

Vermont Sentencing Commission
111 State Street
Montpelier, Vermont 05602

February 8, 2019

Senator Richard Sears
Chair, Senate Judiciary Committee

Representative Maxine Grad
Chair, House Judiciary Committee

Re: Sentencing Commission – Interim Proposal for Legislation

Dear Senator Sears and Representative Grad:

The Sentencing Commission has been meeting and moving forward in accordance with the duties set forth by the Legislature in Act 142. In December, 2018, the Commission provided a required report on its progress to the Joint Justice Oversight Committee. In addition to that report, the Commission is required to submit a report consisting of proposed legislation to each of your committees on or before November 30, 2019. We have also met with the House Judiciary Committee to provide an update as to our progress.

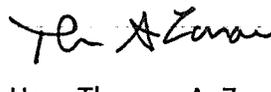
While Act 142 identifies a requirement for submission of the two above-noted reports, it does not set forth an explicit provision regarding interim reports and recommendations. As to interim reports and recommendations, the Commission has concluded that it can most effectively fulfill its statutory goals by forwarding interim proposals for legislation to your respective committees. Based upon the discussions the Commission has engaged in during the presentation of its reports to the Legislative committees, it understands that there is no objection to the Commission proceeding in this manner. Any interim proposals will also be addressed and included within our written report Due in November, 2019.

At its meeting held on February 4, 2019 the Commission considered the existing statute regarding deferred sentences found at 13 V.S.A. § 7041. The statute permits the following: “(a) Upon an adjudication of guilt and after the filing of a presentence investigation report, the court may defer sentencing and place the respondent on probation upon such terms and conditions as it may require if a written agreement concerning the deferring of sentence is entered into between the State's Attorney and the respondent and filed with the clerk of the court.” § 7041(a). The statute also sets forth that: “the court may defer sentencing and place the respondent on probation without a written agreement between the State's Attorney and the respondent if the following conditions are met” § 7041(b). One of those conditions is that the individual be “28 years old or younger.” § 7041(b)(1). Subsection 7041(b), with the 28-year age limit, was added in 2005. See 2005 Vt. Acts & Resolves 405 (Act 63, § 9).

After consideration of the age restriction condition set forth in the statute, the Commission has unanimously voted to propose to the Legislature that the statute be amended to delete from the statute the condition found at § 7041(b)(1). This change would remove the age restriction from the statute and permit the imposition of a deferred sentence in accordance with § 7041(b) upon persons of any age appropriate after consideration of the other factors found in the statute.

Should there be any questions, or should you wish to have further information concerning this proposal, please do not hesitate to contact me. Thank you.

Very truly yours,



Hon. Thomas A. Zonay
Chair, Vermont Sentencing Commission
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