin
44 Islands Code.
45

1 **1092. Authority and Responsibilities of the Commissioner of Health; Institutional**
2 **Custody; Aftercare; Maximum Period of Civil Commitment; Credit Toward**
3 **Sentence**
4

5 (a) An individual who is committed to the custody of the Commissioner of Health for
6 treatment under this subchapter shall not be conditionally released from institutional
7 custody until the Commissioner of Health determines that he has made sufficient
8 progress to warrant release to aftercare and a supervisory aftercare authority.

9 i. The Commissioner of Health shall have the contracting, monitoring, and
10 funding authority for drug aftercare and shall establish through
11 coordination with the Interdepartmental Committee and the Director of
12 any applicable and approved public or private drug dependency
13 treatment facility, the policies, and procedures as well as rules and
14 regulations for aftercare and supervision of aftercare.
15

16 (b) If the Commissioner of Health is unable to make such a determination at the expiration
17 of twenty-four (24) months after the commencement of institutional custody, he shall
18 advise the court and the Attorney General or United States Attorney, whichever shall
19 be charged with the prosecution of the complaint, whether treatment should be
20 continued.

21 i. The court in its discretion may affirm the commitment or terminate it
22 and resume the pending criminal proceeding.
23

24 (c) An individual who is conditionally released from institutional custody shall, while on
25 release, remain in the legal custody of the Commissioner of Health and shall report for
26 such supervised aftercare treatment (as defined or determined by subsection (a)(i) of
27 this section) as the Commissioner of Health directs. He shall be subject to home visits
28 and to such physical examination and reasonable regulation of his conduct as the
29 supervisory aftercare authority establishes, subject to the approval of the Commissioner
30 of Health.

31 i. The Commissioner of Health, at any time, may order in writing a
32 conditionally released individual to return for institutional treatment.

33 ii. The Commissioner of Health's order shall be a sufficient warrant for the
34 supervisory aftercare authority, a probation officer, or any officer
35 authorized to serve criminal process within the Virgin Islands to
36 apprehend and return the individual to institutional custody as directed.
37

38 (d) If it is determined that an individual has returned to the use of narcotic drugs or alcohol,
39 the Commissioner of Health shall inform the court of the conditions under which the
40 return occurred, and make a recommendation as to whether treatment should be
41 continued.

42 i. The court after notice, and hearing, and for good cause shown, may
43 affirm the commitment or terminate it and resume the pending criminal
44 proceeding.
45

1 (e) The total period of treatment for any individual committed to the custody of the
2 Commissioner of Health shall not exceed thirty-six (36) months.

3 i. If at the expiration of such a maximum period, the Commissioner of
4 Health is unable to certify that the individual has successfully completed
5 his treatment program, the pending criminal proceeding shall be
6 resumed.

7
8 (f) Whenever a pending criminal proceeding against an individual is resumed under this
9 subchapter, he shall receive full credit toward the service of any sentence which may
10 thereafter be imposed, for any time spent in the institutional custody of the
11 Commissioner of Health or the Commissioner of VI Police Department or any other
12 time spent in institutional custody in connection with the matter for which sentence is
13 imposed.

14
15 **1093. Civil Commitment not a Conviction; Use of Test Results**

16
17 (a) The determination of narcotic drug addiction and AUD, and the subsequent civil
18 commitment under this subchapter shall not be deemed a criminal conviction. The
19 results of any tests or procedures conducted by the Commissioner of Health or the
20 supervisory aftercare authority to determine narcotic addiction may only be used in a
21 further proceeding under this subchapter. They shall not be used against the examined
22 individual in any criminal proceeding except that the fact that he is a narcotic drug
23 addict or suffering from AUD may be elicited on his cross-examination as bearing on
24 his credibility as a witness.

25
26 **1094. Delegation of Functions by Commissioner of Health; Use of Federal,
27 Territorial, State and Private Facilities**

28
29(a) The Commissioner of Health may from time to time make such provision as they deem
30 appropriate, authorizing the performance of any of their functions under this subchapter
31 by any other officer or employee of the Department of Health, or with the consent of the
32 head of the department or agency concerned, by any Federal or other public or private
33 agency, or officer or employee thereof.

34
35(b) The Commissioner of Health is authorized to enter into arrangements with any public or
36 private agency or any person under which appropriate facilities or services of such
37 agency or person will be made available, on a reimbursable basis or otherwise, for the
38 examination or treatment of individuals who elect civil commitment under this
39 subchapter.

40 i. The Commissioner of Health is also authorized to permit treatment of
41 individuals who elect civil commitment under this subchapter, to the
42 Behavioral Health, Mental Health, Developmental Disability, Alcohol or
43 Substance Abuse Treatment Facility, and to any commitment applicable to the
44 patient based on their condition that is authorized under Chapter 45.

1 **1095. Absence of Offer by the Court to a Defendant of an Election or Any**
2 **Determination as to Civil Commitment, Not Reviewable on Appeal or Otherwise**
3

- 4 (a) The failure of a court to offer a defendant an election under section 1091 of this
5 subchapter or a determination relative to civil commitment under this subchapter shall
6 not be reviewable on appeal or otherwise.
7
8
9

10 Subchapter IX. Civil Commitment of Persons Not Charged with Any Criminal Offense
11 (§§ 1096 – 1111)
12

13 **1096. Definitions**

14 For the purposes of this subchapter, the term—
15

- 16 (a) “Alcohol Use Disorder (AUD) or Alcoholism”: means problem drinking that becomes
17 severe and is a chronic relapsing brain disease characterized by compulsive alcohol
18 use, loss of control over alcohol intake, and a negative emotional state when not using.
19 To be diagnosed with AUD, individuals must meet certain criteria outlined in the
20 Diagnostic and Statistical Manual of Mental Disorders (DSM). To be diagnosed with
21 alcoholism, individuals must meet any two of the below criteria within the same 12-
22 month period:

- 23 i. Using alcohol in higher amounts or for a longer time than originally
24 intended.
25 ii. Being unable to cut down on alcohol use despite a desire to do so.
26 iii. Spending a lot of time obtaining, using, and recovering from the effects
27 of alcohol.
28 iv. Cravings, or a strong desire to use alcohol.
29 v. Being unable to fulfill major obligations at home, work, or school
30 because of alcohol use.
31 vi. Continuing to abuse alcohol despite negative interpersonal or social
32 problems that are likely due to alcohol use.
33 vii. Giving up previously enjoyed social, occupational, or recreational
34 activities because of alcohol use.
35 viii. Using alcohol in physically dangerous situations (such as driving or
36 operating machinery).
37 ix. Continuing to abuse alcohol despite the presence of a psychological or
38 physical problem that is probably due to alcohol use.
39 x. Having a tolerance (i.e. needing to drink increasingly large or more
40 frequent amounts of alcohol to achieve the desired effect).
41 xi. Developing symptoms of withdrawal when efforts are made to stop
42 using alcohol.
43

- 44 (b) “Commissioner of Health”: means the Commissioner of Health of the Government of
45 the Virgin Islands.
46

1 (c) "Hospital of the Service": means any hospital or other facilities of the Department of
2 Health especially equipped for the accommodation of addicts, or any other
3 appropriate public or private hospital or other facilities available to the Commissioner
4 of Health for the care and treatment of addicts, including the Behavioral Health,
5 Mental Health, Developmental Disability, Alcohol or Substance Abuse Treatment
6 Facility.

7
8 (d) "Narcotic addict": means any individual who habitually uses any narcotic or opioid
9 drug as defined by section 593 of Title 19 so as to endanger the public morals, health,
10 safety, or welfare, or who is or has been so far addicted to the use of such narcotic
11 drugs or opioids as to have lost the power of self-control with reference to his
12 addiction.

13
14 (e) "Patient": means any person with respect to whom a petition has been filed by the
15 Attorney General as provided under section 1097 of this subchapter.

16
17 (f) "Post-hospitalization program": means any program providing for the treatment and
18 supervision of a person established by the Commissioner of Health pursuant to
19 section 1102 of this subchapter.

20
21 (g) "Related individual": means any person with whom the alleged narcotic addict may
22 reside or at whose house they are located, or the husband or wife, father or mother,
23 brother or sister, or the child or the nearest available relative of the alleged narcotic
24 addict or any other interested individual, provided such person is over the age of 21
25 years.

26
27 (h) "State": means all States of the United States of America, the District of Columbia
28 and the Territories.

29
30 (i) "Treatment": means confinement and treatment in a hospital of the Department of
31 Health and under supervised aftercare in the community and includes, but is not
32 limited to, medical, educational, social, psychological, and vocational services,
33 corrective and preventive guidance and training, and other rehabilitative services
34 designed to protect the public and benefit the addict by correcting his antisocial
35 tendencies and ending his dependence on addicting drugs or opioids and his
36 susceptibility to addiction.

- 37
38 i. For the purposes of treatment as defined above supervised aftercare
39 means The Commissioner of Health shall have the contracting,
40 monitoring, and funding authority for any aftercare service as described
41 above and shall establish through coordination with the
42 Interdepartmental Committee and the Director of any applicable and
43 approved public or private treatment facility, the policies, and
44 procedures as well as rules and regulations for aftercare and supervision
45 of aftercare.
46

1 (j) “United States”: means all States of the United States of America, the District of
2 Columbia, and its Territories.
3

4 **1097. Preliminary proceedings—Petition for Treatment**
5

6 (a) Except as otherwise provided in section 1106 of this subchapter, whenever any narcotic
7 addict or individual who suffers from AUD or drug dependency desires to obtain
8 treatment for their addiction, or whenever a related individual has reason to believe that
9 any person is a narcotic addict, alcoholic, or drug dependent, such addict or related
10 individual may file a petition with the Attorney General requesting that such addict or
11 person be admitted to a hospital, or public and private treatment facility, for services or
12 the treatment of their addiction.

13 i. The Attorney General is also authorized to permit treatment of such
14 addicts under this subchapter, to the Behavioral Health, Mental Health,
15 Developmental Disability, Alcohol or Substance Abuse Treatment
16 Facility, and to any commitment applicable to the patient based on
17 their condition that is authorized under Chapter 45.
18

19 (b) Any such petition filed by a narcotic addict or individual who suffers from alcoholism
20 or drug dependency shall set forth their name and address and the facts relating to their
21 addiction.
22

23 (c) Any such petition filed by a related individual with respect to a person believed by such
24 individual to be a narcotic addict or individual who suffers from alcoholism or drug
25 dependency shall set forth the name and address of the alleged narcotic addict or
26 individual who suffers from alcoholism or drug dependency, and the facts or other data
27 on which the petitioner bases his belief that the person with respect to whom the petition
28 is filed is a narcotic addict or individual who suffers from alcoholism or drug
29 dependency.
30

31 (d) The Attorney General shall consider and review petitions for confinement to determine
32 whether there is reasonable cause to believe that the person named in such petition is a
33 narcotic addict or individual who suffers from alcoholism or drug dependency. If the
34 Attorney General affirms that the person named in such petition is a narcotic addict or
35 individual who suffers from alcoholism or drug dependency, and appropriate facilities
36 are not available to such person, then the Attorney General shall file a petition with the
37 United States District Court or Superior Court to commit such person to a hospital for
38 service and treatment as provided in this subchapter or treatment as provided and is
39 applicable and approved pursuant to Chapter 45 of this Title and section 1020.

40 i. In making the determination with respect to the non-availability of such
41 facilities, the Attorney General shall consult with the Commissioner of
42 Health and other appropriate officials.
43

44 (e) Upon the filing of any such petition by the Attorney General, the court may order the
45 patient to appear before it for an examination by physicians as provided under section
46 1098 of this subchapter and for a hearing, if required, under section 1099 of this

1 subchapter. The court shall cause a copy of such petition and order to be served
2 personally upon the patient by a Superior Court Marshal.
3

4 **1098. Judicial proceedings; advisement of the patient, counsel retained physician's**
5 **authority, treatment program of commitment, withdrawal, duration, confinement,**
6 **post confinement, and recommitment; examination of the patient; appointment of**
7 **physicians, order of commitment, conduct and report of examination, and copies to**
8 **patient and counsel; return of patient for further proceedings**
9

10 (a) The court shall immediately advise any patient appearing before it pursuant to an order
11 issued under section 1097 of this subchapter of his right to have:

- 12 i. counsel at every stage of the judicial proceedings under this subchapter and
13 that, if he is unable because of financial reasons to obtain counsel, the court
14 will, at the patient's request, assign counsel to represent him; and
- 15 ii. present for consultation during any examination conducted under this section,
16 a qualified physician retained by such patient, but in no event shall such
17 physician be entitled to participate in any such examination or in the making of
18 any report required under this section with respect to such examination.
- 19 iii. The court shall also advise such patient that if, after an examination and hearing
20 as provided in this subchapter, they are found to be a narcotic addict or
21 individual who suffers from alcoholism or drug dependency that is likely to be
22 rehabilitated through treatment, they will be civilly committed to the
23 Commissioner of Health for treatment and the following conditions may apply:
 - 24 1. the treatment (including post-hospitalization treatment and supervision)
25 may last forty-two (42) months;
 - 26 2. during treatment the patient may be confined in an institution;
 - 27 3. following their release from confinement they will be under the care
28 and custody of the Commissioner of Health for treatment and
29 supervision under a post-hospitalization program established by the
30 Commissioner of Health;
 - 31 4. that should they fail or refuse to cooperate in such a post-hospitalization
32 program, or be determined by the Commissioner of Health upon notice
33 and after hearing to have relapsed to the use of narcotic drugs or
34 alcohol, they may be recommitted for additional confinement in an
35 institution followed by additional post-hospitalization treatment and
36 supervision.
- 37 iv. After so advising the patient, the court shall appoint two qualified physicians,
38 one of whom shall be a psychiatrist, to examine the patient.
 - 39 1. For the purpose of the examination, the court may order the patient
40 committed for such reasonable period as it shall determine, but not to
41 exceed thirty (30) days, to the custody of the Commissioner of Health
42 for confinement in a suitable hospital or other facility designated by the
43 court.
 - 44 2. Each physician appointed by the court shall, within such period so
45 determined by the court, examine the patient and file with the court, a

