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H.399

Introduced by Representatives Coffey of Guilford, Batchelor of Derby,
Bluemle of Burlington, Burke of Brattleboro, Bos-Lun of
Westminster, Brumsted of Shelburne, Cina of Burlington,
James of Manchester, Killacky of South Burlington, Ode of
Burlington, Satcowitz of Randolph, and Stebbins of Burlington

Referred to Committee on

Date:

Subject: Criminal procedure; sentencing; alternatives to incarceration

Statement of purpose of bill as introduced: This bill proposes to require the
sentencing court to consider the criminal defendant's status as primary
caretaker of a dependent child prior to imposing sentence.

An act relating to incarceration terms for criminal defendants who are
primary caretakers of dependent children

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

Sec. 1. PURPOSE

The purpose of this act is to:

(1) prevent unnecessary harm to children caused by separation from
parents during incarceration; and

1 (2) ensure the fair and compassionate treatment of children whose
2 parents are involved in the criminal justice system by affording certain basic
3 considerations to these children when decisions are made that affect them.

4 Sec. 2. 13 V.S.A. § 7046 is added to read:

5 § 7046. FAMILY IMPACT STATEMENT; MITIGATION OF SENTENCE

6 (a) As used in this section, “dependent child” means a person under
7 18 years of age.

8 (b) A defendant in a criminal proceeding shall have the right to present a
9 family impact statement at sentencing, which the court shall consider prior to
10 imposing any sentence. The family impact statement may include testimony
11 from family and community members, written statements, video, and other
12 documentation.

13 (c) Unless a sentence of incarceration is required by law, the sentencing
14 court shall, upon conviction, consider the defendant’s status as primary
15 caretaker of a dependent child, including any family impact statement offered,
16 and consider alternatives to incarceration before imposing a sentence. If the
17 court does impose a sentence of incarceration, it shall consider the defendant’s
18 status as primary caretaker of a dependent child in determining the term of
19 incarceration.

20 Sec. 3. EFFECTIVE DATE

21 This act shall take effect on July 1, 2021.