

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 134
3 entitled “An act relating to court diversion and pretrial services” respectfully
4 reports that it has considered the same and recommends that the House propose
5 to the Senate that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. FINDINGS; INTENT

8 (a) The General Assembly finds:

9 (1) According to numerous studies over many years, pretrial
10 diversion programs result in outcomes for participants that are better than
11 incarceration, including reducing the likelihood that participants commit
12 future crimes and improving substance abuse and mental health outcomes.
13 For example, according to a study of the New York City Jail Diversion
14 Project, 12 months after their offense, offenders who go through a diversion
15 program are less likely to reoffend, spend less time in prison, have received
16 more treatment, and are less likely to suffer drug relapses. In addition, a
17 study in the Journal of the American Academy of Psychiatry and the Law
18 indicates that diversion programs reduce the amount of time participants
19 spend in jail for future offenses from an average of 173 days to an average
20 of 40 days during the year after the offense. Research also demonstrates

1 that Offenders who have participated in diversion programs are better able
2 to find employment.

3 (2) Diversion programs benefit the criminal justice system by
4 reducing costs and allowing resources to be allocated more efficiently for
5 more serious offenders. According to studies by the Urban Institute and the
6 National Alliance on Mental Illness, diversion programs reduce costs and
7 improve outcomes by allowing offenders with mental illness to receive
8 more appropriate treatment outside the criminal justice system. As reported
9 in the Psychiatric Rehabilitation Journal, diversion programs reduce costs
10 by decreasing the need for and use of hospitalization and crisis services by
11 offenders.

12 (b) It is the intent of the General Assembly that:

13 (1) Sec. 2 of this act result in an increased use of the Diversion Program
14 throughout the State and a more consistent use of the program between
15 different regions of the State;

16 (2) the Office of the Attorney General collect data pursuant to 3 V.S.A.
17 § 164(d) on Diversion Program use, including the effect of this act on use of
18 the Program statewide and in particular regions of the State; and

19 (3) consideration be given to further amending the Diversion Program
20 statutes before Sec. 2 of this act sunsets on July 1, 2020, if it is determined that

1 that Section did not produce the intended increases in Diversion Program
2 usage.

3 Sec. 2. 3 V.S.A. § 164 is amended to read:

4 § 164. ADULT COURT DIVERSION ~~PROJECT~~ PROGRAM

5 (a) The Attorney General shall develop and administer an adult court
6 diversion ~~project program~~ in all counties. The ~~project program~~ shall be
7 operated through the juvenile diversion project and shall be designed to assist
8 adults who have been charged with a first or second misdemeanor or a first
9 nonviolent felony. The Attorney General shall adopt only such rules as are
10 necessary to establish an adult court diversion ~~project program~~ for adults, in
11 compliance with this section.

12 (b) The program shall be designed for two purposes:

13 (1) To assist adults who have been charged with a first or a second
14 misdemeanor or a first nonviolent felony.

15 (2) To assist adults with substance abuse or mental health treatment
16 needs regardless of the person's prior criminal history record. Programming
17 for these persons is intended to support access to appropriate treatment or other
18 resources with the aim of improving the person's health and reducing future
19 adverse involvement in the justice system. A person charged with a felony
20 offense that is a listed crime pursuant to 13 V.S.A. § 5301 shall not be eligible
21 under this section.

1 (c) The adult court diversion project administered by the Attorney General
2 program shall encourage the development of diversion projects programs in
3 local communities through grants of financial assistance to municipalities,
4 private groups or other local organizations. The Attorney General may require
5 local financial contributions as a condition of receipt of project program grants.

6 (d) The Office of the Attorney General shall develop program outcomes
7 following the designated State of Vermont performance accountability
8 framework and, in consultation with the Department of State’s Attorneys and
9 Sheriffs, the Office of the Defender General, the Center for Crime Victim
10 Services, and the Judiciary, report annually on or before December 1 to the
11 General Assembly on services provided and outcome indicators.

