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H.379

Introduced by Representatives Maguire of Rutland City and Burditt of West

Rutland

Referred to Committee on

Date:

Subject: Crimes; judiciary; sentencing; second look

Statement of purpose of bill as introduced: This bill proposes to create a procedure under which an incarcerated person serving a term of imprisonment of at least 15 years who has served not less than 15 years may petition the sentencing court for a reduction of the person’s term of imprisonment.

An act relating to second look sentencing

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

Sec. 1. FINDINGS AND INTENT

(a) Findings.

(1) According to the Vermont Department of Corrections, 20 percent of the State’s incarcerated population of 851 sentenced offenders are serving life sentences—151 persons with the possibility of parole and 14 persons serving life without the possibility parole or a “virtual life sentence” of 50 years or more.

1 (2) Department of Corrections’ data shows that Vermont’s 20 percent
2 figure exceeds the national average, in which approximately one in seven
3 incarcerated persons are serving a life sentence.

4 (3) The Sentencing Project’s research demonstrates that Vermont’s
5 offenders subject to a life sentence increased by 11 percent between 2020 and
6 2024.

7 (4) According to the U.S. Census Bureau and other sources, the per
8 capita cost of incarceration in Vermont is \$134,218.00.

9 (5) According to academic research, there are 52 persons with some
10 form of a life sentence who are 55 years of age or older, carrying an annual
11 care cost of \$6,979,336.00, excluding care costs relating to common chronic
12 health conditions experienced by this population segment.

13 (b) Intent. It is the intent of the General Assembly to decrease the numbers
14 of incarcerated persons subject to a life sentence and reduce the costs
15 incarcerating this population by offering a “second look” at their sentences
16 through a judicial review by judges that permits granting relief from life
17 sentences for those persons who are deemed worthy of a reduced sentence.

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

19 § 7046. SECOND LOOK SENTENCING

20 (a) Short title. This section may be cited as the “Second Look Sentencing
21 Act.”

1 (b) Second look. Notwithstanding any provision of law to the contrary, an
2 incarcerated person serving a term of imprisonment of at least 15 years who
3 has served not less than 15 years may petition the sentencing court for a
4 reduction of the person's term of imprisonment.

5 (c) Procedure.

6 (1) Not more than 90 days after the date on which a person's 15th year
7 of imprisonment begins, the Department of Corrections shall provide written
8 notice of the Second Look Sentencing Act to:

9 (A) the incarcerated person eligible for a sentence reduction;

10 (B) the sentencing court;

11 (C) the prosecutor's office; and

12 (D) the Office of the Public Defender.

13 (2) A petition for a sentence reduction pursuant to this section may be
14 filed six months after the date on which the 15th year of imprisonment begins.

15 (3) The petition shall be filed with the sentencing court and may include
16 affidavits, declarations, letters, correctional records, or any other written or
17 electronic material relevant to the petition. The petition shall include:

18 (A) the name of the incarcerated person;

19 (B) the name of the petitioner, if different than the incarcerated
20 person, along with a factual statement of:

21 (i) the petitioner's relationship to the incarcerated person;

1 (ii) an explanation of why the incarcerated person cannot file the
2 petition; and

3 (iii) how the petitioner is acting in the best interests of the
4 incarcerated person;

5 (C) any relevant docket number;

6 (D) any offense for which the qualifying term of imprisonment was
7 imposed;

8 (E) any term of imprisonment being served for each docket number;

9 (F) the date of any offense and any qualifying sentence imposed;

10 (G) the specific offenses for which the petition is requesting a
11 reduction in sentence; and

12 (H) a factual statement detailing how the incarcerated person meets
13 the eligibility requirements of the Second Look Sentencing Act.

14 (4) A petition filed pursuant to this section shall be assigned to the judge
15 who imposed the original sentence upon the incarcerated person, if available,
16 unless the petitioner requests otherwise.

17 (5) If the court determines that the facts stated in the petition are
18 insufficient, the court may provide an opportunity to amend the petition when
19 justice so requires. The court may also issue an order denying the petition and
20 notify the petitioner and the incarcerated person, if different than the petitioner.
21 A denial shall be considered an appealable final order.

