

S.338: Justice Reinvestment II
Side by side comparison
May 30, 2020

Changes made to the Senate Version

As passed the Senate	As voted out of House Corrections & Institutions	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>	[No corresponding section in House version]	House removed the sections that set forth a mechanism for probationers to earn one day off their minimum suspended sentence for every day they serve on probation without violating the terms of their probation sentence.

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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>		
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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 is sentenced.</p>		
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<p>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>		
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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 that</p>	<p>[No corresponding section]</p>	<p>House removed the sections eliminating indefinite probation terms and providing that no probation term shall exceed the statutory maximum for the offense.</p>
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<p>the interests of justice require a longer or an indefinite 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 or an indefinite period of probation.</p> <p>(B) As used in this subdivision, “nonviolent felonies” means an offense that is not:</p> <ul style="list-style-type: none">(i) a listed crime as defined in 13 V.S.A. § 5301(7); or(ii) an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.		
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<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 programming consistent with special conditions of probation. A hearing on the petition for an extension of probation under this subsection shall comply with the</p>		
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<p>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 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</p>		
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<p>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 style="padding-left: 40px;">(A) register with the Department of Corrections' probation and parole office in his or her district;</p> <p style="padding-left: 40px;">(B) notify the probation officer of his or her current address each month;</p> <p style="padding-left: 40px;">(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 style="padding-left: 40px;">(D) not be convicted of a criminal offense during the term of probation.</p>		
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<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> <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>		
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<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> <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>		
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<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 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</u></p>		
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<p><u>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><u>(2) Once a probationer accrues credit equal to the maximum term of imprisonment for the offense, the court shall terminate the probation and discharge the person pursuant to section 251 of this title.</u></p>		
<p>Sec. 4. 28 V.S.A. § 304 is amended to read:</p> <p>§ 304. DISPOSITION ALTERNATIVES UPON VIOLATION OF PROBATION</p>	<p>[No corresponding section]</p>	<p>House eliminated this section providing that if a person violates their conditions of probation and is revoked to prison, the time they would have remaining to serve on their minimum sentence would be</p>

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<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>(2) <u>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>reduced by the time they've earned on probation.</p>
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<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> <ul style="list-style-type: none">(1) continue the probationer on the existing sentence;(2) effect, in accordance with subsection 253(b) of this title, necessary or desirable changes or enlargements in the conditions of probation;(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;(4) issue a formal or informal warning to the probationer that further		
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<p>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>(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>		
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<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 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. 5. 28 V.S.A. § 402 is amended to read: § 402. DEFINITIONS Whenever <u>As</u> used in this chapter: (1) “Parole” means the release of an inmate to the community by the Parole Board before the end of the inmate’s sentence subject to conditions imposed by the Board and subject to the supervision</p>	<p>[Same as Senate version]</p>	<p>Technical change</p>

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<p>and control of the Commissioner. If a court or other authority files a warrant or detainer against an inmate, the Board may release him or her on parole to answer the warrant and serve any subsequent sentences.</p> <p>(2) “Interview” means an appearance by the inmate at a meeting of the Parole Board.</p> <p>(3) “Review” means an evaluation of an inmate’s records without an appearance by the inmate before the Parole Board.</p>		
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<p>Sec. 6. 28 V.S.A. § 501 is amended to read:</p> <p>§ 501. ELIGIBILITY FOR PAROLE CONSIDERATION</p> <p>An inmate who is serving a sentence of imprisonment <u>who is not eligible for presumptive parole pursuant to section 501a of this title</u> shall be eligible for parole consideration as follows:</p> <p>(1) If the inmate’s sentence has no minimum term or a zero minimum term, the inmate shall be eligible for parole consideration within 12 months after commitment to a correctional facility.</p> <p>(2) If the inmate’s sentence has a minimum term, the inmate shall be eligible for parole consideration after the inmate</p>	<p>Sec. 3. 28 V.S.A. § 501 is amended to read:</p> <p>§ 501. ELIGIBILITY FOR PAROLE CONSIDERATION</p> <p>An inmate who is serving a sentence of imprisonment <u>who is not eligible for presumptive parole pursuant to section 501a of this title</u> shall be eligible for parole consideration as follows:</p> <p>(1) If the inmate’s sentence has no minimum term or a zero minimum term, the inmate shall be eligible for parole consideration within 12 months after commitment to a correctional facility.</p> <p>(2) If the inmate’s sentence has a minimum term, the inmate shall be eligible for parole consideration after the</p>	<p>House removed “compassionate parole” eligibility for persons 65 and older.</p>
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<p>has served the minimum term of the sentence.</p> <p><u>(3) If the inmate is 65 years of age or older, is not serving a sentence of life without parole, and has served five years but not the minimum term of the sentence, the inmate shall be eligible for parole consideration unless the inmate has programming requirements that have not been fulfilled or has received a major disciplinary rule violation within the previous 12 months.</u></p>	<p>inmate has served the minimum term of the sentence.</p>	
<p>Sec. 7. 28 V.S.A. § 501a is added to read: <u>§ 501a. PRESUMPTIVE PAROLE</u> <u>An inmate who is serving a sentence of imprisonment shall be eligible for presumptive release in accordance with subsection 502a(e) of this title at the</u></p>	<p>Sec. 4. 28 V.S.A. § 501a is added to read: <u>§ 501a. PRESUMPTIVE PAROLE</u> <u>An inmate who is serving a sentence of imprisonment shall be eligible for presumptive release in accordance with subsection 502a(e) of this title at the</u></p>	

