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S.14

Introduced by Senators Sears, Baruth, Hashim, Lyons, Norris and Vyhovsky

Referred to Committee on Judiciary

Date: January 12, 2023

Subject: Judiciary; Corrections; Justice Reinvestment

Statement of purpose of bill as introduced: This bill proposes to create additional reporting requirements to assess the effectiveness of Justice Reinvestment II expenditures.

~~An act relating to Justice Reinvestment II reporting requirements~~  
*An act relating to a report on criminal justice-related investments and trends*

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

~~C. 1. 28 V.S.A. § 125 is amended to read:~~  
§ 125. JUSTICE REINVESTMENT II INITIATIVES; REPORT  
(a) On or before January 15 each year, the Commissioner of Corrections, in consultation with the Commissioners of Health, of Mental Health, and for Children and Families; and the Attorney General; and other entities that receive Justice Reinvestment II funds, shall submit a report to the House Committees on Appropriations and on Corrections and Institutions and the Senate Committees on Appropriations and on Judiciary detailing the ~~expenditures on Justice Reinvestment II and the following related initiatives:~~

1 ~~(1) funding for domestic violence intervention programming in the~~  
2 Department of Corrections;

3 ~~(2) funding for offender transitional housing capacity with the~~  
4 Department of Corrections and other departments;

5 ~~(3) funding for the Department of Correction's data collection Offender~~  
6 Management System;

7 ~~(4) funding for community-based mental health and substance use~~  
8 services for individuals under Department of Corrections supervision;

9 ~~(5) funding provided for diversion and restorative justice programs~~  
10 including community justice centers, court diversion, and balanced and  
11 restorative justice (BARJ); and

12 ~~(6) funding and a description of any other General Fund expenditures~~  
13 for Justice Reinvestment II initiatives.

14 (b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall  
15 not apply to the report to be made under this section.

16 (c) The report required pursuant to subsection (a) of this section shall  
17 include an assessment of the impacts that Justice Reinvestment II expenditures  
18 and its related initiatives have had on crime and violence in the State. The  
19 report shall explain whether the expenditures are effectively reducing crime  
20 and violence and if not, why. The report shall include any data related to  
21 reductions in recidivism, violations of conditions of release, probation, parole,

1 ~~furlough, and whether any new offenses occur; and classify any violations or~~  
2 ~~offenses committed as criminal or civil in nature.~~

3 Sec. 2. EFFECTIVE DATE

4 ~~This act shall take effect on July 1, 2023.~~

~~Sec. 1. 28 V.S.A. § 125 is amended to read:~~

~~§ 125. JUSTICE REINVESTMENT II INITIATIVES CRIMINAL JUSTICE  
INVESTMENTS AND TRENDS; REPORT~~

~~(a) Definitions. As used in this section:~~

~~(1) “Arrest” means when a person is seized by law enforcement, charged with the commission of an offense, and referred for prosecution.~~

~~(2) “Clearance” means the process by which a law enforcement agency closes an offense by arrest or exceptional means in accordance with the Federal Bureau of Investigation’s Uniform Crime Reporting Program.~~

~~(3) “Desistance” means the process by which criminality, or the individual risk for antisocial conduct, declines over the life-course of the individual, generally after adolescence.~~

~~(4) “Exceptional means” means the death of the offender, the victim’s refusal to cooperate with the prosecution after the offender is identified, the denial of extradition because the offender committed a crime in another jurisdiction and is being prosecuted for that offense, or other circumstance in accordance with the Federal Bureau of Investigation’s Uniform Crime Reporting Program.~~

~~(5) “Recidivism” has the same meaning as in section 4 of this title.~~

~~(b) Report.~~

~~(1) On or before January November 15 each year, 2024 and every three years thereafter, the Commissioner of Corrections Vermont Statistical Analysis Center (SAC), in consultation with the Commissioners of Corrections, of Health, of Mental Health, of Public Safety, of Labor, and for Children and Families and; the Attorney General; the Chief Superior Judge of the Superior Court; the Division of Racial Justice Statistics; and the Parole Board Director, shall submit a report to the House Committees on Appropriations and on Corrections and Institutions and, the Senate Committees on Appropriations and on Judiciary detailing the expenditures on Justice Reinvestment II and the following related initiatives:~~