1 (6) The court shall provide the prosecutor with a copy of the petition and
2 any accompanying exhibits.

3 (7)(A) An incarcerated person or petitioner shall not waive the right to
4 petition the court under the Second Look Sentencing Act nor shall a prosecutor
5 request a waiver of the right to petition.

6 (B) Notwithstanding any provision of this section to the contrary, an
7 otherwise eligible incarcerated person or petitioner shall be eligible to file a
8 petition upon consent of the prosecutor.

9 (C) Neither statutory mandatory minimums nor fully executed plea
10 agreements shall preclude an incarcerated person or petitioner from seeking
11 relief under this section.

12 (8) If the court determines that the facts stated in the petition establish
13 eligibility for resentencing under this section, the court shall set a sentencing
14 hearing:

15 (A) Within 45 days after the date the petition is filed with the court,
16 unless the court finds good cause to hold the hearing at a later date or at the
17 request of the petitioner, if:

18 (i) The incarcerated individual has one or more medical conditions
19 leading to major limitations in activities of daily living, including but not
20 limited to serious mental illness or an intellectual or developmental disability.

1 (ii) The incarcerated individual has one or more medical
2 conditions that make the individual more likely to contract an illness or disease
3 while incarcerated that could lead to death or cause the person to develop a
4 medical condition that prevents the performance of one or more activities of
5 daily living without assistance. Such conditions include:
6 (I) any condition related to a weakened immune system,
7 including human immunodeficiency virus (HIV) or acquired immune
8 deficiency syndrome (AIDS);
9 (II) debilitating health conditions that occur as a result of
10 dementia, Alzheimer's disease, or similar degenerative brain disorders;
11 (III) cardiovascular disease;
12 (IV) chronic lung disease or asthma;
13 (V) diabetes;
14 (VI) hepatitis C;
15 (VII) seizure disorders;
16 (VIII) the need for life-sustaining care, such as
17 feeding tubes or colostomy bags;
18 (IX) disabling neurological disorders such as multiple
19 sclerosis (MS) or amyotrophic lateral sclerosis (ALS); or
20 (X) any condition that requires or is expected to require
21 specialty care or recurrent hospitalizations.

1 (iii) The petition is filed by the prosecutor.

2 (B) Within 90 days after the date the petition is filed with the court,
3 unless the court finds good cause to hold the hearing at a later date or at the
4 request of the petitioner, if the petition does not meet the criteria set forth
5 under this section and the incarcerated individual has served not less than 25
6 years of the petitioner's sentence and the incarcerated individual is not less
7 than 60 years of age.

8 (C) Within 180 days after the date the petition is filed with the court,
9 unless the court finds good cause to hold the hearing at a later date, if the
10 petition does not meet the criteria set forth under this section.

11 (d) Hearing.

12 (1) Upon request of the petitioner or the prosecutor, the court shall hold
13 a hearing on the petition where the parties shall be given an opportunity to
14 present an argument in support of, or against, the petition.

15 (2) At its discretion, the court may permit parties to present evidence
16 that the court deems relevant to the petition, including testimony, affidavits,
17 sworn statements, documents, tangible objects, or any other evidence or
18 information relevant to the petition.

19 (e) Orders.

1 (1) After a hearing on the petition, the court shall issue an order
2 detailing its decision to either grant or deny the petition. In making its
3 determination, the court shall consider the following factors:

4 (A) the age of the petitioner at the time of the offense and relevant
5 research regarding development of youth brain;

6 (B) the age of the petitioner at the time of the hearing and relevant
7 research regarding the decline in criminal behavior as individuals age;

8 (C) the nature of the offense, including changing societal attitudes
9 regarding the propriety of criminalizing the offense and the appropriate
10 sentence for the offense;

11 (D) the circumstances of the offense, including the petitioner's role in
12 its commission, whether the petitioner was under the influence of another, or
13 whether the petitioner was the victim of domestic or sexual abuse at the time of
14 the offense, and whether the domestic or sexual abuse was related to the
15 petitioner's participation in the offense and related conduct;