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<p><u>expiration of the inmate’s minimum or aggregate minimum term of imprisonment if the inmate:</u></p> <p style="padding-left: 40px;"><u>(1) has acquired no new criminal conviction while incarcerated or on supervision for the current offense;</u></p> <p style="padding-left: 40px;"><u>(2) has no outstanding warrants, detainers, commitments, or pending charges;</u></p> <p style="padding-left: 40px;"><u>(3) is compliant with the inmate’s case plan during the period of incarceration if the inmate is incarcerated for less than 90 days or is compliant for the 90 days preceding the completion of the inmate’s minimum term if the inmate is incarcerated for 90 days or more;</u></p>	<p><u>expiration of the inmate’s minimum or aggregate minimum term of imprisonment if the inmate:</u></p> <p style="padding-left: 40px;"><u>(1) has acquired no new criminal conviction while incarcerated or on supervision for the current offense;</u></p> <p style="padding-left: 40px;"><u>(2) has no outstanding warrants, detainers, commitments, or pending charges;</u></p> <p style="padding-left: 40px;"><u>(3) is compliant with the required services and programming portion of the inmate’s case plan during the period of incarceration if the inmate is incarcerated for less than 90 days or is compliant for the 90 days preceding the completion of the inmate’s minimum term if the inmate is incarcerated for 90 days or more;</u></p>	<p>Addition requested by DOC to specify what part of case plan offender is required to be compliant with for presumptive parole eligibility.</p>
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<p><u>(4) is compliant with the conditions of supervision if the offender is supervised in the community on furlough during:</u></p> <p><u>(A) the entire period of supervision if the term of supervision is less than 90 days; or</u></p> <p><u>(B) the 90 days prior to the consideration of parole eligibility if the term of supervision is 90 days or more;</u></p> <p><u>(5) has no major disciplinary rule violation or pending infractions during the period of incarceration if the inmate is incarcerated for less than 12 months, or has no major disciplinary rule violations or pending infractions during the preceding 12 months if the inmate is incarcerated for 12 months or more;</u></p>	<p><u>(4) is compliant with the conditions of supervision if the offender is supervised in the community on furlough during:</u></p> <p><u>(A) the entire period of supervision if the term of supervision is less than 90 days; or</u></p> <p><u>(B) the 90 days prior to the consideration of parole eligibility if the term of supervision is 90 days or more;</u></p> <p><u>(5) has no major disciplinary rule violation or pending infractions during the period of incarceration if the inmate is incarcerated for less than 12 months or has no major disciplinary rule violations or pending infractions during the preceding 12 months if the inmate is incarcerated for 12 months or more;</u></p>	
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<p><u>(6) has not had parole revoked on the inmate’s current sentence; and</u> <u>(7) is not serving a sentence for committing a crime specified in 13 V.S.A. § 5301.</u></p>	<p><u>(6) has not had parole revoked on the inmate’s current sentence; and</u> <u>(7) is not serving a sentence for committing a crime specified in 13 V.S.A. § 5301.</u></p>	
<p>Sec. 8. 28 V.S.A. § 501a is amended to read: § 501a. PRESUMPTIVE PAROLE An inmate who is serving a sentence of imprisonment shall be eligible for presumptive release in accordance with subsection 502a(e) of this title at the expiration of the inmate’s minimum or aggregate minimum term of imprisonment if the inmate: (1) has acquired no new criminal conviction while incarcerated or on supervision for the current offense;</p>	<p>[Same as Senate version]</p>	