~~(1) funding for domestic violence intervention programming in the Department of Corrections;~~

~~(2) funding for offender transitional housing capacity with the Department of Corrections and other departments;~~

~~(3) funding for the Department of Correction's data collection Offender Management System;~~

~~(4) funding for community-based mental health and substance use services for individuals under Department of Corrections supervision;~~

~~(5) funding provided for diversion and restorative justice programs including community justice centers, court diversion, and balanced and restorative justice (BARJ); and~~

~~(6) funding and a description of any other General Fund expenditures for Justice Reinvestment Initiative, the Joint Legislative Justice Oversight Committee, and the Executive Director of the Office of Racial Equity examining the trends associated with Vermont's criminal justice-related investments and expenditures since the last report was submitted pursuant to this section.~~

~~(2) The report required pursuant to subdivision (1) of this section shall include data showing:~~

~~(A) recidivism rates;~~

~~(B) clearance rates;~~

~~(C) evidence of desistance, including successful completion of community supervision;~~

~~(D) returns to incarceration from community supervision with the following relevant data points:~~

~~(i) community supervision type, classified by probation, parole, and furlough;~~

~~(ii) an indication if a return was for a violation or a new charge, including the crime type;~~

~~(iii) an indication if a violation was classified as "significant/not violent" or "significant and violent" for any applicable statuses; and~~

~~(iv) all available demographic information.~~

~~(E) bail rates, including detainees held without bail, detainees held with bail and the associated monetary amounts, and bailees who post bail and are released.~~

~~(F) pretrial detainees held in Vermont correctional facilities, including the crime type and jurisdiction for which they are held;~~

~~(G) the funding for, and utilization of, substance use, mental health, educational, and vocational initiatives for incarcerated individuals; and~~

~~(H) the funding for, and utilization by, individuals served through Justice Reinvestment II and related initiatives, including:~~

~~(i) domestic violence intervention programming in the Department of Corrections, including the results from the evaluation framework between the Vermont Network Against Domestic and Sexual Violence and the University of Nebraska;~~

~~(ii) offender transitional housing capacity with the Department of Corrections and other departments;~~

~~(iii) advancements to the Department of Corrections' data collection Offender Management System;~~

~~(iv) agencies, departments, municipalities, programs, and services employing restorative justice principles, including community justice centers;~~

~~(v) other General Fund expenditures for Justice Reinvestment II initiatives;~~

~~(vi) the Department of Corrections' out-of-state beds contracted by the Department and the average cost per bed in fiscal year 2019 and for each fiscal year thereafter; and~~

~~(vii) the Department of Corrections' in-state beds, separated by gender, including specialty units and units closed or unavailable in fiscal year 2019 and for each fiscal year thereafter.~~

~~(b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.~~

~~(c) Informational availability.~~

~~(1) The information required pursuant to subsection (b) of this section shall include race, gender, age, and other demographic variables whenever possible.~~

~~(2) The report required pursuant to subsection (b) of this section shall explain any obstacles or impediments to the availability and collectability of data required pursuant to this section, including whether collecting certain data would put particular populations at risk, along with the substance use and mental health needs and educational and vocational status of justice-involved individuals.~~

~~(d) Data sharing. Notwithstanding any provision of law to the contrary, all State and local agencies and departments that possess the data necessary to compile the report required pursuant to this section shall, upon request, provide SAC with any data that it determines is relevant to the report. The obligation to disclose shall supersede any other legal obligation with respect to the data required pursuant to this section, and a department, agency, or other entity shall not decline to disclose data required based on any other purported legal obligation.~~

