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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:

~~SECTION 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 U.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.~~

Sec. 1. PURPOSE

The purpose of this act is to:

(1) prevent unnecessary harm to children caused by separation from parents, guardians, caretakers, or family members during incarceration; and

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

Sec. 2. 13 V.S.A. § 7030 is amended to read:

§ 7030. SENTENCING ALTERNATIVES

(a) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime; the history and character of the defendant; the defendant's family circumstances and relationships; the impact of any sentence upon the defendant's minor children; the need for treatment; and the risk to self, others, and the community at large presented by the defendant:

** * **

Sec. 3. 28 V.S.A. § 204 is amended to read:

*§ 204. SUBMISSION OF WRITTEN REPORT; PRODUCTION OF
RECORDS*

** * **

(g) The presentence investigation report ordered by the court under this section or section of 204a of this title shall set forth information concerning the defendant's custodial relationships pursuant to 13 V.S.A. § 7030.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2022.