16 (E) the history and characteristics of the petitioner at the time of the
17 hearing, including rehabilitation demonstrated by the petitioner, the
18 petitioner's institutional disciplinary record, and the petitioner's participation
19 in educational, therapeutic, and vocational opportunities while incarcerated;

1 (F) medical records and reports from physical, mental, or psychiatric
2 examinations of the petitioner conducted by any licensed health care
3 professional;

4 (G) statements and impact statements provided by any victim or
5 family member of any victim affected by the offense for which the petitioner is
6 incarcerated;

7 (H) any evidence concerning whether the petitioner's original
8 sentence was enhanced because a petitioner exercised the petitioner's right to a
9 trial;

10 (I) any evidence that the petitioner was denied effective assistance of
11 counsel at any stage of the case leading to the original sentence, including
12 ineffective assistance of counsel at the plea negotiation stage; and

13 (J) any other evidence that the court deems relevant.

14 (2) If the court grants a petition for a reduction in sentence pursuant to
15 this section, the incarcerated person or petitioner shall not file a successive
16 petition until not less than five years have elapsed after the date the petition
17 was granted.

18 (3)(A) If the court denies a petition filed pursuant to this section, the
19 incarcerated person or petitioner shall not file a petition until not less than two
20 years have elapsed after the date the petition was denied. The court, in its

1 discretion, may require a longer waiting period, but in no event shall the
2 waiting period exceed five years after the date the petition was denied.

3 (B) An incarcerated person or petitioner whose petition is denied
4 shall only have a petition denied once for a period of not less than two years
5 but not more than five years after the initial petition was denied.

6 (4) If the court denies a petition filed pursuant to this section, the court
7 shall make specific findings explaining the denial and shall set specific criteria
8 for the incarcerated person or petition to meet prior to the filing of another
9 petition.

10 (f) Victim's rights.

11 (1) Upon the filing and notice of any petition pursuant to this section,
12 the prosecutor shall notify the victim or victim's family and provide a copy of
13 the petition and any accompanying exhibits.

14 (2) The prosecutor shall, if practicable, consult with victims of a person
15 convicted of homicide prior to responding to any petition filed or consenting to
16 the petition of an otherwise eligible petitioner.

17 (3) The victim of the victim's family shall have a right to be present at
18 any hearing held pursuant to this section and shall be permitted to provide
19 written or oral statements concerning the impact of the offense and any
20 position as to whether the petition should be granted.

1 (4) Any order granting a petition that modifies the petitioner’s sentence
2 shall not affect underlying order of restitution.

3 (g) Habeas corpus and other remedies.

4 (1) This section shall not be construed as abridging or modifying any
5 existing remedy available to incarcerated persons eligible to file a petition
6 pursuant to this section, including a habeas corpus claim, statutory or post-
7 conviction relief, or any other legal framework.

8 (2) A petition filed pursuant to this section shall not impact or be
9 impacted by any pending habeas corpus petition or other post-conviction relief,
10 nor shall denial of a petition under this section preclude such remedies being
11 granted.

12 Sec. 3. DEPARTMENT OF CORRECTIONS; SAVINGS;

13 REINVESTMENT; REPORT; RECOMMENDATIONS

14 Annually, on or before July 1, the Department of Corrections shall submit a
15 written report to the Joint Legislative Justice Oversight Committee detailing
16 any savings to the Department as a result of the Second Look Sentencing Act
17 with recommendations to fund any specific:

18 (1) victim support services;

19 (2) correctional facility- and community-based programs to address
20 recidivism through:

21 (A) educational opportunities;

- 1 (B) therapeutic intervention;
2 (C) familial and social supports; and
3 (D) restorative justice approaches;
4 (3) reentry and community reintegration initiatives; and
5 (4) personnel within the Office of the Attorney General, the Office of
6 the Defender General, or the Department of State’s Attorneys and Sheriffs to
7 represent and support the parties involved in any proceeding under the Second
8 Look Sentencing Act.

9 Sec. 4. APPLICABILITY

10 Notwithstanding 1 V.S.A. § 214, Sec. 2 of this act shall apply to sentences
11 imposed prior to the effective date of this act.

12 Sec. 5. EFFECTIVE DATE

13 This act shall take effect on July 1, 2025.