

1 H.296

2 Introduced by Representatives Lorber of Burlington, Haas of Rochester,

3 Branagan of Georgia, Clarkson of Woodstock, Minter of

4 Waterbury, Mrowicki of Putney, Pellett of Chester, Pugh of

5 South Burlington, Spengler of Colchester and Wizowaty of

6 Burlington

7 Referred to Committee on

8 Date:

9 Subject: Corrections; department of public safety; judiciary; department for

10 children and families; children of incarcerated parents

11 Statement of purpose: This bill proposes to require the court to consider the

12 impact of sentencing on any children of the defendant; direct the commissioner

13 of corrections to consider family connections when determining placement of

14 an inmate; direct the department of corrections to ensure that minor children

15 are cared for adequately when a person enters the corrections system; direct the

16 commissioner of corrections to gather data regarding children of incarcerated

17 parents; direct the commissioner of corrections to review and revise, as

18 appropriate, department policies regarding contact between inmates and their

19 children; and require various agencies involved in the criminal justice system

20 to establish policies, guidelines, and procedures which require consideration of

21 children at every step in the process of arresting and incarcerating parents.

1 An act relating to children of arrested and incarcerated parents

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

3 Sec. 1. 13 V.S.A. § 7030(a) is amended to read:

4 (a) In determining which of the following should be ordered, the court shall
5 consider the nature and circumstances of the crime, the history and character of
6 the defendant, the need for treatment, the impact on minor children if any, and
7 the risk to self, others and the community at large presented by the defendant:

8 (1) A deferred sentence pursuant to section 7041 of this title.

9 (2) Probation pursuant to section 205 of Title 28.

10 (3) Supervised community sentence pursuant to section 352 of Title 28.

11 (4) Sentence of imprisonment.

12 Sec. 2. 28 V.S.A. § 102(b)(5) is amended to read:

13 (5) To order the assignment and transfer of persons committed to the
14 custody of the commissioner to correctional facilities, including out-of-state
15 facilities. However, the commissioner shall consider family connections in
16 determining in which facility to place an inmate and shall attempt to locate
17 each inmate as close to minor children as possible.

1 Sec. 3. 28 V.S.A. § 701 is amended to read:

2 § 701. COMMITMENT TO THE CUSTODY OF THE COMMISSIONER

3 * * *

4 (b) The commissioner shall have the authority to designate the place of
5 confinement where the sentence shall be served. However, the commissioner
6 shall consider family connections in determining in which facility to place an
7 inmate and shall attempt to locate each inmate as close to minor children as
8 possible.

9 * * *

10 (e) Upon entry into the system, whether convicted of an offense or not, the
11 person shall be asked if he or she is a primary caregiver for a minor child. If
12 the answer is affirmative, department personnel shall ask how the child is
13 being cared for in the caregiver's absence and, if appropriate, ask the
14 department for children and families to intervene on the child's behalf.

15 Sec. 4. COMMISSIONER OF CORRECTIONS; FAMILIES; DATA
16 COLLECTION

17 (a) The commissioner shall gather information which will help policy
18 makers develop policies that will work to nurture and enhance relationships
19 between children and their incarcerated parents. Information gathered shall
20 include:

21 (1) The number of children who have a parent in prison.

1 redesigning these policies, the DOC shall take special care to consider them
2 from the point of view of the child who may be affected by them as well as the
3 security of the facility. Specifically, the commissioner shall:

4 (1) Revise policies and practices to better promote daily, affordable
5 telephone contact between incarcerated parents and their children. The
6 commissioner shall consider alternatives, for example installation of a toll-free
7 telephone line.

8 (2) Eliminate any existing policy which limits telephone calls and
9 visitation as a disciplinary measure.

10 (3) Examine the policies adopted and followed by individual facilities
11 and determine ways to revise them to be more child-friendly for visits.

12 (b) The commissioner shall report on actions he or she has taken to
13 enhance family visits to the senate committee on judiciary and the house
14 committee on corrections and institutions on or before each January 15.

15 Sec. 6. CHILDREN OF ARRESTED AND INCARCERATED PARENTS;

16 POLICIES, GUIDELINES, AND PROCEDURES; AGENCY

17 REPORTS

18 (a) It is the policy of the state of Vermont that, in order to reduce
19 recidivism and intergenerational incarceration, the well-being of children shall
20 be considered at every step of the process when it becomes necessary to arrest
21 and incarcerate their parents. Therefore, state agencies and others involved in

1 the criminal justice system shall develop policies, guidelines, and procedures
2 designed to ensure that children of arrested and incarcerated parents are
3 informed and kept safe at the time of a parent's arrest, are considered when
4 decisions are made about a parent, are well cared for when the parent is absent,
5 and are able to spend quality time with an incarcerated parent unless contact
6 would be detrimental to the child. Each agency head or judge listed in this
7 section shall present a draft of the policies, guidelines, and procedures as
8 requested in this section to the corrections oversight committee on or before
9 September 15, 2009. Following discussion with the corrections oversight
10 committee, the agency head or judge may revise the policies, guidelines, or
11 procedures and shall then adopt and follow them when working with arrested
12 or incarcerated parents of minor children.

13 (b) In this section, "minor child" means a person under the age of 18.

14 (c) The attorney general, in consultation with the executive director of the
15 department of sheriffs and state's attorneys, shall establish guidelines for
16 prosecutors to use when prosecuting the parent of a minor child. The
17 guidelines shall consider:

18 (1) the need of the child to be informed about the process;

19 (2) the need of the child to maintain quality contact with the parent; and

20 (3) the impact of any proposed sentence on termination of parental

21 rights under the Federal Adoption and Safe Families Act of 1997.

1 (d) The administrative judge shall establish a policy which requires a
2 family impact statement prior to sentencing a parent of a minor child, and
3 which requires the judge when setting the sentence to consider the impact of
4 any proposed sentence on termination of parental rights under the Federal
5 Adoption and Safe Families Act of 1997.

6 (e) The commissioner of corrections shall:

7 (1) evaluate whether policies and procedures regarding family contact
8 should be revised, and whether the geographic location of currently
9 incarcerated parents of a minor child should be changed in order to ensure
10 appropriate and maximum visitation and engagement between an inmate and
11 his or her minor child;

12 (2) establish policies and procedures for ensuring appropriate and
13 maximum visitation and engagement between an inmate and his or her minor
14 child; and

15 (3) establish policies and procedures to ensure that the needs of families
16 with a minor child are considered when setting up conditions of probation or
17 parole.

18 (f) The commissioner for children and families shall evaluate whether
19 caregivers of a minor child of an incarcerated parent are receiving support
20 adequate to facilitate normal child development while reducing recidivism and
21 intergenerational incarceration, and shall establish guidelines regarding the

- 1 supports that caregivers and minor children should receive while a parent is
- 2 incarcerated.