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<p>(2) has no outstanding warrants, detainers, commitments, or pending charges;</p> <p>(3) is compliant with the inmate's case plan during the period of incarceration if the inmate is incarcerated for less than 90 days or is compliant for the 90 days preceding the completion of the inmate's minimum term if the inmate is incarcerated for 90 days or more;</p> <p>(4) is compliant with the conditions of the offender's supervision if the offender is supervised in the community on furlough during:</p> <p>(A) the entire period of supervision if the term of supervision is less than 90 days; or</p>		
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<p>(B) the 90 days prior to the consideration of parole eligibility if the term of supervision is 90 days or more;</p> <p>(5) has no major disciplinary rule violation or pending infractions during the period of incarceration if the inmate is incarcerated for less than 12 months, or has no major disciplinary rule violations or pending infractions during the preceding 12 months if the inmate is incarcerated for 12 months or more;</p> <p>(6) has not had parole revoked on the inmate's current sentence; and</p> <p>(7) is not serving a sentence for committing a crime specified in 13 V.S.A. § 5301 <u>33 V.S.A. § 5204(a)</u>.</p>		
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<p>Sec. 9. 28 V.S.A. § 502 is amended to read:</p> <p>§ 502. PAROLE INTERVIEWS AND REVIEWS</p> <p>(a) The Board shall interview each inmate eligible for parole consideration under section 501 of this title before ordering the inmate released on parole. The Board shall consider all pertinent information regarding an inmate in order to determine the inmate's eligibility for parole. The Board may grant parole only after an inmate is interviewed in accordance with this section. The Parole Board may conduct the interview in person, by telephone or videoconference, or by any other method it deems appropriate.</p>	<p>Sec. 6. 28 V.S.A. § 502 is amended to read:</p> <p>§ 502. PAROLE INTERVIEWS AND REVIEWS</p> <p>(a) The Board shall interview each inmate eligible for parole consideration under section 501 of this title before ordering the inmate released on parole. The Board shall consider all pertinent information regarding an inmate in order to determine the inmate's eligibility for parole. The Board may grant parole only after an inmate is interviewed in accordance with this section. The Parole Board may conduct the interview in person, by telephone or videoconference, or by any other method it deems appropriate.</p>	<p>The changes to this section were requested by the Parole Board. The new provisions require that all offenders not on parole at the completion of their minimum sentence have their cases reviewed annually by the Parole Board. PB must conduct a record review annually, and conduct an interview annually if requested by the offender or the Department, regardless of the offender's maximum sentence.</p>
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<p>(b) An initial interview of the inmate shall occur <u>at least 30 days prior to the date</u> when the inmate becomes eligible for parole consideration under section 501 of this title.</p> <p>(c) An inmate eligible for parole consideration shall, subsequent to the initial interview provided for above, be reviewed and interviewed thereafter, as follows:</p> <p>(1) If the inmate is serving a maximum sentence of less than 15 years:</p> <p>(A) the Board shall review the inmate's record once every 12 months;</p> <p>(B) the Board shall conduct an interview of the inmate at the request of the Department; and</p>	<p>(b) An initial interview of the inmate shall occur <u>at least 30 days prior to the date</u> when the inmate becomes eligible for parole consideration under section 501 of this title.</p> <p>(c) An inmate eligible for parole consideration shall, subsequent to the initial interview provided for above, be reviewed and interviewed thereafter, as follows:</p> <p>(1) If the inmate is serving a maximum sentence of less than 15 years:</p> <p>(A) the Board shall review the inmate's record once every 12 months;</p> <p>(B)<u>(2)</u> the Board shall conduct an interview of the inmate at the request of the Department; and</p>	
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<p>(C) upon written request of the inmate, the Board shall conduct an interview, but not more than once in any two-year period.</p> <p>(2) If the inmate is serving a sentence with a maximum of 15 years up to a maximum of life:</p> <p>(A) the Board shall review the inmate's record once every two years;</p> <p>(B) the Board shall conduct an interview of the inmate at the request of the Department; and</p> <p>(C) upon written request of the inmate, the Board may conduct an interview, but not more than once in any two-year period.</p> <p>(d) The Board in its discretion may hear from attorneys or other persons with</p>	<p>(C)(3) upon written request of the inmate, the Board shall conduct an interview, but not more than once in any two-year period annually.</p> <p>(2) If the inmate is serving a sentence with a maximum of 15 years up to a maximum of life:</p> <p>(A) the Board shall review the inmate's record once every two years;</p> <p>(B) the Board shall conduct an interview of the inmate at the request of the Department; and</p> <p>(C) upon written request of the inmate, the Board may conduct an interview, but not more than once in any two-year period.</p> <p>(d) The Board in its discretion may hear from attorneys or other persons with</p>	
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<p>an interest in the case before the Board. A person presenting statements to the Board may be required to submit the statement in writing.</p> <p>(e) Interviews and reviews shall be conducted in accordance with the rules and regulations established by the Board, which shall be consistent with this section.</p> <p>(f) The Board may, when formulating the conditions of a parole, shall take into consideration the emotional needs of the victim of an offender’s crime plus the needs of the victim’s family.</p>	<p>an interest in the case before the Board. A person presenting statements to the Board may be required to submit the statement in writing.</p> <p>(e) Interviews and reviews shall be conducted in accordance with the rules and regulations established by the Board, which shall be consistent with this section.</p> <p>(f) The Board may, when formulating the conditions of a parole, shall take into consideration the emotional needs of the victim of an offender’s crime plus the needs of the victim’s family.</p>	
<p>Sec. 10. 28 V.S.A. § 502a is amended to read:</p> <p>§ 502a. RELEASE ON PAROLE</p> <p>(a) No <u>Except as otherwise provided in subsection (d) of this section and section</u></p>	<p>Sec. 7. 28 V.S.A. § 502a is amended to read:</p> <p>§ 502a. RELEASE ON PAROLE</p> <p>(a) No <u>Except as otherwise provided in subsection (d) of this section and</u></p>	

