

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. **COMMISSION ON SENTENCING DISPARITIES AND** CRIMINAL  
8 CODE RECLASSIFICATION

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 Commission on Sentencing Disparities  
14          and Criminal Code Reclassification 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 12  
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;

8           (7) the Executive Director of the Vermont Center for Crime Victim's  
9           Services or designee; and

10           (8) the Executive Director of the Vermont Crime Research Group or  
11           designee.

12           (d) Powers and duties.

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

18           (2) When determining the appropriate category for each offense, the  
19           Commission shall consider whether the existing statutory penalties for the  
20           offense are appropriate or in need of adjustment better to reflect prevailing  
21           average sentencing practices and the effective uses of criminal punishment.

1 For purposes of this analysis, the Commission shall for each offense consider  
2 the average sentence and the average amount of time actually served. If the  
3 Commission is unable to determine an appropriate classification for a  
4 particular offense, the Commission shall indicate multiple classification  
5 possibilities for that offense. Unless there is a compelling rationale, the  
6 Commission shall not propose establishing new mandatory minimum sentences  
7 or increasing existing minimum or maximum sentences.

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

11 (A) rules of statutory interpretation specifically for criminal  
12 provisions;

13 (B) the consistent use of mental element terminology in all criminal  
14 provisions;

15 (C) a comprehensive section of definitions applicable to all criminal  
16 provisions; and

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

19 (e) Assistance. The Commission shall have the administrative, technical,  
20 and legal assistance of the Office of Legislative Council and the Joint Fiscal  
21 Office and may consult with the Vermont Crime Research Group, the Vermont

1 Law School Center for Justice Reform, formerly incarcerated Vermonters, and  
2 any other person who would be of assistance to the Commission.

3 (f) Report. On or before July 15, 2020, the Commission shall submit a  
4 report consisting of proposed legislation to the House and Senate Committees  
5 on Judiciary.

6 (g) Meetings.

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

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

10 (3) The Commission shall cease to exist on July 15, 2020.

11 (h) Reimbursement. For attendance at meetings during adjournment of the  
12 General Assembly, legislative members of the Commission shall be entitled to  
13 per diem compensation and reimbursement of expenses pursuant to 2 V.S.A.  
14 § 406. Other members of the Commission who are not employees of the State  
15 of Vermont and who are not otherwise compensated or reimbursed for their  
16 attendance shall be entitled to reimbursement of expenses pursuant to  
17 32 V.S.A. § 1010.

18 Sec. 2. EFFECTIVE DATE

19 This act shall take effect on passage.

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1 and that after passage the title of the bill be amended to read: “An act relating  
2 to establishing the Commission on Sentencing Disparities and Criminal Code  
3 Reclassification”

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8 (Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_

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FOR THE COMMITTEE