1 written report with respect to such examination. Each such report shall
2 include:

- 3 A. a statement of the examining physician's conclusions as to
4 whether the patient examined is a narcotic addict or individual
5 who suffers from alcoholism or drug dependency and is likely
6 to be rehabilitated through treatment.
7 3. Upon the filing of such reports, the patient so examined shall be
8 returned to the court for such further proceedings as it may direct under
9 this subchapter.
10 A. Copies of such reports shall be made available to the patient and
11 his counsel.
12

13 **1099. Hearings—Discharge of Patient and Dismissal of Proceedings; Notice of**
14 **Time and Place; Service; Issues of Fact; Demand for Jury or Judicial Determination**
15

- 16 (a) If both examining physicians (referred to in section 1098 of this subchapter) conclude
17 in their respective written reports that the patient is not a narcotic addict or individual
18 who suffers from alcoholism or drug dependency, or is an individual not likely to be
19 rehabilitated through treatment, the court shall immediately enter an order discharging
20 the patient and dismissing the proceedings under this subchapter.
21
22 (b) If the written report of either such physician indicates that the patient is a narcotic addict
23 or individual who suffers from alcoholism or drug dependency who is likely to be
24 rehabilitated through treatment, or that the physician submitting the report is unable to
25 reach any conclusion by reason of the refusal of the patient to submit to a thorough
26 examination, the court shall promptly set the case for hearing.
27 i. The court shall cause a written notice of the time and place of such
28 hearing to be served personally upon the patient and his attorney.
29 Such notice shall also inform the patient that upon demand made by
30 him within fifteen (15) days after they have been served, they shall
31 be entitled to have all issues of fact with respect to their alleged
32 narcotic addiction or alcoholism or drug dependency determined by
33 the court.
34
35 (c) In conducting any hearing under this subchapter, the court shall receive and consider
36 all relevant evidence and testimony which may be offered, including the contents of the
37 reports referred to in section 1098, of this subchapter.
38 i. Any patient with respect to whom a hearing is held under this
39 subchapter shall be entitled to testify and to present and cross-
40 examine witnesses.
41 ii. All final orders of commitment under this subchapter shall be
42 subject to review in conformity with the provisions of sections.
43 iii. All proceedings under this subchapter shall be closed to the public
44 and deemed confidential.
45

1 (d) Detention of patient - Any patient with respect to whom a hearing has been set under
2 this subchapter may be detained by the court for a reasonable period of time in a suitable
3 hospital or other facility designated by the court until after such hearing has been
4 concluded.

5
6 (e) Witness fees and mileage - Witnesses subpoenaed by either party under the provisions
7 of this subchapter shall be paid the same fees and mileage as are paid to other witnesses
8 in the courts of the Territory.

9
10 **1100. Order of Commitment for Treatment to Care and Custody of Commissioner**
11 **of Health; Reports of Commissioner of Health**
12

13 (a) If the court determines after a hearing that a patient is a narcotic addict or individual
14 who suffers from alcoholism or drug dependency and is likely to be rehabilitated
15 through treatment, the court shall order him committed to the care and custody of the
16 Commissioner of Health for treatment in a hospital or public or private facility. The
17 Commissioner of Health shall submit to the court written reports with respect to such
18 patients at such time as the court may direct. Such reports shall include information as
19 to the health and general condition of the patient, together with the recommendations
20 of the Commissioner of Health concerning the continued confinement and treatment
21 of such patients.

22
23 **1101. Period of Commitment to Care and Custody of Commissioner of Health;**
24 **Patient Subject to Post-Hospitalization Program; Release From Confinement**

25 (a) Any patient committed to the care and custody of the Commissioner of Health pursuant
26 to section 1100 of this subchapter shall be committed for a period of up to six (6)
27 months in the judgment of the court, and shall be subject to such post-hospitalization
28 program as may be established pursuant to section 1102 of this subchapter; except that
29 such patient may be released from confinement by the Commissioner of Health at any
30 time prior to the expiration of such six-month period if the Commissioner of Health
31 determines and certifies in writing that the patient has been cured of their drug addiction
32 or alcoholism and rehabilitated, or that their continued confinement is no longer
33 necessary or desirable.

34
35 **1102. Release From Confinement—Notice and Return to Committing Court;**
36 **Placing Patient Under Care and Custody of Commissioner of Health for Post-**
37 **Hospitalization Treatment; Recommendations of Commissioner of Health**
38

39 (a) Whenever any patient under the care and custody of the Commissioner of Health
40 pursuant to this subchapter is to be released from confinement in accordance with the
41 provisions thereof, the Commissioner of Health shall give written notice of such
42 pending release to the committing court within ten (10) days prior thereto and shall, at
43 the time of the patient's release, promptly return him to that court.

44
45 (b) The court, after considering the recommendations of the Commissioner of Health with
46 respect to post-hospitalization treatment for any such patient so returned, may place

1 such patient under the care and custody of the Commissioner of Health for up to a three-
2 year period immediately following the patient's release from treatment and supervision
3 under such post-hospitalization program as the Commissioner of Health may direct.
4

5 (c) Return to committing court for recommitment and submission to post- hospitalization
6 treatment - If, at any time during such three-year period, any patient:

- 7
- 8 1. fails or refuses to comply with the directions and orders of the Commissioner of
9 Health in connection with such patient's post-hospitalization treatment and
10 supervision, or
 - 11 2. is determined by the Commissioner of Health to be again using narcotic drugs
12 or alcohol,

13 then the Commissioner of Health may order such patient's immediate return to the
14 committing court which may after hearing and for good cause recommit such patient to
15 a hospital or public or private facility for additional treatment for a period not to exceed
16 six (6) months, and may require such patient thereafter to submit to a post-
17 hospitalization program in accordance with section 1101.
18

