

No. 61. An act relating to studies on classification of criminal offenses, development of a cost-benefit model for assessing criminal and juvenile justice programs, and the role of administrative hearing officers.

(S.1)

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

Sec. 1. CRIMINAL OFFENSE CLASSIFICATION WORKING GROUP

(a) Findings:

(1) Vermont's criminal offense classification structure is minimal. Any offense for which the maximum term of imprisonment is two years or less is a misdemeanor, and any offense punishable by more than two years is a felony. Most offenses have a statutory maximum term of imprisonment and no minimum or recommended average. The sentence for each offense is distinct with regard to both imprisonment and fine amount.

(2) Over time, this structure has resulted in a lack of uniformity among sentences for comparable crimes and too little guidance for the courts with regard to the General Assembly's policy on an appropriate sentence based upon the seriousness of an offense. For instance, the statutory penalty for embezzlement is imprisonment for not more than 10 years. This penalty applies whether the embezzlement was \$5.00 or \$5,000,000.00.

(3) In recent years, the General Assembly has undertaken substantial initiatives to provide equal access to justice throughout the State and to employ data-driven policies to reduce recidivism and divert nonviolent offenders from incarceration. A review and subsequent revision of the classification of and penalties for crimes is essential to continue this work and ensure that

lawmakers' policy decisions concerning Vermont's approach to criminal justice is applied consistently throughout the State.

(b) Creation of Working Group. There is created a Criminal Offense Classification Working Group for the purpose of developing a criminal offense system that is well-organized and reflective of appropriate grading of liability and punishment and increasing uniformity in application of the law throughout the State.

(c) Membership. The Working Group shall be composed of five members as follows:

(1) the Attorney General or designee;

(2) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;

(3) the Defender General or designee;

(4) a criminal defense attorney appointed by the Defender General; and

(5) a retired trial court judge who shall be appointed by the

Administrative Judge.

(d) Powers and duties.

(1) The Working Group shall:

(A) collect the statutory sentencing ranges for all criminal offenses under Vermont law;

(B) examine the sentencing structure of the model penal code, criminal codes in other jurisdictions, and earlier attempts by the General Assembly to revise the criminal code;

(C)(i) develop recommendations for creating a classification of offenses for Vermont that includes consistent sentences that should be no more severe than necessary to achieve the societal purpose or purposes for which they are authorized; and

(ii) develop a sentencing range consistent with the gravity of the offense, the culpability of the offender, the offender's criminal history, and the personal characteristics of an individual offender that may be taken into account.

(2) The Vermont Center for Justice Research shall staff the Working Group.

(3) In its work, the Working Group shall consult with the Office of Legislative Council.

(e) Report. By November 1, 2014, the Working Group shall report to the Senate and House Committees on Judiciary its proposal for classifying offenses and penalties.

(f) Appropriation. The sum of \$6,500.00 is appropriated to the Joint Fiscal Committee from the General Fund in fiscal year 2014 for a contract with the Vermont Center for Justice Research for providing data and staffing necessary for the Working Group's charge.

Sec. 2. 13 V.S.A. § 2531 is amended to read:

§ 2531. EMBEZZLEMENT GENERALLY

(a) An officer, agent, bailee for hire, clerk or servant of a banking association or an incorporated company, or a clerk, agent, bailee for hire, officer or servant of a private person, partnership, tradesunion, joint stock company, unincorporated association, fraternal or benevolent association, except apprentices and other persons under the age of 16 years, who embezzles or fraudulently converts to his or her own use, or takes or secretes with intent to embezzle or fraudulently convert to his or her own use, money or other property which comes into his or her possession or is under his or her care by virtue of such employment, notwithstanding he or she may have an interest in such money or property, shall be guilty of embezzlement ~~and shall be imprisoned not more than 10 years or fined not more than \$500.00, or both.~~

(b) If the money or property embezzled does not exceed \$100.00 in value, the person shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. If the money or property embezzled exceeds \$100.00 in value, the person shall be imprisoned not more than 10 years or fined not more than \$10,000.00, or both.