12 ~~(e)~~(e) All adult court diversion ~~projects~~ programs receiving financial
13 assistance from the Attorney General shall adhere to the following provisions:

14 (1) The diversion ~~project~~ program shall accept only persons against
15 whom charges have been filed and the court has found probable cause, but are
16 not yet adjudicated. The prosecuting attorney may refer a person to diversion
17 either before or after arraignment and shall notify in writing the diversion
18 program and the court of his or her intention to refer the person to diversion. If
19 a person is charged with a qualifying crime as defined in 13 V.S.A.
20 § 7601(4)(A), the prosecutor shall provide the person with the opportunity to
21 participate in the Court Diversion Program unless the prosecutor states on the

1 record at arraignment or a subsequent hearing why a referral to the Program
2 would not serve the ends of justice. If the prosecuting attorney refers a case to
3 diversion, the prosecuting attorney may release information to the victim upon
4 a showing of legitimate need and subject to an appropriate protective
5 agreement defining the purpose for which the information is being released and
6 in all other respects maintaining the confidentiality of the information;
7 otherwise files held by the court, the prosecuting attorney, and the law
8 enforcement agency related to the charges shall be confidential and shall
9 remain confidential unless:

10 (A) the Board declines to accept the case;

11 (B) the person declines to participate in diversion;

12 (C) the Board accepts the case, but the person does not successfully
13 complete diversion;

14 (D) the prosecuting attorney recalls the referral to diversion.

15 (2) Alleged offenders shall be informed of their right to the advice and
16 assistance of private counsel or the public defender at all stages of the
17 diversion process, including the initial decision to participate, and the decision
18 to accept the adult diversion contract, so that the candidate may give informed
19 consent.

20 (3) The participant shall be informed that his or her selection of the adult
21 diversion contract is voluntary.

1 (4) Each State’s Attorney, in cooperation with the Office of the Attorney
2 General and the adult court diversion ~~project~~ program, shall develop clear
3 criteria for deciding what types of offenses and offenders will be eligible for
4 diversion; however, the State’s Attorney shall retain final discretion over the
5 referral of each case for diversion.

6 (5) All information gathered in the course of the adult diversion process
7 shall be held strictly confidential and shall not be released without the
8 participant’s prior consent (except that research and reports that do not require
9 or establish the identity of individual participants are allowed).

10 (6) Information related to the present offense that is divulged during the
11 adult diversion program shall not be used ~~in the prosecutor’s case~~ against the
12 person in the person’s criminal or juvenile case for any purpose, including
13 impeachment or cross-examination. However, the fact of participation and
14 success, or reasons for failure may become part of the prosecutor’s records.

15 (7)(A) The adult court diversion ~~project~~ program shall maintain
16 sufficient records so that the reasons for success or failure of the program in
17 particular cases and overall can be investigated by program staff. These
18 records shall include a centralized statewide filing system that will include the
19 following information about individuals who have successfully completed an
20 adult court diversion program:

21 (i) name and date of birth;

- 1 (ii) offense charged and date of offense;
- 2 (iii) place of residence;
- 3 (iv) county where diversion process took place; and
- 4 (v) date of completion of diversion process.

5 (B) These records shall not be available to anyone other than the

6 participant and his or her attorney, State’s Attorneys, the Attorney General and

7 directors of adult court diversion projects.

8 (8) Adult court diversion ~~projects~~ programs shall be set up to respect the

9 rights of participants.

10 (9) Each participant shall pay a fee to the local adult court diversion

11 project. The amount of the fee shall be determined by project officers or

12 employees based upon the financial capabilities of the participant. The fee

13 shall not exceed \$300.00. The fee shall be a debt due from the participant, and

14 payment of such shall be required for successful completion of the program.

15 Notwithstanding 32 V.S.A. § 502(a), fees collected under this subdivision shall

16 be retained and used solely for the purpose of the court diversion program.

17 ~~(d)~~(f) The Attorney General is authorized to accept grants and gifts for the

18 purposes of this section, such acceptance being pursuant to 32 V.S.A. § 5.

19 ~~(e)~~(g) Within 30 days of the two-year anniversary of a successful

20 completion of adult diversion, the court shall provide notice to all parties of

21 record of the court’s intention to order the sealing of all court files and records,

1 law enforcement records other than entries in the adult court diversion
2 project's centralized filing system, fingerprints, and photographs applicable to
3 the proceeding. The court shall give the State's Attorney an opportunity for a
4 hearing to contest the sealing of the records. The court shall seal the records if
5 it finds:

6 (1) two years have elapsed since the successful completion of the adult
7 diversion program by the participant and the dismissal of the case by the
8 State's Attorney; and

9 (2) the participant has not been convicted of a subsequent felony or
10 misdemeanor during the two-year period, and no proceedings are pending
11 seeking such conviction; and

12 (3) rehabilitation of the participant has been attained to the satisfaction
13 of the court.