19
20

21 **1103. Petition for Inquiry into Health and General Condition and Necessity for**
22 **Continuation of Confinement; Order for Release from Confinement and Return to**
23 **Court; Placing Patient Under Post-hospitalization Treatment**

24 (a) The court, upon the petition of any patient after his confinement pursuant to this
25 subchapter for a period in excess of three (3) months, shall inquire into the health and
26 general condition of the patient and as to the necessity, if any, for his continued
27 confinement. If the court finds, with or without a hearing, that his continued
28 confinement is no longer necessary or desirable, it shall order the patient released from
29 confinement and returned to the court. The court may, with respect to any such patient
30 so returned, place such patient under a post-hospitalization program in accordance with
31 the provisions of section 1102 of this subchapter.
32

33

34 **1104. Criminal Conviction or Criminal Appellation from Determination of Being**
35 **Narcotic Addict; Criminal Proceedings Prohibited from Using Information Gained**
36 **in Addiction Inquiry**

37 (a) Any determination by the court pursuant to this subchapter that a patient is a narcotic
38 addict or individual who suffers from alcoholism or drug dependency shall not be
39 deemed a criminal conviction, nor shall such patient be denominated a criminal by
40 reason of that determination. The results of any hearing, examination, test, or procedure
41 to determine narcotic addiction or alcoholism and drug dependency of any patient under
42 this subchapter shall not be used against such patients in any criminal proceeding.
43

44 **1105. Evidence; Examining Physician a Competent and Compellable Witness;**
45 **Physician-Patient Privilege**

1 (a) Any physician conducting an examination under this subchapter shall be a competent
2 and compellable witness at any hearing or other proceeding conducted pursuant to this
3 subchapter and the physician-patient privilege shall not be applicable.
4

5 **1106. Subchapter Inapplicable to Persons with Criminal Charge Pending, on**
6 **Probation or With Sentence Unserved; Consent to Commitment of Such Persons By**
7 **Authority With Power Over Their Custody**

8 (a) The provisions of this subchapter shall not be applicable with respect to any person
9 against whom there is pending a criminal charge, whether by indictment or by
10 information, which has not been fully determined or who is on probation or whose
11 sentence following conviction on such a charge, including any time on parole or
12 mandatory release, that has not been fully served, except that such provision shall be
13 applicable to any such person on probation, parole, or mandatory release if the authority
14 authorized to require his return to custody consents to his commitment.
15

16 **1107. Commitment to Hospital of the Service Dependent Upon Certification of**
17 **Availability of Facilities or Personnel for Treatment**

18 (a) Notwithstanding any other provision of this subchapter, no patient shall be committed
19 to a hospital or public or private facility under this subchapter if the Commissioner of
20 Health certifies that adequate facilities or personnel for treatment of such patients are
21 unavailable.
22

23 **1108. Compensation of Physicians and Counsel; Source of Funds**

24 (a) Physicians appointed by the court to examine any person pursuant to this subchapter
25 and counsel assigned by the court to represent any person in commitment proceedings
26 under this subchapter shall be entitled to reasonable compensation, in an amount to be
27 determined by the court, to be paid, upon order of the court, out of such funds as may
28 be provided by law.
29

30 **1109. Authority of Commissioner of Health—Delegation of Functions**

31 (a) The Commissioner of Health may from time to time make such provisions as he deems
32 appropriate authorizing the performance of any of his functions under this subchapter
33 by any other officer or employee of the Department of Health.
34

35 (b) The Commissioner of Health is authorized to enter into arrangements with any public
36 or private agency or any person under which appropriate facilities or services of such
37 agency or person will be made available, on a reimbursable basis or otherwise, for the
38 examination or treatment of individuals pursuant to the provisions of this subchapter.
39

40 **1110. Penalties; escape or rescue from custody**

41 (a) Any person who escapes or attempts to escape while committed to institutional custody
42 for examination or treatment under this subchapter, or any person who rescues or
43 attempts to rescue or instigates, aids, or assists the escape or attempts to assist the

1 escape of such a person, shall be subject to the penalties provided in sections 661
2 through 663 of Title 14 of the Virgin Islands Code.

3
4 **1111. Same; false statements**

- 5 (a) Any person who knowingly makes any false statement to the Attorney General in any
6 petition under section 1097 of this subchapter shall be subject to the penalty prescribed
7 in section 843 of Title 14 of the Virgin Islands Code.

8
9
10
11 Subchapter X. Telemedicine and Telepsychology (§§1112 -1113)

12
13 **1112. Telehealth, Telemedicine, and Telepsychology Defined**

- 14
15 (a) "Board" means Board of Psychology Examiners pursuant to 27 V.I.C. §§169a – 169b

- 16
17 (b) "Coverage for telehealth services" means a carrier shall provide coverage for any
18 medically necessary health care service delivered through telehealth as long as any or
19 all of the following requirements are met.

- 20 i. The health care service is otherwise covered under an enrollee's health
21 plan.
22 ii. The health care service delivered by telehealth is of comparable quality to
23 the health care service delivered through in-person consultation.
24 iii. Prior authorization is required for telehealth services only if prior
25 authorization is required for the corresponding covered health care service.
26 An in-person consultation prior to the delivery of services through telehealth
27 is not required.
28 iv. Coverage for telehealth services is not limited in any way on the basis of
29 geography, location or distance for travel.
30 v. The carrier shall require that a clinical evaluation is conducted either in
31 person or through telehealth before a provider may write a prescription that
32 is covered.
33 vi. The carrier shall provide coverage for the treatment of 2 or more persons
34 who are enrolled in the carrier's health plan at the same time through
35 telehealth, including counseling for substance use disorders involving
36 opioids.

- 37
38 (c) "Occasional services" means consultation within the Virgin Islands by a psychologist
39 licensed in another state or jurisdiction but not licensed by the Board, subject to the
40 Board's rules. "Occasional services" does not include psychotherapy. A psychologist
41 not licensed by the Board who provides "occasional services" as defined above shall
42 notify the Board in writing each time the psychologist consults in the Virgin Islands
43 on a form provided by the Board. Such consultation may not occur more than 30
44 days in a calendar year. Consultation in the Virgin Islands beyond this 30-day period
45 will only be permitted in exigent circumstances.

