

**S.338: Justice Reinvestment II**  
**Side by side comparison**  
**May 4, 2020**

**Changes made by HCI / Decision points for HJ**

As passed the Senate	As passed the House	Notes
Sec. 1. FINDINGS AND PURPOSE	Sec. 1. FINDINGS AND PURPOSE	[Same]
<p>Sec. 2. 13 V.S.A. § 7031 is amended to read:</p> <p>§ 7031. FORM OF SENTENCES;  MAXIMUM AND MINIMUM TERMS</p> <p>(a) When a respondent is sentenced to any term of imprisonment, other than for life, the court imposing the sentence shall not fix the term of imprisonment, unless the term is definitely fixed by statute, but shall establish a maximum and may establish a minimum term for which the respondent may be held in imprisonment. The maximum term shall not be more than the longest term fixed by law for the offense of which the respondent is</p>	<p>Sec. 2. 13 V.S.A. § 7031 is amended to read:</p> <p>§ 7031. FORM OF SENTENCES;  MAXIMUM AND MINIMUM TERMS</p> <p>(a) When a respondent is sentenced to any term of imprisonment, other than for life, the court imposing the sentence shall not fix the term of imprisonment, unless the term is definitely fixed by statute, but shall establish a maximum and may establish a minimum term for which the respondent may be held in imprisonment. The maximum term shall not be more than the longest term fixed by law for the offense of which the respondent is</p>	<p>[Same]</p> <p>Provides that in sentencing a violation of probation, the court shall give the person credit for all time served on probation prior to the time the violation is filed.</p>

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<p>convicted, and the minimum term shall be not less than the shortest term fixed by law for the offense. If the court suspends a portion of the sentence, the unsuspended portion of the sentence shall be the minimum term of sentence solely for the purpose of any reductions of term for good behavior as set forth in 28 V.S.A. § 811. A sentence shall not be considered fixed as long as the maximum and minimum terms are not identical.</p> <p>(b) The sentence of imprisonment of any person convicted of an offense shall commence to run from the date on which the person is received at the correctional facility for service of the sentence. The court shall give the person credit toward</p>	<p>convicted, and the minimum term shall be not less than the shortest term fixed by law for the offense. If the court suspends a portion of the sentence, the unsuspended portion of the sentence shall be the minimum term of sentence solely for the purpose of any reductions of term for good behavior as set forth in 28 V.S.A. § 811. A sentence shall not be considered fixed as long as the maximum and minimum terms are not identical.</p> <p>(b) The sentence of imprisonment of any person convicted of an offense shall commence to run from the date on which the person is received at the correctional facility for service of the sentence. The court shall give the person credit toward</p>	
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<p>service of his or her sentence for any days spent in custody as follows:</p> <p>(1) The period of credit for concurrent and consecutive sentences shall include all days served from the date of arraignment or the date of the earliest detention for the offense, whichever occurs first, and end on the date of the sentencing. Only a single credit shall be awarded in cases of consecutive sentences, and no credit for one period of time shall be applied to a later period.</p> <p>(2) In sentencing a violation of probation, the court shall give the person credit for any days spent in custody from the time the violation is filed or the person is detained on the violation, whichever occurs first, until the violation</p>	<p>service of his or her sentence for any days spent in custody as follows:</p> <p>(1) The period of credit for concurrent and consecutive sentences shall include all days served from the date of arraignment or the date of the earliest detention for the offense, whichever occurs first, and end on the date of the sentencing. Only a single credit shall be awarded in cases of consecutive sentences, and no credit for one period of time shall be applied to a later period.</p> <p>(2) In sentencing a violation of probation, the court shall give the person credit for any days spent in custody from the time the violation is filed or the person is detained on the violation, whichever occurs first, until the violation is</p>	