14 ~~(f)~~(h) Upon the entry of an order sealing such files and records under this
15 section, the proceedings in the matter under this section shall be considered
16 never to have occurred, all index references thereto shall be deleted, and the
17 participant, the court, and law enforcement officers and departments shall reply
18 to any request for information that no record exists with respect to such
19 participant inquiry in any matter. Copies of the order shall be sent to each
20 agency or official named therein.

1 ~~(e)~~(i) Inspection of the files and records included in the order may
2 thereafter be permitted by the court only upon petition by the participant who
3 is the subject of such records, and only to those persons named therein.

4 ~~(h)~~(j) The process of automatically sealing records as provided in this
5 section shall only apply to those persons who completed diversion on or after
6 July 1, 2002. Any person who completed diversion prior to July 1, 2002 must
7 apply to the court to have his or her records sealed. Sealing shall occur if the
8 requirements of subsection ~~(e)~~(g) of this section are met.

9 ~~(i)~~(k) Subject to the approval of the Attorney General, the Vermont
10 Association of Court Diversion Programs may develop and administer
11 programs to assist persons under this section charged with delinquent,
12 criminal, and civil offenses.

13 Sec. 3. 13 V.S.A. § 7554c is amended to read:

14 § 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

15 (a)(1) The objective of a pretrial risk assessment is to provide information
16 to the ~~Court~~ court for the purpose of determining whether a person presents a
17 risk of nonappearance ~~or a threat to public safety~~ or a risk of re-offense so the
18 ~~Court~~ court can make an appropriate order concerning bail and conditions of
19 pretrial release. The assessment shall not assess victim safety or risk of
20 lethality in domestic assaults.

1 (2) The objective of a pretrial needs screening is to obtain a preliminary
2 indication of whether a person has a substantial substance abuse or mental
3 health issue that would warrant a subsequent court order for a more detailed
4 clinical assessment.

5 (3) Participation in a risk assessment or needs screening pursuant to this
6 section does not create any entitlement for the assessed or screened person.

7 (b)(1) ~~A Except as provided in subdivision (2) of this subsection, a person~~
8 ~~whose offense or status falls into any of the following categories shall be~~
9 ~~offered a risk assessment and, if deemed appropriate by the pretrial monitor, a~~
10 ~~needs screening prior to arraignment:~~

11 ~~(A) misdemeanors and felonies, excluding listed crimes and drug~~
12 ~~trafficking, cited into court; and~~

13 ~~(B) persons who are arrested and lodged and unable to post bail~~
14 ~~within 24 hours of lodging, excluding persons who are charged with an offense~~
15 ~~for which registration as a sex offender is required upon conviction pursuant to~~
16 ~~subchapter 3 of chapter 167 of this title or an offense punishable by up to life~~
17 ~~imprisonment who is arrested, lodged, and unable to post bail within 24 hours~~
18 ~~of lodging shall be offered a risk assessment and, if deemed appropriate by the~~
19 ~~pretrial services coordinator, a needs screening prior to arraignment.~~

20 (2) ~~As used in this section, “listed crime” shall have the same meaning~~
21 ~~as provided in section 5301 of this title and “drug trafficking” means offenses~~

1 ~~listed as such in Title 18~~ A person charged with an offense for which
2 registration as a sex offender is required pursuant to subchapter 3 of chapter
3 167 of this title or an offense punishable by a term of life imprisonment shall
4 not be eligible under this section.

5 (3) ~~Unless ordered as a condition of release under section 7554 of this~~
6 ~~title, participation~~ Participation in risk assessment or needs screening shall be
7 voluntary and a person's refusal to participate shall not result in any criminal
8 legal liability to the person.

9 (4) In the event an assessment or screening cannot be obtained prior to
10 arraignment, the risk assessment and needs screening shall be conducted as
11 soon as practicable.

12 (5) A person who qualifies pursuant to ~~subdivisions (1)(A)-(D)~~
13 subdivision (1) of this subsection and who has an additional pending charge or
14 a violation of probation shall not be excluded from being offered a risk
15 assessment or needs screening unless the other charge is a listed crime.

16 ~~(6)(A) The Administrative Judge and Court Administrator, in~~
17 ~~consultation with the Secretary of Human Services and the Commissioner of~~
18 ~~Corrections, shall develop a statewide plan for the phased, consistent rollout of~~
19 ~~the categories identified in subdivisions (1)(A) through (D) of this subsection,~~
20 ~~in the order in which they appear in this subsection. The Administrative Judge~~
21 ~~and Court Administrator shall present the plan to the Joint Legislative~~

1 ~~Corrections Oversight Committee on or before October 15, 2014~~ Any person
2 charged with a criminal offense, except those persons identified in subdivision
3 (b)(2) of this section, may choose to engage with a pretrial services
4 coordinator.

