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SENATE JOINT RESOLUTION NO. 39

Offered January 8, 2020

Prefiled January 7, 2020

Directing the Virginia State Crime Commission to study the effect of abolishing jury sentencing on the justice system. Report.

Patrons—Edwards; Delegates: Hope, Rasoul and Samirah

Referred to Committee on Rules

WHEREAS, Virginia is one of six states that allows jury sentencing for noncapital offenses; and

WHEREAS, the Code of Virginia requires that judges receive and review applicable discretionary sentencing guidelines for each case but prohibits juries to be advised of the guideline recommendations; and

WHEREAS, jury members often lack knowledge and understanding of the average sentence imposed for a specific crime and therefore may be more unpredictable in their recommended sentence; and

WHEREAS, juries are provided a wide sentencing range and are limited to recommending at least the mandatory minimum sentence, if applicable, if the defendant is found guilty, while the sentencing guidelines supplied to judges often recommend lower sentencing ranges and judges may suspend sentences in whole or in part and impose alternative sanctions; and

WHEREAS, judges are often reluctant to reduce sentences as recommended by the jury; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Virginia State Crime Commission be directed to study the effect of abolishing jury sentencing on the justice system.

In conducting its study, the Virginia State Crime Commission shall (i) identify the most common charges tried before juries within the Commonwealth and determine the average sentence per charge as recommended by a jury; (ii) compare the jury-recommended sentence to the average sentence for each identified charge, factoring in alternative sentences and suspended time, as determined by a judge during a bench trial; (iii) identify any perceived negative impacts to the judicial system associated with abolishing the practice of jury sentencing and make recommendations as to how these potential negative impacts could be avoided; and (iv) determine the feasibility of abolishing jury sentencing for noncapital offenses within the Commonwealth.

Technical assistance shall be provided to the Virginia State Crime Commission by the Virginia Criminal Sentencing Commission and the Office of the Executive Secretary of the Supreme Court of Virginia. All agencies of the Commonwealth shall provide assistance to the Virginia State Crime Commission for this study, upon request.

The Virginia State Crime Commission shall complete its meetings by November 30, 2020, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2021 Regular Session of the General Assembly. The executive summary shall state whether the Virginia State Crime Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

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