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STATE OF VERMONT
OFFICE OF THE EXECUTIVE DIRECTOR
DEPARTMENT OF STATE'S ATTORNEYS & SHERIFFS

DATE: April 17, 2025
FROM: Department of State's Attorneys and Sheriffs ("SAS"), Executive Committee of State's Attorneys and SAS Office of the Executive Director
RE: Second-Look Legislation

In response to draft legislation concerning "Second Look," please see below for a list of questions and concerns gathered over time,¹ including from members of the Executive Committee of State's Attorneys, and from Jennifer Poehlmann, Executive Director of the Center for Crime Victim Services ("CCVS").

The SAS Executive Director's Office ("EDO") and the SAS Executive Committee ("EC") have questions and concerns that remain in place after review of Second Look draft legislation that has been circulated during the 2025 legislative session, and during the 2024 and 2023 legislative sessions. Further, the SAS EC has repeatedly informed the EDO that they are not in support of Second Look legislation.² While the opinions amongst individual State's Attorneys may vary, the SAS EC and SAS EDO are not in support³ of Second Look legislation.

If Second Look legislation is to be considered by lawmakers – SAS would recommend contemplation and analysis of at least the following SAS concerns and questions, noted in part below. Likewise, SAS believes that further discussion should occur with [victims of crime in Vermont](#).⁴

[SAS Fundamental Questions and Concerns Regarding Second Look Recommendations/Legislation]

- A. *Will the Vermont Department of Corrections ("DOC") or the Vermont Judiciary present Vermont-specific data (including the specific crimes related to convicted persons in Vermont)?⁵ An examination of Vermont's data is essential in better understanding any conclusions drawn concerning the population of incarcerated persons, and victims, who may be impacted by Second Look legislation.⁶*
- B. *Further, data and perspective from Vermont victims of crime is crucial as this would be a population that would be impacted by any form of Second Look legislation. To what extent will Vermont victims of crime be involved if Second Look were to become law? Will victims be able to object to a second look? What roles will victims have in second look proceedings?*
- C. *Given that victims must, by law, be involved in existing sentencing proceedings – how can we ensure that we will be able to involve victims 10-20 years after the conviction?*
- D. *The Vermont Crime Research Group ("CRG") produced a report (linked below) that discusses disparities in crime victimization. Given the disparities in victimization noted by CRG in Vermont, there is concern that second*

¹ Including during discussions of Second Look at the Vermont Sentencing Commission.

² Including a bill, S.155, introduced during the 2023 legislative session. SAS EC and SAS EDO are not in support of Second Look legislation, at this time, and at present, until questions and concerns have been addressed.

³ Again, SAS EC and SAS EDO are not in support of Second Look legislation, at this time, and at present, until questions and concerns have been addressed.

⁴ And with SAS Victim Advocates.

⁵ For example, for those serving extended terms of incarceration, what are the offenses for which individuals are serving terms of incarceration?

⁶ It should be noted that conversations concerning Second Look have often focused on those serving longer terms of incarceration (10 year, 15 years, or longer).

look legislation could have a racially disparate impact on victims: https://crgvt.org/client_media/files/reports/Criminal_Justice_System_Response_Black_Victims_forDistribution2022.pdf.

- E. How will the State measure whether any second look legislation is implemented in a way that will not exacerbate existing or create new demographic-based disparities? (see e.g., CRG report on victimization disparities).⁷
- F. Which offenses should be eligible to receive a second look? Likewise, which types of sentences, e.g., probation, incarcerative, furlough, should be eligible for a second look? What length of sentence should be eligible for a second look?
- G. How many times should someone be eligible to request a second look? How many times may a sentence be reduced through a second look?
- H. On what grounds should a court be permitted to reduce a sentence during a second look? Is there any overlap between those grounds and the arguments that may be made during a sentence reconsideration hearing, motion for new trial, or a petition for post-conviction relief (“PCR”)?
- I. May the court conditionally reduce a sentence such that some or all of it may be reimposed if a defendant commits a new offense within a specified period of time?
- J. What should be the burden of proof during a second look proceeding and who should bear that burden?
- K. Are decisions in second look proceedings appealable?
- L. Should the prosecuting office that prosecuted the case be the respondent to any request for a second look, i.e., should the AGO be able to be the respondent in an SAO case and vice versa?
- M. Should someone be eligible for a sentence reduction during a second look if they have not fully paid restitution or if they have failed to complete or engage with any required or offered programming?
- N. How would expungement and sealing impact a second look disposition?
- O. Should juvenile cases be eligible given that juvenile’s age-out of Family Court jurisdiction, given that juvenile cases are confidential, and juvenile cases are sealed upon successful completion of the case?
- P. What is the anticipated number of second look requests that might be filed and what resources do the judiciary, defender general’s office, attorney general’s office, and state’s attorneys need in order to adequately participate in those requests? How will second look needs be funded?
- Q. What is the impact on staffing: will we need more judges/defense attorneys/prosecutors/victim advocates?
- R. What upstream or existing avenues for a relief should be exhausted or reviewed prior to turning to a second look remedy? (Appellate pathways, Parole, Clemency, etc.). Existing Vermont appellate and review pathways:
 - a. Direct appeal;
 - b. Motion for new trial;
 - c. Motion to reconsider sentence;
 - d. PCR;⁸
 - e. Habeas corpus;
 - f. Corum nobis;
 - g. Expungement and Sealing;
 - h. Certificate of restoration of rights;
 - i. Parole and/or Clemency

⁷ https://crgvt.org/client_media/files/reports/Criminal_Justice_System_Response_Black_Victims_forDistribution2022.pdf.

⁸ Right now, there is no statute of limitations for Vermont PCR relief.