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H.660

Introduced by Representatives LaLonde of South Burlington, Conquest of
Newbury, Grad of Moretown, Burditt of West Rutland, Colburn
of Burlington, Morris of Bennington, Viens of Newport City,
and Willhoit of St. Johnsbury

Referred to Committee on

Date:

Subject: Crimes and criminal procedure; Geographic Justice Criminal Code
Reclassification Commission

Statement of purpose of bill as introduced: This bill proposes to establish the
Geographic Justice Criminal Code Reclassification Commission to review
Vermont criminal sentencing law and practice to determine whether existing
statutory penalties are appropriate and to improve the consistent and uniform
application of criminal justice throughout Vermont by placing each criminal
offense in a category within a standardized penalty classification system.

An act relating to establishing the Geographic Justice Criminal Code
Reclassification Commission

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

2 Sec. 1. GEOGRAPHIC JUSTICE CRIMINAL CODE RECLASSIFICATION
3 COMMISSION

4 (a) Findings. The General Assembly finds:

5 (1) Vermont lacks a structured criminal offense system that organizes
6 criminal penalties in a manner that appropriately and effectively reflects levels
7 of culpability and maximizes the uniform application of criminal law
8 throughout the State. Contrary to most states and the Model Penal Code,
9 Vermont does not have a classification system that places every crime into a
10 category that attempts to correlate its severity with the appropriate punishment.
11 Rather, each offense is distinct for purposes of imprisonment and fine amount,
12 and most offenses have a statutory maximum term of imprisonment but no
13 minimum or recommended average. Nor has Vermont ever comprehensively
14 reviewed its criminal statutes in order to ensure that statutory sentences reflect
15 current knowledge and do not perpetuate archaic crimes.

16 (2) This structure has resulted in a lack of uniformity in Vermont
17 sentencing practices. Comparable crimes in different regions of the State result
18 in very different sentences, leading to a perception that geographic justice is a
19 systemic problem. Because of the broad sentencing range, many sentences fall
20 far outside statewide averages without any particular circumstances that would
21 explain the departure. Over-incarceration often results, with too many

1 offenders sentenced for overly lengthy periods for crimes where such
2 punishments have not been shown to produce efficient results.

3 (3) The circumstances are ripe for a thorough review of Vermont's
4 criminal sentencing law and practice in order to ensure that the justice system
5 efficiently deploys limited resources to protect public safety, reduce
6 recidivism, and promote geographic consistency.

7 (b) Creation. There is created the Geographic Justice Criminal Code
8 Reclassification Commission to improve the consistent and uniform
9 application of criminal justice throughout Vermont by reviewing Vermont's
10 criminal offenses and placing each one in a standardized penalty classification
11 system.

12 (c) Membership. The Commission shall be composed of the following 11
13 members:

14 (1) three current members of the House of Representatives, not all from
15 the same political party, who shall be appointed by the Speaker of the House;

16 (2) three current members of the Senate, not all from the same political
17 party, who shall be appointed by the Committee on Committees;

18 (3) the Attorney General or designee;

19 (4) the Defender General or designee;

20 (5) a retired judge appointed by the Chief Superior Judge;

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

3 (7) the Executive Director of the Vermont Crime Research Group or
4 designee.

5 (d) Powers and duties.

6 (1) The Commission shall develop a classification system that creates
7 categories of criminal offenses on the basis of the maximum potential period of
8 imprisonment and the maximum potential fine. The Commission shall propose
9 legislation that places each of Vermont's criminal statutes into one of the
10 classification offense categories it identifies.

11 (2) When determining the appropriate category for each offense, the
12 Commission shall consider whether the existing statutory penalties for the
13 offense are appropriate or in need of adjustment better to reflect prevailing
14 average sentencing practices and the effective uses of criminal punishment.
15 For purposes of this analysis, the Commission shall for each offense consider
16 the average sentence and the average amount of time actually served. If the
17 Commission is unable to determine an appropriate classification for a
18 particular offense, the Commission shall indicate multiple classification
19 possibilities for that offense.

1 (3) For purposes of the classification system developed pursuant to this
2 section, the Commission shall consider the recommendations of the Criminal
3 Code Reclassification Study Committee, and may consider whether to propose:

4 (A) rules of statutory interpretation specifically for criminal
5 provisions;

6 (B) the consistent use of mental element terminology in all criminal
7 provisions;

8 (C) a comprehensive section of definitions applicable to all criminal
9 provisions; and

10 (D) the decriminalization of some or all fine-only offenses and the
11 transferal of them to the Judicial Bureau for consideration as civil offenses.

12 (e) Assistance. The Commission shall have the administrative, technical,
13 and legal assistance of the Office of Legislative Council and the Joint Fiscal
14 Office and may consult with the Vermont Crime Research Group, the Vermont
15 Law School Center for Justice Reform, and any other person who would be of
16 assistance to the Commission.

17 (f) Report. On or before December 31, 2019, the Commission shall submit
18 a report consisting of proposed legislation to the House and Senate Committees
19 on Judiciary.

20 (g) Meetings.

1 (1) The Commission shall select a chair and a vice chair from among its
2 members at the first meeting.

3 (2) A majority of the membership shall constitute a quorum.

4 (3) The Commission shall cease to exist on January 15, 2020.

5 (h) Reimbursement. For attendance at meetings during adjournment of the
6 General Assembly, legislative members of the Commission shall be entitled to
7 per diem compensation and reimbursement of expenses pursuant to 2 V.S.A.
8 § 406. Other members of the Commission who are not employees of the State
9 of Vermont and who are not otherwise compensated or reimbursed for their
10 attendance shall be entitled to reimbursement of expenses pursuant to
11 32 V.S.A. § 1010.

12 Sec. 2. EFFECTIVE DATE

13 This act shall take effect on passage.