Sec. 3. CRIMINAL JUSTICE CONSENSUS COST-BENEFIT WORKING
GROUP

(a)(1) A Criminal Justice Consensus Cost-Benefit Working Group is established to develop a criminal and juvenile justice cost-benefit model for

Vermont for the purpose of providing policymakers with the information necessary to weigh the pros and cons of various strategies and programs, and enable them to identify options that are not only cost-effective, but also have the greatest net social benefit. The model will be used to estimate the costs related to the arrest, prosecution, defense, adjudication, and correction of criminal and juvenile defendants, and victimization of citizens by defendants.

(2) The Working Group shall:

(A) develop estimates of costs associated with the arrest, prosecution, defense, adjudication, and correction of criminal and juvenile defendants in Vermont by using the cost-benefit methodology developed by the Washington State Institute for Public Policy and currently used collaboratively by the Joint Fiscal Office and the PEW Charitable Trust for the Vermont Results First Project;

(B) estimate costs incurred by citizens who are the victims of crime by using data from the Vermont Center for Crime Victim Services, supplemented where necessary with national survey data;

(C) assess the quality of justice data collection systems and make recommendations for improved data integration, data capture, and data quality as appropriate;

(D) develop a throughput model of the Vermont criminal and juvenile justice systems which will serve as the basic matrix for calculating the cost and benefit of Vermont justice system programs and policies;

(E) investigate the need for and the most appropriate entity within state government to be responsible for:

(i) revising the statewide cost benefit model in light of legislative or policy changes, or both, in the criminal or juvenile justice systems;

(ii) updating cost estimates; and

(iii) updating throughput data for the model.

(3) The Working Group shall be convened and staffed by the Vermont Center for Justice Research.

(4) The costs associated with staffing the Working Group shall be underwritten through December 31, 2013 by funding previously obtained by the Vermont Center for Justice Research from the Bureau of Justice Statistics, U.S. Department of Justice.

(b) The Working Group shall be composed of the following members:

(1) the Administrative Judge or designee;

(2) the Chief Legislative Fiscal Officer or designee;

(3) the Attorney General or designee;

(4) the Commissioner of Corrections or designee;

(5) the Commissioner for Children and Families or designee;

(6) the Executive Director of State's Attorneys and Sheriffs or designee;

(7) the Defender General or designee;

(8) the Commissioner of Public Safety or designee;

(9) the Director of the Vermont Center for Crime Victim Services or designee;

(10) the President of the Chiefs of Police Association of Vermont or designee;

(11) the President of the Vermont Sheriffs' Association or designee; and

(12) the Director of the Vermont Center for Justice Research.

(c) On or before November 15, 2013, the Working Group shall report its preliminary findings to the Senate Committee on Judiciary, the House Committee on Judiciary, and the House Committee on Corrections and Institutions. The Working Group shall issue a final report to the General Assembly on or before January 1, 2014.

Sec. 4. ADMINISTRATIVE HEARING OFFICERS STUDY COMMITTEE

(a) Creation. There is created an Administrative Hearing Officers Study Committee to report on the duties, powers, current practices, sources of authority, and qualifications of administrative hearing officers used in Vermont government.

(b) Membership. The Committee shall be composed of the following members:

(1) the Chair of the House Committee on Judiciary or designee;

(2) the Chair of the Senate Committee on Judiciary or designee;

(3) the Chair of the House Committee on Government Operations or designee;

(4) the Chair of the Senate Committee on Government Operations or designee.

(5) one member of the Senate Committee on Judiciary appointed by the Committee on Committees; and

(6) one member of the House Committee on Judiciary appointed by the Speaker of the House.

(c) Duties. The Committee shall examine the manner and context in which administrative hearing officers are used by the State. The Committee shall consider the duties, powers, and minimum qualifications for each administrative hearing officer, including those authorized by statute, agency rule, or any other means.

(d) Number of meetings; staffing. The Committee shall meet no more than four times and shall have the assistance of all relevant state agencies, the Office of the Legislative Council, and the Joint Fiscal Office.

(e) Report. The Committee shall report its recommendations and any proposals for legislative action to the House and Senate Committees on Judiciary and on Government Operations on or before December 15, 2013, on which date it shall cease to exist.

(f) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

Date the Governor signed the bill: June 3, 2013