- 1 (d) "Parity for telehealth services" means a carrier offering a health plan in this Territory
2 may not deny coverage on the basis that the health care service is provided through
3 telehealth if the health care service would be covered if it was provided through in-
4 person consultation between an enrollee and a provider. Coverage for health care
5 services provided through telehealth must be determined in a manner consistent with
6 coverage for health care services provided through in-person consultation. If an
7 enrollee is eligible for coverage and the delivery of the health care service through
8 telehealth is medically appropriate, a carrier may not deny coverage for telehealth
9 services. A carrier may offer a health plan containing a provision for a deductible,
10 copayment or coinsurance requirement for a health care service provided through
11 telehealth as long as the deductible, copayment or coinsurance does not exceed the
12 deductible, copayment or coinsurance applicable to a comparable service provided
13 through in-person consultation. A carrier may not exclude a health care service from
14 coverage solely because such health care service is provided only through a telehealth
15 encounter, as long as telehealth is appropriate for the provision of such health care
16 service.
17
- 18 (e) "Practicing via Electronic Transmission" includes the provision of psychological
19 services by electronic transmission (e.g. internet, telephone, computer...) but such
20 services must meet the same legal and ethical standards as psychological services
21 provided in person. This rule applies to both psychologists who are licensed in the
22 Virgin Islands and to other psychologists residing elsewhere who are providing
23 psychological services to clients/patients in the Virgin Islands who must meet the
24 requirements of licensure under Virgin Islands Law pursuant to 27 V.I.C. §§169c -
25 169k or be approved by the Board pursuant to 27 V.I.C. §§169m(4) or under any
26 other authority granted to the Board or Commissioner of Health to approve the
27 licensure and psychological services provided by a person. When applicable, the
28 Board will report out of state psychologists to their respective licensing boards for
29 practicing psychology via these means in the Virgin Islands.
30
- 31 (f) "Store and forward transfers" means the transmission of an enrollee's recorded health
32 history through a secure electronic system to a provider.
33
- 34 (g) "Telehealth," as it pertains to the delivery of health care services, means the use of
35 interactive real-time visual and audio or other electronic media for the purpose of
36 consultation and education concerning and diagnosis, treatment, care management
37 and self-management of an enrollee's physical and mental health and includes real-
38 time interaction between the enrollee and the telehealth provider, synchronous
39 encounters, asynchronous encounters, store, and forward transfers and -.
40
- 41 (h) "Telemedicine" is defined as the secured use of audio, video, or data communications
42 for health care delivery, diagnosis, consultation, treatment, or transfer of medical data
43 used or obtained during a medical visit with a patient. Standard telephone, facsimile
44 transmissions, unsecured e-mail, or a combination thereof are excluded.
45
- 46 (i) "Tele-monitoring," as it pertains to the delivery of health care services, means the use
47 of information technology to remotely monitor an enrollee's health status via

1 electronic means through the use of clinical data while the enrollee remains in a
2 residential setting, allowing the provider to track the enrollee's health data over time.
3 Tele-monitoring may or may not take place in real-time.
4

- 5 (j) "Telepsychology" includes telephone, email, Internet-based communications, &
6 video conferencing.
7
- 8 (k) "The use of occasional services of qualified consultant psychologists from another
9 state or jurisdiction" or "the use of the services of organizations from another state or
10 jurisdiction employing qualified psychologists" does not constitute the unlawful
11 practice of psychology.
12

13 **1112. Permission to Practice and Authorization**

14

15 (a) Out-of-state psychologists licensed in another jurisdiction may provide services
16 without a Virgin Islands license if they are approved by the Board of Psychology
17 Examiners ("Board") and do not exceed an "aggregate number of days of professional
18 services as a psychologist, per calendar year" that is to be determined by the Board.
19

20 (b) In-state practitioners must hold a current, valid license issued by the Board to practice
21 telepsychology, or participate in similar telehealth or telemedicine practices.
22

23 (c) To provide telepsychology services to Virgin Islands residents a provider must
24 obtain:
25

- 26 i. Board approval;
- 27 ii. Obtain patient consent;
- 28 iii. Use secure communications where feasible;
- 29 iv. Document risk-benefit analysis;
- 30 v. And develop a written emergency contingency plan
31

32 (d) Licensees understand that the above rules do not provide licensees with authority to
33 practice telepsychology in service to clients domiciled in any jurisdiction other than
34 the Virgin Islands, and licensees bear responsibility for complying with laws, rules,
35 and/or policies for the practice of telepsychology set forth by other jurisdictional
36 boards of psychology.

37 (e) Licensees practicing telepsychology shall comply with all of these rules of
38 professional conduct and with requirements incurred in state and federal statutes
39 relevant to the practice of psychology.
40

- 41 i. Licensees must establish and maintain current competence in the
42 professional practice of telepsychology through continuing education,
43 consultation, or other procedures, in conformance with prevailing
44 standards of scientific and professional knowledge.
- 45 ii. Licensees must establish and maintain competence in the appropriate use
46 of the information technologies utilized in the practice of telepsychology.

- 1 (f) Licensees recognize that telepsychology is not appropriate for all psychological
2 problems and clients, and decisions regarding the appropriate use of telepsychology
3 are made on a case-by-case basis.
- 4 (g) Licensees practicing telepsychology are aware of additional risks incurred when
5 practicing psychology through the use of distance communication technologies and
6 must take special care to conduct their professional practice in a manner that protects
7 the welfare of the client and ensures that the client's welfare is paramount.
- 8 (h) Licensees practicing telepsychology or similar telehealth or telemedicine shall:
- 9 i. Conduct a risk-benefit analysis and document findings specific to:
- 10 1. Whether the client's presenting problems and apparent condition
11 are consistent with the use of telepsychology to the client's benefit;
12 and
- 13 2. Whether the client has sufficient knowledge and skills in the use of
14 the technology involved in rendering the service or can use a
15 personal aid or assistive device to benefit from the service.
- 16 ii. Not provide telepsychology services to any person or persons when the
17 outcome of the analysis required in paragraph "i" is inconsistent with the
18 delivery of telepsychology or similar telehealth or telemedicine services,
19 whether related to clinical or technological issues.
- 20 iii. Upon initial and subsequent contacts with the client, make reasonable
21 efforts to verify the identity of the client;
- 22 1. Obtain alternative means of contacting the client;
- 23 2. Provide to the client alternative means of contacting the licensee;
- 24 iv. Establish a written agreement relative to the client's access to face-to-face
25 emergency services in the client's geographical area, in instances such as,
26 but not necessarily limited to, the client experiencing a suicidal or
27 homicidal crisis;
- 28 v. Licensees, whenever feasible, must use secure communications with
29 clients, such as encrypted text messages via email or secure websites and
30 obtain and document consent for the use of non-secure communications.
- 31 vi. Prior to providing telepsychology or similar telehealth or telemedicine
32 services, obtain the written informed consent of the client, in language that
33 is likely to be understood and consistent with accepted professional and
34 legal requirements, relative to:
- 35 1. The limitations and innovative nature of using distance technology
36 in the provision of psychological services;
- 37 2. Potential risks to the confidentiality of information due to the use
38 of distance technology;

3. Potential risks of sudden and unpredictable disruption of telepsychology or similar telehealth or telemedicine services, and how an alternative means of re-establishing electronic or other connection will be used under such circumstances.
 4. When and how the licensee will respond to routine electronic messages;
 5. Under what circumstances the licensee and service recipient will use alternative means of communications under emergency circumstances;
 6. Who else may have access to communications between the client and the licensee;
- vii. Specific methods for ensuring that a client’s electronic communications are directed only to the licensee or supervisee must be established;
 - viii. How the licensee stores electronic communications exchanged with the client must be established;
 1. Must Ensure that confidential communications stored electronically cannot be recovered and/or accessed by unauthorized persons when the licensee disposes of electronic equipment and data;
- (i) If in the context of a face-to-face professional relationship the following are exempt from the above rules:
- i. Electronic communication used specifically to appointment scheduling, billing, and/or the establishment of benefits and eligibility for services; and,
 - ii. Telephone or other electronic communications made for the purpose of ensuring client welfare in accord with reasonable professional judgment.

