

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 660
3 entitled “An act relating to establishing the Geographic Justice Criminal Code
4 Reclassification Commission” respectfully reports that it has considered the
5 same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. GEOGRAPHIC JUSTICE CRIMINAL CODE RECLASSIFICATION
8 COMMISSION

9 (a) Findings. The General Assembly finds:

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

1 (2) This structure has resulted in a lack of uniformity in Vermont
2 sentencing practices. Comparable crimes in different regions of the State result
3 in very different sentences, leading to a perception that geographic justice is a
4 systemic problem. Because of the broad sentencing range, many sentences fall
5 far outside statewide averages without any particular circumstances that would
6 explain the departure. Over-incarceration often results, with too many
7 offenders sentenced for overly lengthy periods for crimes where such
8 punishments have not been shown to produce efficient results.

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

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

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

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

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

3 (3) the Attorney General or designee;

4 (4) the Defender General or designee;

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

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

8 (7) the Executive Director of the Vermont Crime Research Group or
9 designee.

10 (d) Powers and duties.

11 (1) The Commission shall develop a classification system that creates
12 categories of criminal offenses on the basis of the maximum potential period of
13 imprisonment and the maximum potential fine. The Commission shall propose
14 legislation that places each of Vermont's criminal statutes into one of the
15 classification offense categories it identifies.

16 (2) When determining the appropriate category for each offense, the
17 Commission shall consider whether the existing statutory penalties for the
18 offense are appropriate or in need of adjustment better to reflect prevailing
19 average sentencing practices and the effective uses of criminal punishment.
20 For purposes of this analysis, the Commission shall for each offense consider
21 the average sentence and the average amount of time actually served. If the

1 Commission is unable to determine an appropriate classification for a
2 particular offense, the Commission shall indicate multiple classification
3 possibilities for that offense. **The Commission shall not propose increasing**
4 **minimum or maximum sentences unless increases are necessary or appropriate**
5 **under the circumstances.**

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

9 (A) rules of statutory interpretation specifically for criminal
10 provisions;

11 (B) the consistent use of mental element terminology in all criminal
12 provisions;

13 (C) a comprehensive section of definitions applicable to all criminal
14 provisions; and

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

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

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

4 (g) Meetings.

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

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

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

9 (h) Reimbursement. For attendance at meetings during adjournment of the
10 General Assembly, legislative members of the Commission shall be entitled to
11 per diem compensation and reimbursement of expenses pursuant to 2 V.S.A.
12 § 406. Other members of the Commission who are not employees of the State
13 of Vermont and who are not otherwise compensated or reimbursed for their
14 attendance shall be entitled to reimbursement of expenses pursuant to
15 32 V.S.A. § 1010.

16 Sec. 2. EFFECTIVE DATE

17 This act shall take effect on passage.

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3 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE