

1 H.9

2 Introduced by Representatives Willhoit of St. Johnsbury and Troiano of

3 Stannard

4 Referred to Committee on

5 Date:

6 Subject: Criminal procedure; deferred sentence

7 Statement of purpose of bill as introduced: This bill proposes to permit a
8 person 29 years of age or older to be considered for a deferred sentence if the
9 person has not previously been convicted of a crime, whether or not the
10 prosecution consents.

11 An act relating to deferred sentences

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

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

14 § 7041. DEFERRED SENTENCE

15 (a) Upon an adjudication of guilt and after the filing of a presentence
16 investigation report, the court may defer sentencing and place the respondent
17 on probation upon such terms and conditions as it may require if a written
18 agreement concerning the deferring of sentence is entered into between the
19 ~~state's attorney State's Attorney and the respondent and filed with the clerk of~~

1 the court

2 (b) Notwithstanding subsection (a) of this section, the court may defer
3 sentencing and place the respondent on probation without a written agreement
4 between the ~~state's attorney~~ State's Attorney and the respondent if the
5 following conditions are met:

6 (1)(A) the respondent is 28 years ~~old~~ of age or younger; or

7 (B) the respondent is 29 years of age or older and has not previously
8 been convicted of a crime;

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

11 (3) the court orders a presentence investigation in accordance with the
12 procedures set forth in Rule 32 of the Vermont Rules of Criminal Procedure,
13 unless the ~~state's attorney~~ State's Attorney agrees to waive the presentence
14 investigation;

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

17 (5) the court reviews the presentence investigation and the victim's
18 impact statement with the parties; and

19 (6) the court determines that deferring sentence is in the interest of
20 justice.

21 (c) Notwithstanding subsections (a) and (b) of this section, the court may

1 ~~not defer a sentence for a violation of section 3253a (aggravated sexual assault~~
2 ~~of a child), section 2602 (lewd and lascivious conduct with a child unless the~~
3 ~~victim and the defendant were within five years of age and the act was~~
4 ~~consensual), 3252(c) (sexual assault of a child under 16 years of age unless the~~
5 ~~victim and the defendant were within five years of age and the act was~~
6 ~~consensual), 3252(d) or (e) (sexual assault of a child), 3253(a)(8) (aggravated~~
7 ~~sexual assault), or 3253a (aggravated sexual assault of a child) of this title.~~

8 * * *

9 Sec. 2. EFFECTIVE DATE

10 ~~This act shall take effect on passage.~~

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 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~~ State's Attorney and the respondent if the following conditions are met:

(1)(A) the respondent is 28 years old of age or younger; or

(B) the respondent is 29 years of age or older and has not previously been convicted of a crime;

(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, unless waived by the State's Attorney:

(A) a presentence investigation in accordance with the procedures set forth in Rule 32 of the Vermont Rules of Criminal Procedure, unless the state's attorney agrees to waive the presentence investigation; or

(B) an abbreviated presentence investigation in a form approved by the Commissioner of Corrections;

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

(5) the court reviews the presentence investigation and the victim's impact statement with the parties; and

(6) the court determines that deferring sentence is in the interest 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), 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), 3252(d) or (e) (sexual assault of a child), 3253(a)(8) (aggravated sexual assault), or 3253a (aggravated sexual assault of a child) of this title.

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Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.