Chapter 47. Intellectual and Developmental Disabilities
(§§1114 –1119)

1114. Purpose

- (a) To update the provision of this chapter to reflect the changes in federal law and diagnostic terms for “mental retardation”. The term “mental retardation” was introduced by the American Association on Mental Retardation in 1961 and was adopted by the American Psychiatric Association (APA). This term has since the enactment of this original Chapter in the Virgin Islands Code in 1965, changed in the APA’s Diagnostic and Statistical Manual for Mental Disorders (DSM-5). On January 28, 2013, Pursuant to the Federal Register, the term “mental retardation” has been

1 replaced with “intellectual disability”, in the listing of impairments that is used to
2 evaluate claims involving mental disorders in adults and children under titles II and
3 XVI of the Social Security Act (Act) and in other appropriate sections of the federal
4 rules. This change reflects the widespread adoption of the term “intellectual disability”
5 by Congress, government agencies, and various public and private organizations. It is
6 the purpose of this chapter to provide territorial protections for individuals with
7 intellectual disabilities that are consistent with current federal law and regulations.
8

9 **1115. Territorial Protections for Individuals with Intellectual and Developmental**
10 **Disabilities**

11
12 (a) In 1963, the President signed into law the Mental Retardation Facilities and
13 Construction Act (Pub. L. 88-164). It gave the authority to plan activities and construct
14 facilities to provide services to persons with “mental retardation”. This legislation was
15 significantly amended since 1963, and most recently replaced by the Developmental
16 Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402 (the DD Act
17 of 2000). Due to the consistent changes made in this area of health, this chapter
18 establishes that territorial protections for individuals with intellectual disabilities shall
19 be provided in the Virgin Islands that are consistent with current federal law and
20 regulations.

21 i. The provisions of federal law and regulations require the following,
22 which must be enacted by Commissioner of Health and if applicable
23 departments or agencies of the Virgin Islands Government:

24 1. Development of a Council on Developmental Disabilities
25 that sets aside a percentage of federal funds for activities tied
26 to Council goals for individuals with intellectual or
27 developmental disabilities;

28 2. Enactment of provisions regarding access to records of
29 individuals with developmental disabilities that service
30 providers hold, in order to investigate potential abuse and
31 neglect.

32 (1) The Territory must be able to provide information to
33 a Protection and Advocacy (P&A) agency about the
34 adequacy of health care and other services, supports,
35 and assistance that individuals with developmental
36 disabilities receive through the home and
37 community-based programs or facilities.

38 3. If a University Centers for Excellence in Developmental
39 Disabilities Education, Research, and Service is adopted
40 (referred to as UCEDDs), each UCEDD receives a core
41 award, along with national training initiatives, and is
42 authorized to create additional UCEDDs or to make
43 additional grants to existing UCEDDs.

44 4. Authorization of Projects of National Significance to carry
45 out projects relating to the development of policies that
46 reinforce and promote self-determination, independence,

1 productivity, and inclusion in the community life of
2 individuals with intellectual or developmental disabilities.
3 Working with other or any additional federal programs or
4 authorities that are enacted such as, but not limited to,
5 Families of Children with Disabilities Support Act and
6 Program for Direct Support Workers Who Assist Individuals
7 with Developmental Disabilities.
8

9 **1116. Establishing Federal Policies and Initiatives for Services and Programs for**
10 **Individuals with Intellectual and Developmental Disabilities**

11 (a) The Department of Health, through the Commissioner thereof, shall constitute the
12 regulatory agency of the Government of the Virgin Islands for the purpose of evaluating
13 current intellectual disabilities and federal policies and initiative for developmental
14 disabilities, and has the authority to work with other departments or agencies of the
15 government to establish rules and regulations as well as policies and initiatives for
16 services and programs to assure that individuals with intellectual disabilities and
17 developmental disabilities and their families participate in service and programs, and
18 have access to needed community services as provided by federal law.

19 i. In terms of intellectual disabilities and developmental disabilities, the
20 Virgin Islands Government will comply with federal regulations or
21 mandates that may cover a variety of topics and apply to a number of
22 groups including schools, insurance companies, treatment providers,
23 and employers. These rules clarify just how major pieces of legislation
24 like the Americans with Disabilities Act (ADA), the Rehabilitation Act,
25 the Mental Health Parity and Addiction Equity Act (MPHAEA), and the
26 Affordable Care Act (ACA) should be implemented.

27 ii. The Virgin Islands will comply with formula grants that are made to
28 each State and other eligible jurisdictions to support and establish a State
29 Council on Developmental Disabilities (SCDD) to engage in advocacy,
30 capacity building, and systemic change activities that assure that
31 individuals with intellectual and developmental disabilities and their
32 families participate in service and program design, and have access to
33 needed community services.

34 1. These grants provide assistance that promotes self-
35 determination, independence, productivity, and integration and
36 inclusion in all facets of community living. The Virgin Islands
37 through the use of these grants shall establish activities that
38 contribute to a coordinated, person and family-centered, person
39 and family-directed, comprehensive system that includes needed
40 community services, individualized supports, and other forms of
41 assistance that promote self-determination for individuals with
42 intellectual and developmental disabilities and their families.

43 iii. Protection and Advocacy for Individuals with Developmental and
44 Intellectual Disabilities:

45 1. Formula grants shall also be used by the Territory to support and
46 establish a Protection and Advocacy (P&A) system to protect

1 and advocate for the rights of individuals with intellectual and
2 developmental disabilities.

