

1 TO THE HONORABLE SENATE:

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

8 Sec. 1. 13 V.S.A. § 5451 is amended to read:

9 § 5451. CREATION OF COMMISSION

10 (a) The Vermont ~~sentencing commission~~ Sentencing Commission is
11 established for the purpose of overseeing criminal sentencing practices in the
12 ~~state~~ State, reducing geographical disparities in sentencing, and making
13 recommendations regarding criminal sentencing to the ~~general assembly~~
14 General Assembly.

15 (b) The ~~committee~~ Commission shall consist of the following members:

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17 (2) the ~~administrative judge~~ Chief Superior Judge or designee, provided
18 that the designee is a sitting or retired Vermont judge;

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20 (16) the ~~executive director~~ Executive Director of the Vermont ~~center for~~
21 ~~justice research~~ Crime Research Group; and

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Sec. 2. 13 V.S.A. § 5452 is amended to read:

§ 5452. DUTIES

(c) It shall be a priority for the Sentencing Commission to develop responses to the significant impacts that increased opioid addiction have had on the criminal justice system. The Commission shall consider:

(1) whether and under what circumstances offenses committed as a result of opioid addiction should be classified as civil rather than criminal offenses;

(2) whether the possession or sale of specific, lesser amounts of opioids and other regulated drugs should be classified as civil rather than criminal offenses;

(3) how to maximize treatment for offenders as a response to offenses committed as a result of opioid addiction.

Sec. 3. VERMONT SENTENCING COMMISSION; REPORT ON
SENTENCING DISPARITIES AND CRIMINAL CODE
RECLASSIFICATION

(a)(1) In order to improve the consistent and uniform application of criminal justice throughout Vermont, the Vermont Sentencing Commission

1 established under 13 V.S.A. § 5451 shall review Vermont’s criminal offenses
2 and place each one in a standardized penalty classification system.

3 (2) The Commission shall develop a classification system that creates
4 categories of criminal offenses on the basis of the maximum potential period of
5 imprisonment and the maximum potential fine. The Commission shall propose
6 legislation that places each of Vermont’s criminal statutes into one of the
7 classification offense categories it identifies.

8 (3) When determining the appropriate category for each offense, the
9 Commission shall consider whether the existing statutory penalties for the
10 offense are appropriate or in need of adjustment better to reflect prevailing
11 average sentencing practices and the effective uses of criminal punishment.
12 For purposes of this analysis, the Commission shall for each offense consider
13 the average sentence and the average amount of time actually served. If the
14 Commission is unable to determine an appropriate classification for a
15 particular offense, the Commission shall indicate multiple classification
16 possibilities for that offense. Unless there is a compelling rationale, the
17 Commission shall not propose establishing new mandatory minimum sentences
18 or increasing existing minimum or maximum sentences.

19 (4) For purposes of the classification system developed pursuant to this
20 section, the Commission shall consider the recommendations of the Criminal
21 Code Reclassification Study Committee and shall consider whether to propose:

1 (A) rules of statutory interpretation specifically for criminal
2 provisions;

3 (B) the consistent use of mens rea terminology in all criminal
4 provisions;

5 (C) a comprehensive section of definitions applicable to all criminal
6 provisions;

7 (D) the decriminalization of some or all fine-only offenses and the
8 transferral of them to the Judicial Bureau for consideration as civil offenses; and

9 (E) a redefinition of what constitutes an attempt in Vermont criminal
10 law, including whether the Model Penal Code’s definition of attempt should be
11 adopted in Vermont.

12 (b)(1) On or before December 15, 2018, the Commission shall report to the
13 Joint Justice Oversight Committee on its progress toward achieving the goals
14 of this section. The report required by this subdivision may be provided by
15 oral testimony.

16 (2) On or before November 30, 2019, the Commission shall submit a
17 report consisting of proposed legislation to the House and Senate Committees
18 on Judiciary.