~~(e) Confidentiality. Any data or records transmitted to or obtained by SAC are exempt from public inspection and copying under the Public Records Act and shall be confidential to the extent required by law unless and until the data or records are included in the report required by this section. A State or local agency or department that transmits data or records to SAC shall be the sole records custodian for purposes of responding to requests for the data or records. SAC may direct any request for these data or records to the transmitting agency or department for response.~~

~~Sec. 2. SUNSET OF REPORT~~

~~28 V.S.A. § 125 is repealed on July 1, 2028.~~

~~Sec. 3. EFFECTIVE DATE~~

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

~~Sec. 1. 28 V.S.A. § 125 is amended to read:~~

~~§ 125. JUSTICE REINVESTMENT II INITIATIVES CRIMINAL JUSTICE INVESTMENTS AND TRENDS; REPORT~~

~~(a) Intent. It is the intent of the General Assembly that the report on Vermont's criminal justice investments and trends required under this section assist in the systemic assessment of the State's Justice Reinvestment and justice reform efforts and initiatives to inform future legislative policy and fiscal decisions.~~

~~(b) Definitions. As used in this section:~~

~~(1) "Arrest" means when a person is seized by law enforcement, charged with the commission of an offense, and referred for prosecution.~~

~~(2) "Clearance" means the process by which a law enforcement agency closes an offense by arrest or exceptional means in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program.~~

~~(3) "Desistance" means the process by which criminality, or the individual risk for antisocial conduct, declines over the life-course of the individual, generally after adolescence.~~

(4) “Exceptional means” means the death of the offender, the victim’s refusal to cooperate with the prosecution after the offender is identified, the denial of extradition because the offender committed a crime in another jurisdiction and is being prosecuted for that offense, or other circumstance in accordance with the Federal Bureau of Investigation’s Uniform Crime Reporting Program.

(5) “Recidivism” has the same meaning as in section 4 of this title.

(c) Report.

(1) ~~On or before January November 15 each year, 2024 and every three years thereafter, the Commissioner of Corrections Vermont Statistical Analysis Center (SAC), in consultation with the Commissioners of Corrections, of Health, of Mental Health, of Public Safety, of Labor, and for Children and Families and; the Attorney General; the Defender General; the Chief Superior Judge of the Superior Court; the Division of Racial Justice Statistics; the Executive Director of the Department of State’s Attorneys and Sheriffs; and the Parole Board Director, shall submit a report to the House Committees on Appropriations, on Judiciary, and on Corrections and Institutions and, the Senate Committees on Appropriations and on Judiciary detailing the expenditures on Justice Reinvestment II and the following related initiatives:~~

~~(1) funding for domestic violence intervention programming in the Department of Corrections;~~

~~(2) funding for offender transitional housing capacity with the Department of Corrections and other departments;~~

~~(3) funding for the Department of Correction’s data collection Offender Management System;~~

~~(4) funding for community-based mental health and substance use services for individuals under Department of Corrections supervision;~~

~~(5) funding provided for diversion and restorative justice programs including community justice centers, court diversion, and balanced and restorative justice (BARJ); and~~

~~(6) funding and a description of any other General Fund expenditures for Justice Reinvestment II initiatives., the Joint Legislative Justice Oversight Committee, and the Executive Director of the Office of Racial Equity examining the trends associated with Vermont’s criminal justice-related investments and expenditures since the last report was submitted pursuant to this section.~~

~~(2) The report required pursuant to subdivision (1) of this subsection shall include data showing:~~

(A) recidivism rates;

(B) clearance rates;

(C) evidence of desistance, including successful completion of community supervision;

(D) returns to incarceration from community supervision with the following relevant data points:

(i) community supervision type, classified by probation, parole, and furlough;

(ii) an indication if a return was for a violation or a new charge, including the crime type;

(iii) an indication if a violation was classified as “significant/not violent” or “significant and violent” for any applicable statuses; and

(iv) all available demographic information;

(E) bail rates, including detainees held without bail, detainees held with bail and the associated monetary amounts, and bailees who post bail and are released;

(F) pretrial detainees held in Vermont correctional facilities, including the crime type and jurisdiction for which they are held;