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<p>is sentenced. In a case in which probation is revoked and the person is ordered to serve the underlying sentence, the person shall receive credit for all time previously served in connection with the offense <u>and all time served on probation prior to the time the violation is filed.</u></p> <p>(3) A defendant who has received pre-adjudication treatment in a residential setting for a substance use disorder after the charge has been filed shall earn a reduction of one day in the offender's minimum and maximum sentence for each day that the offender receives the inpatient treatment.</p> <p>(c) If any such person is committed to a jail or other place of detention to await transportation to the place at which his or</p>	<p>sentenced. In a case in which probation is revoked and the person is ordered to serve the underlying sentence, the person shall receive credit for all time previously served in connection with the offense <u>and all time served on probation prior to the time the violation is filed.</u></p> <p>(3) A defendant who has received pre-adjudication treatment in a residential setting for a substance use disorder after the charge has been filed shall earn a reduction of one day in the offender's minimum and maximum sentence for each day that the offender receives the inpatient treatment.</p> <p>(c) If any such person is committed to a jail or other place of detention to await transportation to the place at which his or</p>	
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<p>her sentence is to be served, his or her sentence shall commence to run from the date on which he or she is received at the jail or the place of detention.</p> <p>(d) A person who receives a zero minimum sentence for a conviction of a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301 shall report to probation and parole as directed by the court and begin to serve the sentence in the community immediately, unless the person is serving a prior sentence at the time.</p>	<p>her sentence is to be served, his or her sentence shall commence to run from the date on which he or she is received at the jail or the place of detention.</p> <p>(d) A person who receives a zero minimum sentence for a conviction of a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301 shall report to probation and parole as directed by the court and begin to serve the sentence in the community immediately, unless the person is serving a prior sentence at the time.</p>	
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<p>Sec. 3. 28 V.S.A. § 205 is amended to read:</p> <p>§ 205. PROBATION</p> <p>(a)(1) After passing sentence, a court may suspend all or part of the sentence and place the person so sentenced in the care and custody of the Commissioner upon such conditions and for such time as it may prescribe in accordance with law or until further order of court. <u>All terms of probation set by the court shall be for a specific duration, not to exceed the statutory maximum term of imprisonment for the offense.</u></p> <p>(2) The term of probation for misdemeanors shall be for a specific term not to exceed two years unless the court, in its sole discretion, specifically finds</p>	<p>Sec. 3. 28 V.S.A. § 205 is amended to read:</p> <p>§ 205. PROBATION</p> <p>(a)(1) After passing sentence, a court may suspend all or part of the sentence and place the person so sentenced in the care and custody of the Commissioner upon such conditions and for such time as it may prescribe in accordance with law or until further order of court. <u>All terms of probation set by the court shall be for a specific duration, not to exceed the statutory maximum term of imprisonment for the offense.</u></p> <p>(2) <b>The term of probation for misdemeanors shall be for a specific term not to exceed two years unless the court, in its sole discretion, specifically finds that</b></p>	<p>This section eliminates indefinite probation terms and provides that no probation term shall exceed the statutory maximum for the offense.</p> <p>Question for committee: Should (a)(2) be struck as inconsistent with the new policy in (a)(1)? Or should limitation on probation length to statutory</p>
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<p>that the interests of justice require a longer <del>or an indefinite</del> period of probation.</p> <p>(3)(A) The term of probation for nonviolent felonies shall not exceed four years or the statutory maximum term of imprisonment for the offense, whichever is less, unless the court, in its sole discretion, specifically finds that the interests of justice require a longer <del>or an indefinite</del> period of probation.</p> <p>(B) As used in this subdivision, “nonviolent felonies” means an offense that is not:</p> <p>(i) a listed crime as defined in 13 V.S.A. § 5301(7); or</p>	<p><del>the interests of justice require a longer or an indefinite period of probation that exceeds two years.</del></p> <p>(3)(A) The term of probation for nonviolent felonies shall not exceed four years or the statutory maximum term of imprisonment for the offense, whichever is less, unless the court, in its sole discretion, specifically finds that the interests of justice require a longer <del>or an indefinite</del> period of probation <u>that exceeds four years or the statutory maximum term of imprisonment for the offense, whichever is less.</u></p> <p>(B) As used in this subdivision, “nonviolent felonies” means an offense that is not:</p>	<p>maximum only apply for felonies and leave judicial discretion for misdemeanors to extend probation terms beyond statutory maximum?</p> <p>Clarifying change made at request of judiciary.</p>
