

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 28 : Public Institutions And Corrections

Chapter 005 : Probation

Subchapter 001 : General Provisions

§ 204. Submission of written report; protection of records

(a) A court, before which a person is being prosecuted for any crime, may in its discretion order the Commissioner to submit a written report as to the circumstances of the alleged offense and the character and previous criminal history record of the person, with recommendation. If the presentence report is being prepared in connection with a person's conviction for a sex offense that requires registration pursuant to 13 V.S.A. chapter 167, subchapter 3, the Commissioner shall obtain information pertaining to the person's juvenile record, if any, in accordance with 33 V.S.A. §§ 5117 and 5119(f)(6), and any deferred sentences received for a registrable sex offense in accordance with 13 V.S.A. § 7041(h), and include such information in the presentence report.

(b) The court shall order such a report to be made before imposing sentence when the respondent is adjudged guilty of a felony, except as otherwise provided by rules of the Supreme Court. If the report has been made to any court within the State within a period of two years with reference to such individual, in connection with the same or another offense, submission of a copy of that report may fulfill the requirements of this section, if the court to which the report is to be submitted approves. Upon request, the Commissioner shall furnish a State's Attorney with a copy of any report made within the State once sentence has been passed in connection with the offense for which the report was made.

(c) The report ordered by the court under this section or section 204a of this title shall be made not less than one week nor more than three weeks from the date of the order. This three week limit may be extended by order of the court.

(d) Any presentence report, pre-parole report, or supervision history prepared by any employee of the Department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is privileged and shall not be disclosed to anyone outside the Department other than the judge or the Parole Board, except that the court or Board may in its discretion permit the inspection of the report or parts thereof by the State's Attorney, the defendant or inmate, or his or her attorney, or other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful. Nothing in this section shall prohibit the Department for Children and Families from accessing the supervision history of probationers or parolees for the purpose of child protection.

(e) The presentence report ordered by the court under this section or section 204a of this title shall include the comments or written statement of the victim, or the victim's guardian or next of kin if the victim is incompetent or deceased, whenever the victim or the victim's guardian or next of kin choose to submit comments or a written statement.

(f) Except as otherwise provided by law, reports and records subject to this section may be inspected, pursuant to a court order issued ex parte, by a State or federal prosecutor as part of a criminal investigation if the court finds that the records may be relevant to the investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public. (Added 1971, No. 199 (Adj. Sess.), § 20;

amended 1973, No. 109, § 10, eff. May 25, 1973; 1981, No. 223 (Adj. Sess.), § 18; 1989, No. 293 (Adj. Sess.), § 7; 1995, No. 170 (Adj. Sess.), § 18, eff. Sept. 1, 1996; 2005, No. 192 (Adj. Sess.), § 11, eff. May 26, 2006; 2009, No. 1, § 35; 2009, No. 58, § 19; 2013, No. 168 (Adj. Sess.), § 3, eff. June 3, 2014.)