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H.592

Introduced by Representatives Wizowaty of Burlington, Grad of Moretown,  
Mrowicki of Putney, Sharpe of Bristol, and Strong of Albany

Referred to Committee on

Date:

Subject: Executive; Attorney General; court diversion project

Statement of purpose of bill as introduced: This bill proposes to expand court  
diversion to allow participation on a pre-charge, voluntary basis.

An act relating to eligibility for court diversion prior to the filing of  
delinquency or criminal charges

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

Sec. 1. 3 V.S.A. § 163 is amended to read:

§ 163. JUVENILE COURT DIVERSION PROJECT

(a) The Attorney General shall develop and administer a juvenile court  
diversion project for the purpose of assisting juveniles charged with delinquent  
acts or who could be charged with delinquent acts. Rules which were adopted  
by the Vermont Commission on the Administration of Justice to implement the  
~~juvenile court diversion project~~ Juvenile Court Diversion Project shall be  
adapted by the Attorney General to the programs and projects established  
under this section.

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\* \* \*

(c) All diversion projects receiving financial assistance from the Attorney General shall adhere to the following provisions:

(1) The diversion project shall only accept persons against whom charges could be filed or persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated.

\* \* \*

(h) Subject to the approval of the Attorney General, the Vermont Association of Court Diversion Programs may develop and administer programs to assist persons under this section who could be charged or who have been charged with delinquent, criminal, and civil offenses.

Sec. 2. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROJECT

(a) The Attorney General shall develop and administer an adult court diversion project in all counties. The project shall be operated through the juvenile diversion project and shall be designed to assist adults who could be charged or who have been charged with a first or second misdemeanor or a first nonviolent felony. The Attorney General shall adopt only such rules as are necessary to establish an adult court diversion project for adults, in compliance with this section.

\* \* \*

1 (c) All adult court diversion projects receiving financial assistance from the  
2 Attorney General shall adhere to the following provisions:

3 (1) The diversion project shall accept only persons against whom  
4 charges could be filed or persons against whom charges have been filed and  
5 the court has found probable cause, but are not yet adjudicated. The  
6 prosecuting attorney shall notify in writing the diversion program and the court  
7 of his or her intention to refer the person to diversion. If the prosecuting  
8 attorney refers a case to diversion, the prosecuting attorney may release  
9 information to the victim upon a showing of legitimate need and subject to an  
10 appropriate protective agreement defining the purpose for which the  
11 information is being released and in all other respects maintaining the  
12 confidentiality of the information; otherwise files held by the court, the  
13 prosecuting attorney, and the law enforcement agency related to the charges  
14 shall be confidential and shall remain confidential unless:

15 (A) the ~~board~~ Diversion Review Board declines to accept the case;

16 (B) the person declines to participate in diversion;

17 (C) the ~~board~~ Diversion Review Board accepts the case, but the  
18 person does not successfully complete diversion;

19 (D) the prosecuting attorney recalls the referral to diversion.

20 \* \* \*

1 (7)(A) The adult court diversion project shall maintain sufficient records  
2 so that the reasons for success or failure of the program in particular cases and  
3 overall can be investigated by program staff. These records shall include a  
4 centralized statewide filing system that will include the following information  
5 about individuals who have successfully completed an adult court diversion  
6 program:

7 (i) name and date of birth;

8 (ii) offense charged, or if pre-charge, the offense that could have  
9 been charged, and date of offense;

10 (iii) place of residence;

11 (iv) county where diversion process took place; and

12 (v) date of completion of diversion process.

13 (B) These records shall not be available to anyone other than the  
14 participant and his or her attorney, ~~state's~~ State's attorneys, the Attorney  
15 General, and directors of adult court diversion projects.

16 \* \* \*

17 (i) Subject to the approval of the Attorney General, the Vermont  
18 Association of Court Diversion Programs may develop and administer  
19 programs to assist persons under this section who could be charged or who  
20 have been charged with delinquent, criminal, and civil offenses.

1       Sec. 3. EFFECTIVE DATE

2       This act shall take effect on July 1, 2014.