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<p>(ii) an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.</p> <p>(4) Nothing in this subsection shall prevent the court from terminating the period of probation and discharging a person pursuant to section 251 of this title.</p> <p>(5) The probation officer of a person on probation for a specific term shall review the person's case file during probation and, not less than 45 days prior to the expiration of the probation term, may file a petition with the court requesting the court to extend the period of probation for a specific term not to exceed one year in order to provide the person the opportunity to complete</p>	<p>(i) a listed crime as defined in 13 V.S.A. § 5301(7); or</p> <p>(ii) an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.</p> <p>(4) Nothing in this subsection shall prevent the court from terminating the period of probation and discharging a person pursuant to section 251 of this title.</p> <p>(5) The probation officer of a person on probation for a specific term shall review the person's case file during probation and, not less than 45 days prior to the expiration of the probation term, may file a petition with the court requesting the court to extend the period of probation for a specific term not to exceed one year in order to provide the</p>	
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<p>programming consistent with special conditions of probation. A hearing on the petition for an extension of probation under this subsection shall comply with the procedures set forth in Rule 32.1 of the Vermont Rules of Criminal Procedure.</p> <p>(b) The victim of a listed crime as defined in 13 V.S.A. § 5301(7) for which the offender has been placed on probation shall have the right to request and receive from the Department of Corrections information regarding the offender’s general compliance with the specific conditions of probation. Nothing in this section shall require the Department of Corrections to disclose any confidential information revealed by the offender in</p>	<p>person the opportunity to complete programming consistent with special conditions of probation. A hearing on the petition for an extension of probation under this subsection shall comply with the procedures set forth in Rule 32.1 of the Vermont Rules of Criminal Procedure.</p> <p>(b) The victim of a listed crime as defined in 13 V.S.A. § 5301(7) for which the offender has been placed on probation shall have the right to request and receive from the Department of Corrections information regarding the offender’s general compliance with the specific conditions of probation. Nothing in this section shall require the Department of Corrections to disclose any confidential information revealed by the offender in</p>	
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<p>connection with participation in a treatment program.</p> <p>(c)(1) Unless the court in its discretion finds that the interests of justice require additional standard and special conditions of probation, when the court orders a specific term of probation for a qualifying offense, the offender shall be placed on administrative probation, which means that the only conditions of probation shall be that the probationer:</p> <p>(A) register with the Department of Corrections' probation and parole office in his or her district;</p> <p>(B) notify the probation officer of his or her current address each month;</p>	<p>connection with participation in a treatment program.</p> <p>(c)(1) Unless the court in its discretion finds that the interests of justice require additional standard and special conditions of probation, when the court orders a specific term of probation for a qualifying offense, the offender shall be placed on administrative probation, which means that the only conditions of probation shall be that the probationer:</p> <p>(A) register with the Department of Corrections' probation and parole office in his or her district;</p> <p>(B) notify the probation officer of his or her current address each month;</p> <p>(C) within 72 hours, notify the Department of Corrections if probable</p>	
