

1 S.2

2 Introduced by Senator Sears

3 Referred to Committee on

4 Date:

5 Subject: Crimes; sentences; maximum and minimum terms; consecutive
6 sentences

7 Statement of purpose: This bill proposes to:

- 8 (1) limit the minimum term to serve on consecutive sentences to the sum of
9 the minimum terms, regardless of when the sentences were imposed;
- 10 (2) require that a nonviolent offender who receives a zero minimum
11 sentence shall begin to serve the sentence in the community immediately; and
- 12 (3) provide guidelines for calculating credit toward service of a sentence
13 for any days spent in custody.

14 An act relating to sentence calculations

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

16 Sec. 1. 13 V.S.A. § 7031 is amended to read:

17 § 7031. FORM OF SENTENCES; MAXIMUM AND MINIMUM TERMS

18 (a) When a respondent is sentenced to any term of imprisonment, other
19 than for life, the court imposing the sentence shall not fix the term of
20 imprisonment, unless ~~such~~ the term is definitely fixed by statute, but shall

1 establish a maximum and may establish a minimum term for which ~~such~~ the
2 respondent may be held in imprisonment. The maximum term shall not be
3 more than the longest term fixed by law for the offense of which the
4 respondent is convicted, and the minimum term shall be not less than the
5 shortest term fixed by law for ~~such~~ the offense. If the court suspends a portion
6 of ~~said~~ the sentence, the unsuspended portion of ~~such~~ the sentence shall be the
7 minimum term of sentence solely for the purpose of any reductions of term for
8 good behavior as set forth in 28 V.S.A. § 811. A sentence shall not be
9 considered fixed as long as the maximum and minimum terms are not
10 identical.

11 (b) The sentence of imprisonment of any person convicted of an offense
12 shall commence to run from the date on which the person is received at the
13 correctional facility for service of the sentence. The court shall give the person
14 credit toward service of his or her sentence for any days spent in custody ~~in~~
15 ~~connection with the offense for which sentence was imposed~~ as follows:

16 (1) The period of credit for concurrent and consecutive sentences shall
17 include all days served from the date of arraignment or the date of the earliest
18 detention for the offense, whichever occurs first, and end on the date of the
19 sentencing. Only a single credit shall be awarded in cases of consecutive
20 sentences, and no credit for one period of time shall be applied to a later
21 period.

1 (2) In sentencing a violation of probation, the court shall give the
2 person credit for any days spent in custody from the time the violation is filed
3 or the person is detained on the violation, whichever occurs first, until the
4 violation is sentenced. In a case in which probation is revoked and the person
5 is ordered to serve the underlying sentence, the person shall receive credit for
6 all time previously served in connection with the offense.

7 (c) If any such person is committed to a jail or other place of detention to
8 await transportation to the place at which his or her sentence is to be served,
9 his or her sentence shall commence to run from the date on which he or she is
10 received at ~~such the~~ jail or ~~such the~~ place of detention.

11 (d) A person who receives a zero minimum sentence for a conviction of a
12 nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301
13 shall report to probation and parole as directed by the court and begin to serve
14 the sentence in the community immediately, unless the person is serving a
15 prior sentence at the time.

16 Sec. 2. 13 V.S.A. § 7032(c) is amended to read:

17 (c) In all cases where multiple or additional sentences have been or are
18 imposed, the term or terms of imprisonment under those sentences shall be
19 determined in accordance with the following definitions:

1 (1) When terms run concurrently, the shorter minimum terms merge in
2 and are satisfied by serving the longest minimum and the shorter maximum
3 terms merge in and are satisfied by discharge of the longest maximum term.

4 (2) When terms run consecutively, the minimum terms are added to
5 arrive at an aggregate minimum to be served equal to the sum of all minimum
6 terms and the maximum terms are added to arrive at an aggregate maximum
7 equal to the sum of all maximum terms. A person shall serve no more time on
8 consecutive minimum sentences than the sum of the minimum terms.

9 regardless of whether the sentences are imposed on the same or different dates.

10 If a person has served a minimum term and subsequently incurs another
11 criminal charge, the time the person spends in custody awaiting disposition of
12 the new charge shall count toward the minimum term of the new sentence, if

13 one is imposed. This subdivision shall not require the Department of

14 Corrections to release a person from incarceration to community supervision at
15 the person's minimum term.

16 Sec. 3. EFFECTIVE DATE

17 This act shall take effect on July 1, 2013.