

1 H.645

2 Senators Hashim, Sears and Norris move that the Senate propose to the
3 House that the report of the Committee on Judiciary be amended as follows:

4 First: In Sec. 1, 3 V.S.A. chapter 7, by striking out section 162a in its
5 entirety and inserting in lieu thereof a new section 162a to read as follows:

6 § 162a. DEFINITIONS

7 As used in this subchapter:

8 (1) “Child” has the same meaning as in 33 V.S.A. § 5102(2).

9 (2) “Community referral” means a referral of an individual to a
10 community-based restorative justice provider that does not involve
11 criminal offenses or delinquencies for which probable cause exists.

12 (3) “Criminal justice purposes” has the same meaning as in 20 V.S.A.
13 § 2056a(a)(3).

14 (4) “Precharge diversion” means a referral of an individual to a
15 community-based restorative justice provider by a law enforcement officer or
16 prosecutor after the referring officer or prosecutor has determined that
17 probable cause exists that the individual has committed a criminal offense and
18 before the individual is criminally charged with the offense or before a petition
19 is filed in family court for the offense. Precharge diversion shall not be
20 construed to include a community referral.

21 (5) “Youth” has the same meaning as in 33 V.S.A. § 5102(29).

1 Second: In Sec. 1, 3 V.S.A. chapter 7, in section 163, in subdivision (f)(1),
2 by striking out subdivision (C) in its entirety and inserting in lieu thereof a new
3 subdivision (C) to read as follows:

4 (C) Within 30 days after the two-year anniversary notifying the law
5 enforcement agency and the State’s Attorney’s office of the participant’s
6 successful completion, the Attorney General shall provide notice that all public
7 records held by the law enforcement agency and the State’s Attorney’s office
8 shall be deleted, including any held by the Attorney General. Records
9 maintained on the Valcour database or other similar nonpublic databases
10 maintained by a law enforcement agency, a State’s Attorney’s office, or the
11 Department of State’s Attorneys and Sheriffs shall be exempt from deletion
12 and shall only be used for criminal justice purposes.

13 Third: In Sec. 1, 3 V.S.A. chapter 7, in section 164, in subdivision (f)(1),
14 by striking out subdivision (C) in its entirety and inserting in lieu thereof a new
15 subdivision (C) to read as follows:

16 (C) Within 30 days after the two-year anniversary notifying the law
17 enforcement agency and the State’s Attorney’s office of the participant’s
18 successful completion, the Attorney General shall provide notice that all public
19 records held by the law enforcement agency and the State’s Attorney’s office
20 shall be deleted, including any held by the Attorney General. Records
21 maintained on the Valcour database or other similar nonpublic databases

1 maintained by a law enforcement agency, a State’s Attorney’s office, or the
2 Department of State’s Attorneys and Sheriffs shall be exempt from deletion
3 and shall only be used for criminal justice purposes.

4 Fourth: By adding a new section to be Sec. 9a to read as follows:

5 Sec. 9a. VERMONT SENTENCING COMMISSION; PRECHARGE
6 DIVERSION RECORD RETENTION; REPORT

7 On or before November 15, 2024, the Vermont Sentencing Commission
8 shall submit a written report to the Joint Legislative Justice Oversight
9 Committee and the Senate and House Committees on Judiciary reviewing
10 current precharge diversion record retention practices within law enforcement
11 agencies and State’s Attorneys’ offices. The report shall provide
12 recommendations of the following:

13 (1) whether precharge diversion records are retained, sealed, made
14 available on a limited basis to law enforcement or prosecutors, or deleted
15 altogether;

16 (2) if it is recommended that records be retained, a determination of any
17 time limits or other restrictions related to retention;

18 (3) if it is recommended that records be sealed, a determination of the
19 circumstances that permit sealing, if any;

1 (4) if it is recommended that records be made available on a limited
2 basis, a determination of the circumstances under which records be made
3 available; and

4 (5) if it is recommended that records be deleted, a determination of any
5 time to elapse or other considerations prior to deletion.