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<p>(C) within 72 hours, notify the Department of Corrections if probable cause is found for a criminal offense during the term of probation; and</p> <p>(D) not be convicted of a criminal offense during the term of probation.</p> <p>(2) As used in this subsection, “qualifying offense” means:</p> <p>(A) Unlawful mischief under 13 V.S.A. § 3701.</p> <p>(B) Retail theft under 13 V.S.A. §§ 2575 and 2577.</p> <p>(C) Operating after suspension or revocation of license under 23 V.S.A. § 674(a).</p> <p>(D) Bad checks under 13 V.S.A. § 2022.</p>	<p>cause is found for a criminal offense during the term of probation; and</p> <p>(D) not be convicted of a criminal offense during the term of probation.</p> <p>(2) As used in this subsection, “qualifying offense” means:</p> <p>(A) Unlawful mischief under 13 V.S.A. § 3701.</p> <p>(B) Retail theft under 13 V.S.A. §§ 2575 and 2577.</p> <p>(C) Operating after suspension or revocation of license under 23 V.S.A. § 674(a).</p> <p>(D) Bad checks under 13 V.S.A. § 2022.</p> <p>(E) Theft of services under 13 V.S.A. § 2582.</p>	
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<p>(E) Theft of services under 13 V.S.A. § 2582.</p> <p>(F) Disorderly conduct under 13 V.S.A. § 1026, unless the original charge was a listed offense as defined in 13 V.S.A. § 5301(7).</p> <p>(G) Theft of rented property under 13 V.S.A. § 2591.</p> <p>(H) Operation without consent of owner under 23 V.S.A. § 1094(a).</p> <p>(I) Petit larceny under 13 V.S.A. § 2502.</p> <p>(J) Negligent operation of a motor vehicle under 23 V.S.A. § 1091(a).</p> <p>(K) False reports to law enforcement under 13 V.S.A. § 1754.</p> <p>(L) Setting fires under 13 V.S.A. § 508.</p>	<p>(F) Disorderly conduct under 13 V.S.A. § 1026, unless the original charge was a listed offense as defined in 13 V.S.A. § 5301(7).</p> <p>(G) Theft of rented property under 13 V.S.A. § 2591.</p> <p>(H) Operation without consent of owner under 23 V.S.A. § 1094(a).</p> <p>(I) Petit larceny under 13 V.S.A. § 2502.</p> <p>(J) Negligent operation of a motor vehicle under 23 V.S.A. § 1091(a).</p> <p>(K) False reports to law enforcement under 13 V.S.A. § 1754.</p> <p>(L) Setting fires under 13 V.S.A. § 508.</p> <p>(M) [Repealed.]</p>	
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<p>(M) [Repealed.]</p> <p>(N) Simple assault by mutual consent under 13 V.S.A. § 1023(b) unless the original charge was a listed offense as defined in 13 V.S.A. § 5301(7).</p> <p>(O) Unlawful trespass under 13 V.S.A. § 3705(a).</p> <p>(P) A first offense of possession under 18 V.S.A. § 4230(a)(1).</p> <p>(3) Nothing in this subsection shall prohibit a court from requiring participation in the Restorative Justice Program established in chapter 12 of this title.</p> <p><u>(d)(1) A probationer shall receive one day of credit towards the probationer's minimum sentence for each day served on probation. The probationer shall cease</u></p>	<p>(N) Simple assault by mutual consent under 13 V.S.A. § 1023(b) unless the original charge was a listed offense as defined in 13 V.S.A. § 5301(7).</p> <p>(O) Unlawful trespass under 13 V.S.A. § 3705(a).</p> <p>(P) A first offense of possession under 18 V.S.A. § 4230(a)(1).</p> <p>(3) Nothing in this subsection shall prohibit a court from requiring participation in the Restorative Justice Program established in chapter 12 of this title.</p> <p><u>(d)(1) A probationer shall receive one day of credit towards the probationer's minimum sentence for each day served on probation. The probationer shall cease accruing credit towards the minimum</u></p>	<p>Question for committee: should the credit probationers earn on probation apply to their underlying <u>minimum and maximum</u> sentence?</p>
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<p><u>accruing credit towards the minimum sentence the day an arrest warrant for the probationer is filed. If the court finds that the probationer violated the terms of probation and returns the person to probation, the court shall determine whether the person may again accrue credit towards the minimum sentence and when the accrual shall commence. If the court finds no violation occurred, there shall be no interruption in the probationer's accrual of credit.</u></p> <p style="text-align: center;"><u>(2) Once a probationer accrues credit equal to the maximum term of imprisonment for the offense, the court shall terminate the probation and</u></p>	<p><u>sentence the day an arrest warrant for the probationer is filed. If the court finds that the probationer violated the terms of probation and returns the person to probation, the court shall determine whether the person may again accrue credit towards the minimum sentence and when the accrual shall commence. <b>The court shall indicate the amount of credit to apply on the sentencing document.</b> If the court finds no violation occurred, there shall be no interruption in the probationer's accrual of credit.</u></p> <p style="text-align: center;"><u>(2) Once a probationer accrues credit equal to the <b>statutory</b> maximum term of imprisonment for the offense, the court shall terminate the probation and</u></p>	<p>Clarifying change requested by the DOC.</p> <p>Question for the committee: should this be statutory maximum or imposed maximum?</p>
