S.181

Introduced by Senator Hashim

Referred to Committee on

Date:

Subject: Crimes and criminal procedure; sentencing; deferred sentence

Statement of purpose of bill as introduced: This bill proposes to eliminate the requirement that a presentence investigation is filed with the court prior to the court imposing a deferred sentence.

An act relating to eliminating the requirement for a presentence investigation for imposition of a deferred sentence

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

Sec. 1. 13 V.S.A. § 7041 is amended to read:

§ 7041. DEFERRED SENTENCE

(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.

(b) Notwithstanding subsection (a) of this section, 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:

(1) [Repealed.]

(2) the crime for which the respondent is being sentenced is not a listed crime as defined in subdivision 5301(7) of this title;

(3) ~~the court orders a presentence investigation in accordance with the procedures set forth in V.R.C.P. Rule 32, unless the State's Attorney agrees to waive the presentence investigation;~~ [Repealed.]

(4) the court permits the victim to submit a written or oral statement concerning the consideration of deferment of sentence; and

(5) ~~the court reviews the presentence investigation and the victim's impact statement with the parties; and~~ [Repealed.]

(6) the court determines that deferring sentence is in the interests of justice.

(c) Notwithstanding subsections (a) and (b) of this section, the court may not defer a sentence for a violation of section 3253a (aggravated sexual assault of a child), section 2602 (lewd and lascivious conduct with a child unless the victim and the defendant were within five years of age and the act was consensual), subsection 3252(c) (sexual assault of a child under 16 years of age unless the victim and the defendant were within five years of age and the act was consensual), subsection 3252(d) or (e) (sexual assault of a child),

subdivision 3253(a)(8) (aggravated sexual assault), or section 3253a (aggravated sexual assault of a child) of this title.

(d) Entry of deferment of sentence shall constitute an appealable judgment for purposes of appeal in accordance with 12 V.S.A. § 2383 and V.R.A.P. Rule 3. Except as otherwise provided, entry of deferment of sentence shall constitute imposition of sentence solely for the purpose of sentence review in accordance with section 7042 of this title. The court may impose sentence at any time if the respondent violates the conditions of the deferred sentence during the period of deferment.

(e) Upon violation of the terms of probation or of the deferred sentence agreement, the court shall impose sentence. Upon fulfillment of the terms of probation and of the deferred sentence agreement, the court shall strike the adjudication of guilt and discharge the respondent. Except as provided in subsection (h) of this section, the record of the criminal proceedings shall be expunged upon the discharge of the respondent from probation, absent a finding of good cause by the court. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the deferred sentence. Copies of the order shall be sent to each agency, department, or official named therein. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information

that no record exists with respect to such person upon inquiry in the matter. Notwithstanding this subsection, the record shall not be expunged until restitution has been paid in full.

(f) A deferred sentence imposed under subsection (a) or (b) of this section may include a restitution order issued pursuant to section 7043 of this title. Nonpayment of restitution shall not constitute grounds for imposition of the underlying sentence.

(g) [Repealed.]

(h) The Vermont Crime Information Center shall retain a special index of deferred sentences for sex offenses that require registration pursuant to ~~subchapter 3 of~~ chapter 167, subchapter 3 of this title. This index shall only list the name and date of birth of the subject of the expunged files and records, the offense for which the subject was convicted, and the docket number of the proceeding that was the subject of the expungement. The special index shall be confidential and may be accessed only by the director of the Vermont Crime Information Center and a designated clerical ~~staffperson~~ staff person for the purpose of providing information to the Department of Corrections in the preparation of a presentence investigation in accordance with 28 V.S.A. §§ 204 and 204a.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2026.