3 a. The system must have the authority to pursue legal,
4 administrative, and other appropriate remedies or
5 approaches to ensure the protection, advocacy and rights
6 of individuals with intellectual and developmental
7 disabilities who are or who may be eligible for treatment,
8 services, or habilitation, or who are being considered for
9 a change in living arrangement; and

10 b. The system must provide information and referral for
11 programs and services addressing the needs of
12 individuals with intellectual and developmental
13 disabilities, and have the authority to investigate
14 incidents of abuse and neglect of individuals with
15 intellectual and developmental disabilities if the
16 incidents are reported to the system, or if there is
17 probable cause to believe that the incidents occurred

18 iv. Projects of National Significance:

19 1. Shall be established by the Virgin Islands to create opportunities
20 for individuals with intellectual and developmental disabilities
21 to directly and fully contribute to, and participate in, all facets of
22 community life.

23 a. Generally, projects established should support the
24 development of national and state policies within the
25 Territory which reinforce and promote determination,
26 independence, productivity, integration, and inclusion in
27 all facets of community living for individuals with
28 intellectual or developmental disabilities.

29 v. National Network of University Centers for Excellence in
30 Developmental Disabilities Education, Research, and Service
31 (UCEDDs):

32 1. If a UCEDD is established then grants are awarded to entities
33 designated as University Centers for Excellence in
34 Developmental Disabilities Education, Research, and Service
35 (UCEDDs) in the Territory. An established UCEDD provides:

36 a. interdisciplinary education, research, and public service
37 units, or public or not-for-profit entities associated with
38 the universities that engage in the core functions of
39 interdisciplinary pre-service preparation and continuing
40 education of students and fellows, provision of
41 community services, conduct of research, and
42 dissemination of information related to activities
43 undertaken to address intellectual or developmental
44 disabilities.
45

1 (b) The Department of Health through coordination with applicable government
2 departments and agencies in the Interdepartmental Coordinating Committee (pursuant
3 to Section 1014 of Chapter 45 of this Title) shall work together to evaluate federal
4 policies and initiatives including funding, treatment, services, and programs for
5 intellectual disabilities and developmental disabilities.
6

7 **1117. General powers and duties**

8 (a) In carrying out the purposes of this chapter the Commissioner of Health is authorized,
9 subject to the approval of the Governor:

- 10 i. to require such reports, make such inspections and investigations and
11 prescribe such regulations as deemed necessary;
- 12 ii. to provide methods of administration, and take such other action as may
13 be necessary to comply with the requirements of federal law and
14 regulations;
- 15 iii. adequate reporting and record-keeping of programs and services, as well
16 as action and plans, are maintained
- 17 iv. procurement of temporary or intermittent services of experts or
18 consultants or organizations thereof, by contract, when such services are
19 required;
- 20 v. to effectuate the purposes of this chapter, to enter into agreements for the
21 utilization of facilities and services of other departments, agencies, and
22 institutions, public or private;
- 23 vi. to accept on behalf of the Government of the Virgin Islands and to deposit
24 with the Commissioner of Finance any grant, gift or contribution made to
25 assist in meeting the cost of carrying out the purposes of this chapter, and
26 to expend the same for such purposes;
- 27 vii. to make an annual report to the Governor on activities and expenditures
28 pursuant to this chapter, including recommendations for additional
29 legislation as the Commissioner of Health considers appropriate to
30 furnish adequate use of facilities for treatment or community behavioral
31 health centers for services to the people of the Virgin Islands; and
- 32 viii. to do all other things on behalf of the Government of the Virgin Islands
33 necessary to obtain full benefits under federal law as now and hereafter
34 amended.
35

36 **1118. Administrative appropriations**

37 (a) For the purposes of administering the provisions of this chapter, there is hereby
38 appropriated such funds as may be received from the Federal Government and other
39 sources for such purposes which shall be expended upon proper certification by the
40 Commissioner.
41

42 **1119. Standards for maintenance and operation**

43 (a) The Commissioner shall by regulation prescribe, and shall be authorized to enforce,
44 standards for the maintenance and operation of facilities that treat or provide services
45 to individuals with intellectual or developmental disabilities that receive federal aid.

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4 *Chapter 48. Behavioral Health for children and young adults*
5 *(§§ 1120 – 1123)*
6

7 **1120. Maternal and child health services**

8 (a) The Department of Health, in addition to its other powers and duties, may establish
9 and administer a program for promoting health services, including medical, dental
10 and hospital care, of mothers, infants, pre-school and school-age children, which shall
11 provide for developing, extending, and improving such services for mothers and
12 children. Under such a program, the Department shall—

- 13 i. supervise the administration of those services included in the program
14 which are not administered directly by it;
15 ii. provide such methods of administration, including those necessary to
16 establish and maintain a merit system of personnel administration, as
17 are necessary for the efficient operation of the plan;
18 iii. extend and improve local maternal and child health services
19 throughout the islands;
20 iv. cooperate with medical, nursing and welfare groups and organizations;
21 v. develop demonstration services in needy areas and among groups in
22 special need;
23 vi. cooperate with the Federal Government through its appropriate agency
24 or instrumentality in developing, extending, and improving such
25 services; and
26 vii. receive and expend all funds made available to the Department of
27 Health by the Federal Government, the government of the Virgin
28 Islands or its political subdivisions, or from other sources, for such
29 purposes.
30

31 **1121. Services for children with physical disabilities**

32 (a) Pursuant to Chapter 47 and this Chapter the Department of Health may establish and
33 administer a program of services for children with physical disabilities or who are
34 suffering from conditions which lead to physical disability, which shall provide for
35 developing, extending, and improving services for locating such children, and for
36 providing medical, surgical, corrective, and other services and care, and facilities for
37 diagnosis, hospitalization, and aftercare. Under such a program, the Department
38 shall—

- 39 i. supervise the administration of those services included in the program
40 which are not administered directly by it;
41 ii. provide such methods of administration, including those necessary to
42 establish and maintain a merit system of personnel administration, as
43 are necessary for the efficient operation of the plan;
44 iii. extend and improve any such services;

- 1 iv. cooperate with medical, health, nursing, and welfare groups and
2 organizations, and with any agency of the Federal Government
3 charged with the administration of laws providing for vocational
4 rehabilitation of physically handicapped children;
- 5 v. cooperate with the Federal Government, through its appropriate
6 agency or instrumentality, in developing, extending, and improving
7 such services; and
- 8 vi. receive and expend all funds made available to the Department by the
9 Federal Government, the government of the Virgin Islands or its
10 political subdivisions, or from other sources, for such purposes.

11
12 **1122. Education of children with intellectual disabilities**

13 (a) The Director of the Division of Behavioral Health of the Department of Health is
14 authorized to establish an educational program for children with intellectual
15 disabilities of the Virgin Islands who are determined to be educable by the Director of
16 Behavioral Health, who are accepted for enrollment in a specialized school for the
17 intellectually disabled which is determined to be a qualified school by the Director of
18 Behavioral Health, and whose parents or guardians are unable, in whole or in part, to
19 provide the necessary specialized education.