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<u>discharge the person pursuant to section 251 of this title.</u>	<u>discharge the person pursuant to section 251 of this title.</u>	
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<p>Sec. 4. 28 V.S.A. § 304 is amended to read:</p> <p>§ 304. DISPOSITION ALTERNATIVES UPON VIOLATION OF PROBATION</p> <p>(a) <u>Revocation and imposition of sentence.</u></p> <p>(1) If a violation is established by a proceeding conducted in accordance with section 302 of this title, the court may, in its discretion, revoke probation and require the probationer to serve the <u>remainder of the sentence</u> that was suspended or order that the <u>remainder of the sentence</u> be served in the community pursuant to the provisions of chapter 6 of this title.</p>	<p>Sec. 4. 28 V.S.A. § 304 is amended to read:</p> <p>§ 304. DISPOSITION ALTERNATIVES UPON VIOLATION OF PROBATION</p> <p>(a) <u>Revocation and imposition of sentence.</u></p> <p>(1) If a violation is established by a proceeding conducted in accordance with section 302 of this title, the court may, in its discretion, revoke probation and require the probationer to serve the <u>remainder of the sentence</u> that was suspended or order that the <u>remainder of the sentence</u> be served in the community pursuant to the provisions of chapter 6 of this title.</p>	
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<p><u>(2) In the event the court revokes probation and requires the probationer to serve the suspended sentence pursuant to this section, the duration of the remaining suspended sentence shall be reduced in accordance with subsection 205(d) of this title and 13 V.S.A. § 7031(b)(2).</u></p> <p>(b) <u>Alternative sanctions.</u> As an alternative to revocation and imposition of sentence as provided in subsection (a) of this section, the court, in its discretion, after a violation has been established, may:</p> <p>(1) continue the probationer on the existing sentence;</p>	<p><u>(2) In the event the court revokes probation and requires the probationer to serve the suspended sentence pursuant to this section, the duration of the remaining suspended sentence shall be reduced in accordance with subsection 205(d) of this title and 13 V.S.A. § 7031(b)(2).</u> <b>The court shall indicate the total number of days credited towards the minimum sentence on the sentencing document.</b></p> <p>(b) <u>Alternative sanctions.</u> As an alternative to revocation and imposition of sentence as provided in subsection (a) of this section, the court, in its discretion, after <b>it has established that a violation occurred</b> <del>a violation has been established</del>, may:</p>	<p>Clarifying changes made at the request of DOC to establish that court is responsible for calculating credit towards the suspended sentence and the court must establish if a violation occurred.</p>
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<p>(2) effect, in accordance with subsection 253(b) of this title, necessary or desirable changes or enlargements in the conditions of probation;</p> <p>(3) conduct a formal or informal conference with the probationer in order to reemphasize to him or her the necessity of compliance with the conditions of probation;</p> <p>(4) issue a formal or informal warning to the probationer that further violations may result in revocation of probation by the court; or</p> <p>(5) continue the probationer on the existing sentence, but require the probationer to serve any portion of the sentence.</p>	<p>(1) continue the probationer on the existing sentence;</p> <p>(2) effect, in accordance with subsection 253(b) of this title, necessary or desirable changes or enlargements in the conditions of probation;</p> <p>(3) conduct a formal or informal conference with the probationer in order to reemphasize to him or her the necessity of compliance with the conditions of probation;</p> <p>(4) issue a formal or informal warning to the probationer that further violations may result in revocation of probation by the court; or</p> <p>(5) continue the probationer on the existing sentence, but require the</p>	