5 ~~(B) All persons whose offense or status falls into one of the~~
6 ~~categories shall be eligible for a risk assessment or needs screening on or after~~
7 ~~October 15, 2015. Prior to that date, a person shall not be guaranteed the offer~~
8 ~~of a risk assessment or needs screening solely because the person's offense or~~
9 ~~status falls into one of the categories. Criminal justice professionals charged~~
10 ~~with implementation shall adhere to the plan.~~

11 (c) The results of the risk assessment and needs screening shall be provided
12 to the person and his or her attorney, the prosecutor, and the ~~Court~~ court.
13 Pretrial services coordinators may share information only within the limitations
14 of subsection (e) of this section.

15 (d)(1) At arraignment, ~~in consideration of the risk assessment and needs~~
16 ~~screening,~~ the ~~Court~~ court may order ~~the~~ a person to ~~comply with~~ do the
17 following ~~conditions~~:

18 (A) meet with a pretrial ~~monitor~~ services coordinator on a schedule
19 set by the ~~Court~~ court; ~~and~~

20 (B) participate in a needs screening with a pretrial services
21 coordinator; and

1 (C) participate in a clinical assessment by a substance abuse or
2 mental health treatment provider and follow the recommendations of the
3 provider.

4 (2) The ~~Court~~ court may order the person to ~~follow the recommendation~~
5 ~~of the pretrial monitor if the person has completed a risk assessment or needs~~
6 ~~screening~~ engage in pretrial services. Pretrial services may include the pretrial
7 services coordinator:

8 (A) supporting the person in meeting conditions of release imposed
9 by the court, including the condition to appear for judicial proceedings; and

10 (B) connecting the person with community-based treatment
11 programs, rehabilitative services, recovery supports, and restorative justice
12 programs.

13 (3) If possible, the ~~Court~~ court shall set the date and time for the clinical
14 assessment at arraignment. In the alternative, the pretrial ~~monitor~~ services
15 coordinator shall coordinate the date, time, and location of the clinical
16 assessment and advise the ~~Court~~ court, the person and his or her attorney, and
17 the prosecutor.

18 (4) ~~The conditions~~ An order authorized in subdivision (1) or (2) of this
19 subsection shall be in addition to any ~~other~~ conditions of release permitted by
20 law and shall not limit the ~~Court~~ court in any way. Failure to comply with a

1 court order authorized by subdivision (1) or (2) of this subsection shall not
2 constitute a violation of section 7559 of this title.

3 (5) This section shall not be construed to limit a court's authority to
4 impose conditions pursuant to section 7554 of this title.

5 (e)(1) Information obtained from the person during the risk assessment or
6 needs screening shall be exempt from public inspection and copying under the
7 Public Records Act and, except as provided in subdivision (2) of this
8 subsection, only may be used for determining bail, conditions of release, and
9 appropriate programming for the person in the pending case. The information
10 a pretrial services coordinator may report is limited to whether a risk
11 assessment indicates risk of nonappearance, whether further substance use
12 assessment or treatment is indicated, whether mental health assessment or
13 treatment is indicated, whether a person participated in a clinical assessment,
14 and whether further engagement with pretrial services is recommended unless
15 the person provides written permission to release additional information.
16 Information related to the present offense directly or indirectly derived from
17 the risk assessment, needs screening, or other conversation with the pretrial
18 services coordinator shall not be used against the person in the person's
19 criminal or juvenile case for any purpose, including impeachment or cross-
20 examination. However, the fact of participation or nonparticipation in risk
21 assessment or needs screening may be used in subsequent proceedings. The

1 immunity provisions of this subsection apply only to the use and derivative use
2 of information gained as a proximate result of the risk assessment or needs
3 screening, or other conversation with the pretrial services coordinator.

4 (2) The person shall retain all of his or her due process rights throughout
5 the risk assessment and needs screening process and may release his or her
6 records at his or her discretion.

