

S.154

An act relating to classification of crimes

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 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) the Director of the Vermont Center for Justice Research.

(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.

(ii) The sentencing range shall be 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) 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 FY14 for a contract with the Vermont Center for Justice Research for providing data and staffing necessary for the Working Group's work.

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. EFFECTIVE DATE

This act shall take effect on passage.