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<p>(c) <u>Guidelines.</u> Prior to ordering either revocation or an alternative sanction for a violation of probation in accordance with subsection (b) of this section, the court shall consider, but has complete discretion whether to follow, sanction guidelines established by the Department of Corrections pursuant to subsection (e) of this section.</p> <p>(d) <u>Discretion of the court.</u> No plea agreement shall limit the court’s discretion under this section.</p> <p>(e) <u>Rules.</u> The Department of Corrections shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish graduated sanction guidelines for</p>	<p>probationer to serve any portion of the sentence.</p> <p>(c) <u>Guidelines.</u> Prior to ordering either revocation or an alternative sanction for a violation of probation in accordance with subsection (b) of this section, the court shall consider, but has complete discretion whether to follow, sanction guidelines established by the Department of Corrections pursuant to subsection (e) of this section.</p> <p>(d) <u>Discretion of the court.</u> No plea agreement shall limit the court’s discretion under this section.</p> <p>(e) <u>Rules.</u> The Department of Corrections shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish graduated sanction guidelines for</p>	
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<p>probation violations as an alternative to revocation and imposition of the <u>remainder of the</u> original sentence. These guidelines do not grant the Department any authority to impose sanctions for probation violations.</p>	<p>probation violations as an alternative to revocation and imposition of the <u>remainder of the</u> original sentence. These guidelines do not grant the Department any authority to impose sanctions for probation violations.</p>	
<p>Sec. 14. 28 V.S.A. § 724 is amended to read:  § 724. <u>TERMS AND CONDITIONS OF CONDITIONAL REENTRY COMMUNITY SUPERVISION FURLOUGH</u></p> <p>(a) The Department shall identify in the terms and conditions of <del>conditional reentry</del> <u>community supervision furlough</u> those programs necessary to reduce the offender’s risk of reoffense and to promote the offender’s accountability for</p>	<p>Sec. 14. 28 V.S.A. § 724 is amended to read:  § 724. <u>TERMS AND CONDITIONS OF CONDITIONAL REENTRY COMMUNITY SUPERVISION FURLOUGH</u></p> <p>(a) The Department shall identify in the terms and conditions of <del>conditional reentry</del> <u>community supervision furlough</u> those programs necessary to reduce the offender’s risk of reoffense and to promote the offender’s accountability for</p>	<p>This section creates a due process mechanism for people on furlough when DOC revokes or interrupts their furlough status for 30 days or longer.</p>

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<p>progress in the reintegration process. <u>The Department shall make all determinations of violations of conditions of community supervision furlough pursuant to this subchapter and any resulting alternative sentence or termination of community supervision furlough status.</u></p> <p><u>(b) Any interruption of an offender’s community supervision furlough after the Department has found a technical violation of furlough conditions shall trigger a Department Central Office case staffing review and Department notification to the Office of the Defender General if the interruption will exceed 30 days.</u></p> <p><u>(c) An offender may seek review in the Civil Division of the Superior Court</u></p>	<p>progress in the reintegration process. <u>The Department shall make all determinations of violations of conditions of community supervision furlough pursuant to this subchapter and any resulting alternative sentence or termination of community supervision furlough status.</u></p> <p><u>(b) Any interruption of an offender’s community supervision furlough after the Department has found a technical violation of furlough conditions shall trigger a Department Central Office case staffing review and Department notification to the Office of the Defender General if the interruption will exceed 30 days.</u></p> <p><u>(c) An offender may seek review in the Civil Division of the Superior Court of the</u></p>	