7 ~~(3) The Vermont Supreme Court in accordance with judicial rulemaking~~
8 ~~as provided in 12 V.S.A. § 1 shall promulgate and the Department of~~
9 ~~Corrections in accordance with the Vermont Administrative Procedure Act~~
10 ~~pursuant to 3 V.S.A. chapter 25 shall adopt rules related to the custody,~~
11 ~~control, and preservation of information consistent with the confidentiality~~
12 ~~requirements of this section. Emergency rules adopted prior to January 1, 2015~~
13 ~~pursuant to this section shall be considered to meet the “imminent peril”~~
14 ~~standard under 3 V.S.A. § 844(a)~~ All records of information obtained during
15 risk assessment or needs screening shall be stored in a manner making them
16 accessible only to the Director of Pretrial Services and Pretrial Service
17 Coordinators for a period of three years, after which the records shall be
18 maintained as required by sections 117 and 218 of this title and any other State
19 law. The Director of Pretrial Services shall be responsible for the destruction
20 of records when ordered by the court.

1 (f) The Attorney General’s Office shall:

2 (1) contract for or otherwise provide the pretrial services described in
3 this section, including performance of risk assessments, needs screenings, and
4 pretrial monitoring services, and

5 (2) develop pretrial services outcomes following the designated State of
6 Vermont performance accountability framework and, in consultation with the
7 Department of State’s Attorneys and Sheriffs, the Office of the Defender
8 General, the Center for Crime Victim Services, and the Judiciary, report
9 annually on or before December 1 to the General Assembly on services
10 provided and outcome indicators.

11 Sec. 4. MISDEMEANOR POSSESSION OF DRUGS; PRETRIAL
12 SERVICES

13 (a) It is the intent of the General Assembly to encourage persons cited or
14 arrested for a misdemeanor drug possession charge the opportunity to engage
15 with pretrial services, and, if appropriate, enter treatment, and that, in turn, a
16 person who complies with such conditions will be eligible for dismissal of the
17 charge.

18 (b) The Attorney General, the Defender General, and the Executive
19 Director of the Department of State’s Attorneys and Sheriffs shall work
20 collaboratively to develop a specific legislative proposal to accomplish this
21 intent with an implementation date of July 1, 2018 and report to the Senate and

1 House Committees on Judiciary and on Appropriations, the Senate Committee
2 on Health and Welfare, and the House Committee on Human Services on or
3 before November 1, 2017.

4 Sec. 5. 13 V.S.A. § 7041 is amended to read:

5 § 7041. DEFERRED SENTENCE

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

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

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

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

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

21 (3) the court orders, unless waived by the State's Attorney:

1 § 5231. RIGHT TO REPRESENTATION, SERVICES AND FACILITIES

2 (a) A needy person who is being detained by a law enforcement officer
3 without charge or judicial process, ~~or~~ who is charged with having committed or
4 is being detained under a conviction of a serious crime, or who is charged with
5 having committed or is being detained under a conviction of any criminal
6 offense if the person was 25 years of age or less at the time the alleged offense
7 was committed, is entitled:

8 (1) To be represented by an attorney to the same extent as a person
9 having his or her own counsel; ~~and~~

10 (2) To be provided with the necessary services and facilities of
11 representation. Any such necessary services and facilities of representation
12 that exceed \$1,500.00 per item must receive prior approval from the court after
13 a hearing involving the parties. The court may conduct the hearing outside the
14 presence of the ~~state~~ State, but only to the extent necessary to preserve
15 privileged or confidential information. This obligation and requirement to
16 obtain prior court approval shall also be imposed in like manner upon the
17 ~~attorney general~~ Attorney General or a ~~state's attorney~~ State's Attorney
18 prosecuting a violation of the law.

19 (b) The attorney, services and facilities, and court costs shall be provided at
20 public expense to the extent that the person, at the time the court determines
21 need, is unable to provide for the person's payment without undue hardship.

1 Sec. 7. 13 V.S.A. § 5232 is amended to read:

2 § 5232. PARTICULAR PROCEEDINGS

3 Counsel shall be assigned under section 5231 of this title to represent needy
4 persons in any of the following:

5 * * *

6 (3) ~~Proceedings~~ For proceedings arising out of a petition brought in a
7 juvenile court, including any subsequent proceedings arising from an order
8 issued in the juvenile proceeding:

9 (A) the child; and

10 (B) when the court deems the interests of justice require
11 representation, of either the child or his or her the child's parents or guardian,
12 or both, including any subsequent proceedings arising from an order therein.