(G) the funding for, and utilization of, substance use disorder treatment, mental health, educational, and vocational initiatives for incarcerated individuals; and

(H) the funding for, and utilization by, individuals served through Justice Reinvestment II and related initiatives, including:

(i) domestic violence intervention programming in the Department of Corrections, including the results from the evaluation framework between the Vermont Network Against Domestic and Sexual Violence and the University of Nebraska;

(ii) offender transitional housing capacity with the Department of Corrections and other departments;

(iii) advancements to the Department of Corrections’ data collection Offender Management System;

(iv) agencies, departments, municipalities, programs, and services employing restorative justice principles, including community justice centers;

(v) other General Fund expenditures for Justice Reinvestment II initiatives;



(vi) the Department of Corrections' out-of-state beds contracted by the Department and the average cost per bed in fiscal year 2019 and for each fiscal year thereafter; and

(vii) the Department of Corrections' in-state beds, separated by gender, including specialty units and units closed or unavailable in fiscal year 2019 and for each fiscal year thereafter.

~~(b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.~~

(d) Informational availability.

(1) The information required pursuant to subsection (c) of this section shall include race, gender, age, and other demographic variables whenever possible.

(2) The report required pursuant to subsection (c) of this section shall explain any obstacles or impediments to the availability and collectability of data required pursuant to this section, including whether collecting certain data would put particular populations at risk, along with the substance use and mental health needs and educational and vocational status of justice-involved individuals.

(e) Data sharing. Notwithstanding any provision of law to the contrary, all State and local agencies and departments that possess the data necessary to compile the report required pursuant to this section shall, upon request, provide SAC with any data that it determines is relevant to the report. The obligation to disclose shall supersede any other legal obligation with respect to the data required pursuant to this section, and a department, agency, or other entity shall not decline to disclose data required based on any other purported legal obligation.

(f) Confidentiality. Any data or records transmitted to or obtained by SAC are exempt from public inspection and copying under the Public Records Act and shall be confidential to the extent required by law unless and until the data or records are included in the report required by this section. A State or local agency or department that transmits data or records to SAC shall be the sole records custodian for purposes of responding to requests for the data or records. SAC may direct any request for these data or records to the transmitting agency or department for response.

Sec. 2. 28 V.S.A. § 126 is added to read:

§ 126. COORDINATED JUSTICE REFORM ADVISORY COUNCIL

(a) Creation. There is created the Coordinated Justice Reform Advisory Council to establish a unified and collaborative State approach to support

State and local community-based programs and services that are consistent with Vermont's restorative justice policy pursuant to section 2a of this title. The Council shall consult with State and local partners to use a data-driven approach that improves public safety, reduces correctional and criminal justice spending, and reinvests savings or redirects funding in strategies that foster desistance or decrease crime, delinquencies, and recidivism.

(b) Membership. The Coordinated Justice Reform Advisory Council shall be composed of the following members:

(1) the Attorney General or designee with experience in community and restorative justice;

(2) the Chief Superior Judge of the Vermont Superior Court or designee;

(3) the Commissioner of Corrections or designee;

(4) the Commissioner for Children and Families or designee;

(5) the Executive Director of the Vermont Center for Crime Victim Services or designee;

(6) the Executive Director of the Vermont Statistical Analysis Center or designee;

(7) the Executive Director of the Office of Racial Equity or designee;

(8) one current member of the House of Representatives selected from the Joint Legislative Justice Oversight Committee, appointed by the Speaker of the House; and

(9) one current member of the Senate selected from the Joint Legislative Justice Oversight Committee, appointed by the Committee on Committees.