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<p><u>of the Department’s decision to revoke furlough or interrupt furlough for 30 days or longer pursuant to Rule 75 of the Vermont Rules of Civil Procedure. The offender shall have the burden of proving by a preponderance of the evidence that the Department wrongfully violated the conditions of community supervision furlough or wrongfully imposed a furlough revocation or interrupt that exceeds 30 days.</u></p> <p><u>(d) As used in this section, “technical violation” shall mean a violation of conditions of furlough that does not constitute a new crime.</u></p>	<p><u>Department’s decision to revoke furlough or interrupt furlough for 30 days or longer pursuant to <b>Rule 75</b> of the Vermont Rules of Civil Procedure. The offender shall have the burden of proving by a preponderance of the evidence that the Department wrongfully violated the conditions of community supervision furlough or wrongfully imposed a furlough revocation or interrupt that exceeds 30 days.</u></p> <p><u>(d) As used in this section, “technical violation” shall mean a violation of conditions of furlough that does not constitute a new crime.</u></p>	<p>Question for the committee: Rule 74 or Rule 75 review?</p>
<p>Sec. 18. 28 V.S.A. § 808e is amended to read:</p>	<p>Same</p>	<p>This section is same in Senate and HCI version. It establishes that a law</p>

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<p>§ 808e. ABSCONDING FROM FURLOUGH; WARRANT</p> <p>(a) The Commissioner of Corrections may issue a warrant for the arrest of a person who has absconded from furlough status in violation of <del>subdivision subsection</del> <u>subsection 808(a)(6), subsection 808(e) or 808(f)</u>, or section 808a, 808b, or 808c of this title, requiring the person to be returned to a correctional facility. <u>A law enforcement officer who is provided with a warrant issued pursuant to this section shall execute the warrant and return the person who has absconded from furlough to the Department of Corrections.</u></p> <p>(b) A person for whom an arrest warrant is issued pursuant to this section shall not earn credit toward service of his</p>		<p>enforcement officer with a warrant issued by the DOC for the arrest of a person shall execute the warrant and return the person to the DOC.</p>
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<p>or her sentence for any days that the warrant is outstanding.</p>		
<p>Sec. 18a. 13 V.S.A. § 1501 is amended to read:          § 1501. ESCAPE AND ATTEMPTS TO ESCAPE          (a) A person who, while in lawful custody:              (1) escapes or attempts to escape from any correctional facility or a local lockup shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both; or              (2) escapes or attempts to escape from an officer, if the person was in custody as a result of a felony, shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both; or</p>	<p>Same</p>	<p>Senate and HCI versions are the same.          Allows furloughees to be prosecuted under the escape statute if they intended to escape from furlough.</p>



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<p>if the person was in custody as a result of a misdemeanor, shall be imprisoned for not more than two years, or fined not more than \$1,000.00, or both.</p> <p>(b)(1) A person shall not, while in lawful custody:</p> <p>(A) fail to return from work release to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with 28 V.S.A. § 753;</p> <p>(B) fail to return from furlough to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with 28 V.S.A. § 808(a)(1)-(5), or § 723;</p>		
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<p>(C) escape or attempt to escape while on release from a correctional facility to do work in the service of such facility or of the Department of Corrections in accordance with 28 V.S.A. § 758; or</p> <p>(D) elope or attempt to elope from the Vermont Psychiatric Care Hospital or a participating hospital, when confined by court order pursuant to chapter 157 of this title, or when transferred there pursuant to 28 V.S.A. § 703 and while still serving a sentence.</p> <p>(2) A person who violates this subsection shall be imprisoned for not more than five years or fined not more than \$1,000.00, or both.</p>		
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<p>(3) <del>It shall not be a violation of subdivision (1)(A), (1)(B), or (1)(C) of this subsection (b) if</del> <u>If the person is on furlough status pursuant to 28 V.S.A. § <del>723</del> 808(a)(6), 808(e), <del>808(f)</del>, or 808a, 808b, or 808e a violation of this subdivision (1) of this subsection (b) requires a showing that the person intended to escape from furlough.</u></p>		
<p>Sec. 19. RACIAL DISPARITIES IN CRIMINAL JUSTICE SYSTEM; VERMONT SENTENCING COMMISSION; EXECUTIVE DIRECTOR OF RACIAL EQUITY; DEPARTMENT OF CORRECTIONS; REPORT</p>	<p><u>Sec. 19. RACIAL DISPARITIES IN CRIMINAL JUSTICE SYSTEM; VERMONT SENTENCING COMMISSION; EXECUTIVE DIRECTOR OF RACIAL EQUITY; DEPARTMENT OF CORRECTIONS; REPORT</u></p>	