13 Sec. 8. 13 V.S.A. § 5234 is amended to read:

14 § 5234. NOTICE OF RIGHTS; REPRESENTATION PROVIDED

15 (a) If a person who is being detained by a law enforcement officer without
16 charge or judicial process, ~~or~~ who is charged with having committed or is
17 being detained under a conviction of a serious crime, or who is charged with
18 having committed or is being detained under a conviction of any criminal
19 offense if the person was 25 years of age or less at the time the alleged offense
20 was committed, is not represented by an attorney under conditions in which a

1 person having his or her own counsel would be entitled to be so represented,
2 the law enforcement officer, magistrate, or court concerned shall:

3 (1) Clearly inform him or her of the right of a person to be represented
4 by an attorney and of a needy person to be represented at public expense; ~~and,~~

5 (2) If the person detained or charged does not have an attorney and does
6 not knowingly, voluntarily and intelligently waive his or her right to have an
7 attorney when detained or charged, notify the appropriate public defender that
8 he or she is not so represented. This shall be done upon commencement of
9 detention, formal charge, or post-conviction proceeding, as the case may be.

10 As used in this subsection, the term “commencement of detention” includes the
11 taking into custody of a probationer or parolee.

12 (b) Upon commencement of any later judicial proceeding relating to the
13 same matter, the presiding officer shall clearly inform the person so detained or
14 charged of the right of a needy person to be represented by an attorney at
15 public expense.

16 (c) Information given to a person by a law enforcement officer under this
17 section is effective only if it is communicated to a person in a manner meeting
18 standards under the ~~constitution~~ Constitution of the United States relating to
19 admissibility in evidence against him or her of statements of a detained person.

1 (d) Information meeting the standards of subsection (c) of this section and
2 given to a person by a law enforcement officer under this section gives rise to a
3 rebuttable presumption that the information was effectively communicated if:

4 (1) ~~It~~ it is in writing or otherwise recorded;

5 (2) ~~The~~ the recipient records his or her acknowledgment of receipt and
6 time of receipt of the information; and

7 (3) ~~The~~ the material so recorded under subdivisions (1) and (2) of this
8 subsection is filed with the court next concerned.

9 Sec. 9. LEGISLATIVE FINDINGS

10 The General Assembly finds that:

11 (1) According to Michael Botticelli, former Director of the Office of
12 National Drug Control Policy, the National Drug Control Strategy
13 recommends treating “addiction as a public health issue, not a crime.” Further,
14 the strategy “rejects the notion that we can arrest and incarcerate our way out
15 of the nation’s drug problem.”

16 (2) Vermont Chief Justice Paul Reiber has declared that “the classic
17 approach of ‘tough on crime’ is not working in [the] area of drug policy” and
18 that treatment-based models are proving to be a more effective approach for
19 dealing with crime associated with substance abuse.

20 (3) A felony conviction record is a significant impediment to gaining
21 and maintaining employment and housing, yet we know that stable

1 employment and housing are an essential element to recovery from substance
2 abuse and desistance of criminal activity that often accompanies addiction.

3 (4) In a 2014 study by the PEW Research Center, 67 percent of people
4 polled said government should focus more on providing treatment to people
5 who use illicit drugs and less on punishment. The Center later reported that
6 states are leading the way in reforming drug laws to reflect this opinion: State-
7 level actions have included lowering penalties for possession and use of illegal
8 drugs, shortening mandatory minimums or curbing their applicability,
9 removing automatic sentence enhancements, and establishing or extending the
10 jurisdiction of drug courts and other alternatives to the regular criminal justice
11 system.

12 (5) Vermont must look at alternative approaches to the traditional
13 criminal justice model for addressing low-level illicit drug use if it is going to
14 reduce the effects of addiction and addiction-related crime in this State.

15 Sec. 10. STUDY

16 (a) The Office of Legislative Council shall examine the issue of a public
17 health approach to low-level possession and use of illicit drugs in Vermont as
18 an alternative to the traditional criminal justice model, looking to trends both
19 nationally and internationally, with a goal of providing policymakers a range
20 of approaches to consider during the 2018 legislative session.

1 (b) The Office of Legislative Council shall report its findings to the
2 General Assembly on or before November 15, 2017.

3 Sec. 11. SUNSET

4 Sec. 2 of this Act shall be repealed on July 1, 2020.

5 Sec. 12. EFFECTIVE DATE

6 This act shall take effect on July 1, 2017.

7

8

9

10 (Committee vote: _____)

11

12

Representative _____

13

FOR THE COMMITTEE

14