(c) Powers and duties. The Coordinated Justice Reform Advisory Council shall:

(1) review and provide data-driven recommendations for the priorities and appropriations necessary to support a unified and collaborative State approach in accordance with subsection (a) of this section;

(2) review all relevant government appropriations, reauthorizations, and allocations made during the most recent fiscal year;

(3) consult with Department of Mental Health; the Department of State's Attorneys and Sheriffs; the Office of the Defender General; the Parole Board; the Office of the Child, Youth, and Family Advocate; the Vermont Network Against Domestic and Sexual Violence; the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel; individuals with lived experience in the criminal justice system recommended by the American Civil

Liberties Union of Vermont; and community justice entities that receive State funding for programs and services employing restorative justice principles on the potential uses and priorities of funding in accordance with subsection (a) of this section;

(4) consistent with subsection (a) of this section, consider opportunities and make recommendations to establish a sustainable planning and funding structure to administer State and local community-based programs and services and modern data collection systems; and

(5) on or before September 1, 2023 and annually thereafter; recommend to the Commissioner of Corrections the appropriate allocation of not more than \$900,000.00 from the Justice Reinvestment II line item of the Department of Corrections' budget for the upcoming fiscal year to support community-based programs and services, related data collection and analysis capacity, and other initiatives in accordance with subsection (a) of this section.

(d) Assistance. The Coordinated Justice Reform Advisory Council shall have the administrative, technical, and legal assistance of the Office of the Attorney General, the Department of Corrections, and the Department for Children and Families for those issues and services within the jurisdiction of the respective office or department.

(e) Reports. On or before November 15, 2023 and annually thereafter, the Coordinated Justice Reform Advisory Council shall submit recommendations pursuant to subdivisions (c)(4) and (c)(5) of this section to the Joint Legislative Justice Oversight Committee; the Senate Committees on Appropriations and on Judiciary; and the House Committees on Appropriations, on Corrections and Institutions, and on Judiciary. Any recommendations submitted pursuant to subdivision (c)(4) shall be in the form of proposed legislation.

(f) Meetings; officers; committees; rules; compensation; term.

(1) The Chief Superior Judge of the Vermont Superior Court or designee shall call the first meeting of the Coordinated Justice Reform Advisory Council on or before July 15, 2023.

(2) The Council shall meet not more than six times per year.

(3) The Chief Superior Judge of the Vermont Superior Court or designee shall serve as the Chair of the Council.

(4) The Council may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules or bylaws as necessary and appropriate to perform its work.

(5) Members who are appointed to the Council shall be appointed for terms of three years, except that the Commissioners of Corrections and for Children and Families and members appointed by the Speaker of the House of Representative and the Senate Committee on Committees shall be appointed for a term of two years. Initial appointments shall be made such that the Commissioners of Corrections and for Children and Families and the members appointed by the Speaker of the House of Representative and the Senate Committee on Committees shall be appointed for a term of one year. Members shall hold office for the term of their appointments until their successors have been appointed. Vacancies on the Council shall be filled for the remaining period of the term in the same manner as initial appointments. Members are eligible for reappointment.

(6) A majority of the membership shall constitute a quorum.

(7) Members of the Council who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than six meetings per year.

(8) Council meetings shall be subject to the Open Meeting Law.

Sec. 3. 28 V.S.A. § 102(c) is amended to read:

(c) The Commissioner is charged with the following responsibilities:

\* \* \*

(23) To include the Coordinated Justice Reform Advisory Council's appropriation recommendations made pursuant to subdivision 126(c)(5) of this title in the Department's annual proposed budget for the purposes of developing the State budget required to be submitted to the General Assembly in accordance with 32 V.S.A. § 306.

Sec. 4. REPEALS

(a) 28 V.S.A. § 102(c)(23) (Commissioner of Corrections' responsibility to incorporate Coordinated Justice Reform Advisory Council's recommendations into the Department's budget) is repealed on July 1, 2028.

(b) 28 V.S.A. § 125 (criminal justice investments and trends; report) is repealed on July 1, 2028.

(c) 28 V.S.A. § 126 (Coordinated Justice Reform Advisory Council) is repealed on July 1, 2028.

*Sec. 5. EFFECTIVE DATES*

*This act shall take effect on July 1, 2023, except that Secs. 1 (criminal justice investments and trends; report) and 4(b) (prospective repeal of 28 V.S.A. § 125) shall take effect on passage.*