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<p><u>(a) During the 2020 legislative interim, the Chief Superior Judge, the Attorney General, the Defender General, the Department of Corrections, and the Executive Director of the Department of State’s Attorneys and Sheriffs shall work with Crime Research Group to identify existing data that explores the relationships between demographic factors and sentencing outcomes and determine whether and where current data systems and collections are insufficient for additional analyses and what staffing or resources are needed to support more robust reporting. Relevant data shall include plea agreements, sentence types and length, criminal history, offense severity, and any other metric that may</u></p>	<p><u>(a) During the 2020 legislative interim, <b>the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel,</b> the Chief Superior Judge, the Attorney General, the Defender General, the Department of Corrections, and the Executive Director of the Department of State’s Attorneys and Sheriffs shall work with Crime Research Group to identify existing data that explores the relationships between demographic factors and sentencing outcomes and determine whether and where current data systems and collections are insufficient for additional analyses and what staffing or resources are needed to support more robust reporting. Relevant data shall include plea agreements, sentence types</u></p>	<p>HCI added this group at the request of the AG.</p>
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<p><u>further identify differences in how people are charged and sentenced by county, race, and gender. Each stakeholder identified in this subsection shall report their findings to the Joint Legislative Justice Oversight Committee on or before October 1, 2020.</u></p> <p><u>(b)(1) During the 2020 legislative interim, the Vermont Sentencing Commission shall:</u></p> <p><u>(A) analyze sentencing patterns across the State to identify where the use and length of incarceration may result in or exacerbate racial disparities; and</u></p>	<p><u>and length, criminal history, offense severity, and any other metric that may further identify differences in how people are charged and sentenced by county, race, and gender. The stakeholders identified in this subsection shall jointly report their findings to the Joint Legislative Justice Oversight Committee on or before October 1, 2020. The report shall include any dissenting opinions among the stakeholders.</u></p> <p><u>(b)(1) During the 2020 legislative interim, the Vermont Sentencing Commission shall:</u></p> <p><u>(A) analyze sentencing patterns across the State to identify where the use and length of incarceration may result in or exacerbate racial disparities; and</u></p>	<p>HCI specified that the report from this working group shall be done jointly, with any dissenting opinions included in the report.</p> <p>Question for committee: should the stakeholders have the opportunity to complete this work in data gathering so the Sentencing Commission may rely on it for its work?</p>
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<p><u>(B) work with the Executive Director of Racial Equity and the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel in identifying the types of offenses for which there are racial and geographic disparities in sentencing and propose standardized sentencing guidance for those offenses.</u></p> <p><u>(2) The Commission shall work with the Crime Research Group for the analyses pursuant to this section.</u></p> <p><u>(3) On or before December 1, 2020, the Commission shall provide an interim report to the Joint Legislative Justice Oversight Committee with the results of its work pursuant to this subsection. On or before January 15,</u></p>	<p><u>(B) work with the Executive Director of Racial Equity and the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel in identifying the types of offenses for which there are racial and geographic disparities in sentencing and <b>propose standardized sentencing guidance for those offenses.</b></u></p> <p><u>(2) The Commission shall work with the Crime Research Group for the analyses pursuant to this section.</u></p> <p><u>(3) On or before <b>December 1, 2020,</b> the Commission shall provide an interim report to the Joint Legislative Justice Oversight Committee with the results of its work pursuant to this subsection. On or before <b>January 15, 2021,</b> the</u></p>	<p>Question for the Committee: should the Sentencing Commission have this responsibility?</p>
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<p><u>2021, the Commission shall provide its final report on its work pursuant to this subsection to the House and Senate Committees on Judiciary and the House Committee on Corrections and Institutions.</u></p>	<p><u>Commission shall provide its final report on its work pursuant to this subsection to the House and Senate Committees on Judiciary and the House Committee on Corrections and Institutions.</u></p>	
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