

1
2
3
4
5
6
7
8
9
10

11
12
13
14
15
16
17
18
19
20

H.9

Introduced by Representatives Willhoit of St. Johnsbury and Troiano of
Stannard

Referred to Committee on

Date:

Subject: Criminal procedure; deferred sentence

Statement of purpose of bill as introduced: This bill proposes to permit a
person 29 years of age or older to be considered for a deferred sentence if the
person has not previously been convicted of a crime, whether or not the
prosecution consents.

An act relating to deferred sentences

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

Sec. 1. 13 V.S.A. § 7041 is amended to read:

§ 7041. DEFERRED SENTENCE

(a) Upon an adjudication of guilt and after the filing of a presentence
investigation report, the court may defer sentencing and place the respondent
on probation upon such terms and conditions as it may require if a written
agreement concerning the deferring of sentence is entered into between the
~~state's attorney~~ State's Attorney and the respondent and filed with the clerk of
the court.

1 (b) Notwithstanding subsection (a) of this section, the court may defer
2 sentencing and place the respondent on probation without a written agreement
3 between the ~~state's attorney~~ State's Attorney and the respondent if the
4 following conditions are met:

5 (1)(A) the respondent is 28 years ~~old~~ of age or younger; or

6 (B) the respondent is 29 years of age or older and has not previously
7 been convicted of a crime;

8 (2) the crime for which the respondent is being sentenced is not a listed
9 crime as defined in subdivision 5301(7) of this title;

10 (3) the court orders a presentence investigation in accordance with the
11 procedures set forth in Rule 32 of the Vermont Rules of Criminal Procedure,
12 unless the ~~state's attorney~~ State's Attorney agrees to waive the presentence
13 investigation;

14 (4) the court permits the victim to submit a written or oral statement
15 concerning the consideration of deferment of sentence;

16 (5) the court reviews the presentence investigation and the victim's
17 impact statement with the parties; and

18 (6) the court determines that deferring sentence is in the interest of
19 justice.

20 (c) Notwithstanding subsections (a) and (b) of this section, the court may
21 not defer a sentence for a violation of section 3253a (aggravated sexual assault

1 of a child), section 2602 (lewd and lascivious conduct with a child unless the
2 victim and the defendant were within five years of age and the act was
3 consensual), 3252(c) (sexual assault of a child under 16 years of age unless the
4 victim and the defendant were within five years of age and the act was
5 consensual), 3252(d) or (e) (sexual assault of a child), 3253(a)(8) (aggravated
6 sexual assault), or 3253a (aggravated sexual assault of a child) of this title.

7 * * *

8 Sec. 2. EFFECTIVE DATE

9 This act shall take effect on passage.