20 **1123. Application of the Children's Policy**

21
22 (a) Pursuant to section 2501 of Title 5, of the Virgin Islands Code, a Children's Policy is
23 established in the Virgin Islands. In line with that policy, the Commissioner of Health
24 and the Interdepartmental Coordinating Committee (pursuant to section 1014 of
25 Chapter 45, Title 19) shall have the authority to establish and adopt rules, regulations,
26 and procedures that apply the requirement within the Children's Policy to children,
27 minors, or young adults who suffer from behavioral health challenges, mental health
28 disorders, intellectual or developmental disabilities, alcoholism, and drug
29 dependency.

30
31 (b) In exercising its duties under the Children's Policy and this section the Commissioner
32 of Health and the Interdepartmental Coordinating Committee shall develop programs,
33 services, and work with community organizations or agencies, and any public or
34 private entities, in order to ensure the following:

- 35 i. Services are provided to children, minors, or young adults who are
36 mentally, socially, emotionally, physically, developmentally,
37 educationally or economically disadvantaged or suffer from a
38 disability or defect;
- 39 ii. Services are coordinated in all departments to address the needs,
40 program development, services, and treatment of children, minors, or
41 young adults who suffer from behavioral health challenges, mental
42 health disorders, intellectual or developmental disabilities, alcoholism,
43 and drug dependency;
- 44 iii. Early prevention programs and treatment are established, and continue
45 to update services and programs through training and education;

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- iv. Federal and Territorial government resources are utilized along with complementary community efforts and support, so the needs of children are met by both prevention and resolution;
- v. Facilities designate treatment, services, and programs to specifically meet the needs of servicing children, minors, or young adults who suffer from behavioral health challenges, mental health disorders, intellectual or developmental disabilities, alcoholism, and drug dependency; and
 - 1. The Commissioner of Health and the Interdepartmental Coordinating Committee, along with the Director of the Behavioral Health, Mental Health, Developmental Disability, Alcohol or Substance Abuse Facility shall establish specific services within the facility as well as policies, procedures, rules, and regulations to govern the treatment of children, minors, or young adults.

- (c) All institutions or other agencies to which any child is committed pursuant to procedures outlined in Chapters 45 through 47 of Title 19, shall give to the court or its representative such information concerning such child as the court may require.
 - i. The court is authorized to seek the cooperation of and may use the available services of any approved facilities, societies or organizations, public or private, to ensure protection or aid of children who suffer from behavioral health challenges, mental health disorders, intellectual or developmental disabilities, alcoholism, and drug dependency, including imposing family counseling services;

BILL SUMMARY

This Bill replaces the piecemeal laws that were limited in addressing services, programs, and treatment for persons who suffer from behavioral health challenges, mental health disorders, developmental disabilities, alcoholism, and drug dependency in the Territory of the Virgin Islands. The purpose of this Bill is to provide for the assessment, treatment and protection of persons who suffer from behavioral health challenges, mental health disorders, developmental disabilities, alcoholism, and drug dependency within the territory of the Virgin Islands while safeguarding and balancing their rights and freedom with those of the public.

The Bill is a comprehensive one, that deals with all facets of persons who suffer from various health challenges including those within the court system, or who are incarcerated.

The Bill establishes a full chapter that addresses the needs of persons who suffer specifically from behavioral health challenges or mental health disorders.

The Bill establishes a full chapter devoted to the treatment of persons who suffer specifically from alcohol use disorder or drug addiction.

The Bill establishes chapters devoted to the treatment of persons who suffer specifically from intellectual and developmental disabilities and provides specific services, programs and facility use for the treatment of children who suffer from behavioral health challenges, mental health disorders, developmental disabilities, alcoholism, and drug dependency.

The Bill also establishes a full chapter devoted to using technology to treat all the health areas discussed above through telehealth and telepsychology.

The Bill establishes interdepartmental coordination, Community Health Services, and establishes the first public facility in the Virgin Islands to service persons who suffer from behavioral health challenges, mental health disorders, developmental disabilities, alcoholism, and drug dependency.

The Bill amends and repeals outdated laws that deal with persons who suffer from behavioral health challenges or psychiatric disorders; and clarifies the conflicting and unclear laws that deal with persons who suffer from behavioral health challenges or mental health disorders.

The Bill establishes the procedures and rights of persons who are committed or treated and who suffer from behavioral health challenges, mental health disorders, developmental disabilities, alcoholism, and drug dependency.

The Bill provides for the treatment, rights, and procedures for persons Not Guilty by Reasons of Insanity (NGRI's), incarcerated individuals, and those facing charges before the court to be committed or treated for behavioral health challenges, mental health disorders, developmental disabilities, alcoholism, and drug dependency.

Finally, the Bill repeals or reclassifies and incorporates into one Act many of the pertinent statutes relevant to behavioral health, mental health, developmental disabilities, alcoholism, and drug dependency, which are:

- Part I. Chapter 7. Maternal, Child Health, Physical Disability and Intellectual Disability Children's Services (§§ 151 — 153);
 - **Reclassified and moved into new Behavioral Health and Developmental Disability Act**
- Chapter 29. Subchapters IV. Civil Commitment and Rehabilitation of Narcotic Addicts (§§ 661 — 666) and Subchapter V. Civil Commitment of Persons Not Charged with Any Criminal Offense (§§ 681 — 696);
 - **Reclassified and moved into new Behavioral Health and Developmental Disability Act**
- Chapter 30 Virgin Islands Commission on Alcoholism and Narcotics (§§ 701 — 704)
 - **§701 is repealed**
 - **§702 is repealed**
 - **§703 is repealed**
 - **§704 is repealed**

- Chapter 31. Behavioral Health, Alcoholism and Drug Dependency (§§ 710 — 729);
 - §716 is repealed
 - §717 is repealed
 - §726 is repealed
 - §746 is repealed
- Part V. Subchapters I - V (§§ 1101-1204)
 - §1101 is repealed
 - §1111 is repealed
 - §1112 is repealed
 - §1113 is repealed
 - §1114 is repealed
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 - §1140 is repealed
 - §1141 is repealed
 - §1142 is repealed
 - §1143 is repealed
 - §1171 is repealed
 - §1172 is repealed
 - §1173 is repealed
 - §1174 is repealed
 - §1174(a) is repealed
 - §1175 is repealed
 - §1176 is repealed
 - §1177 is repealed
 - 1201 is repealed
 - 1202 is repealed
 - 1204 is repealed
- and Part VIII. Mental Retardation Facilities and Community Health Centers Construction Act (Chs. 73 — 74)

- **Reclassified and moved into new Behavioral Health and Developmental Disability Act**
- Title 5 Section 3637 of the Virgin Islands Code
 - **Is repealed and Reclassified and moved into the new Behavioral Health and Developmental Disability Act**