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<p><u>501 of this title, no inmate serving a sentence with a minimum term shall be released on parole until the inmate has served the minimum term of the sentence, less any reductions for good behavior.</u></p> <p>(b) An inmate <u>who is not eligible for presumptive parole pursuant to section 501a of this title</u> shall be released on parole by the written order of the Parole Board if the Board determines:</p> <ul style="list-style-type: none">(1) the inmate is eligible for parole;(2) there is a reasonable probability that the inmate can be released without detriment to the community or to the inmate; and(3) the inmate is willing and capable of fulfilling the obligations of a law-abiding citizen.	<p><u>section 501 of this title, no inmate serving a sentence with a minimum term shall be released on parole until the inmate has served the minimum term of the sentence, less any reductions for good behavior.</u></p> <p>(b) An inmate <u>who is not eligible for presumptive parole pursuant to section 501a of this title</u> shall be released on parole by the written order of the Parole Board if the Board determines:</p> <ul style="list-style-type: none">(1) the inmate is eligible for parole;(2) there is a reasonable probability that the inmate can be released without detriment to the community or to the inmate; and(3) the inmate is willing and capable of fulfilling the obligations of a law-abiding citizen.	
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<p>(c) A parole <u>under subsection (b) or (e) of this section</u> shall be ordered only for the best interests of the community and of the inmate, and shall not be regarded as an award of clemency, a reduction of sentence, or a conditional pardon.</p> <p>(d) Notwithstanding subsection (a) <u>or (e)</u> of this section, or any other provision of law to the contrary, any inmate who is serving a sentence, including an inmate who has not yet served the minimum term of the sentence, who is diagnosed as having a terminal or serious medical condition so as to render the inmate unlikely to be physically capable of presenting a danger to society, may be released on medical parole to a hospital, hospice, other licensed inpatient facility, or</p>	<p>(c) A parole <u>under subsection (b) or (e) of this section</u> shall be ordered only for the best interests of the community and of the inmate, and shall not be regarded as an award of clemency, a reduction of sentence, or a conditional pardon.</p> <p>(d) Notwithstanding subsection (a) <u>or (e)</u> of this section, or any other provision of law to the contrary, any inmate who is serving a sentence, including an inmate who has not yet served the minimum term of the sentence, who is diagnosed as having a terminal or serious medical condition so as to render the inmate unlikely to be physically capable of presenting a danger to society, may be released on medical parole to a hospital, hospice, other licensed inpatient facility,</p>	
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<p>suitable housing accommodation as specified by the Parole Board. Provided the inmate has authorized the release of his or her personal health information, the Department shall promptly notify the Parole Board upon receipt of medical information of an inmate’s diagnosis of a terminal or serious medical condition. As used in this subsection, a “serious medical condition” does not mean a condition caused by noncompliance with a medical treatment plan.</p> <p><u>(e)(1) The Department shall identify each inmate meeting the presumptive parole eligibility criteria in section 501a of this title and refer each eligible inmate to the Parole Board at least 60 days prior to the inmate’s eligibility date.</u></p>	<p>or suitable housing accommodation as specified by the Parole Board. Provided the inmate has authorized the release of his or her personal health information, the Department shall promptly notify the Parole Board upon receipt of medical information of an inmate’s diagnosis of a terminal or serious medical condition. As used in this subsection, a “serious medical condition” does not mean a condition caused by noncompliance with a medical treatment plan.</p> <p><u>(e)(1) The Department shall identify each inmate meeting the presumptive parole eligibility criteria in section 501a of this title and refer each eligible inmate who does not meet the risk criteria set forth in subdivision (2) of this subsection</u></p>	<p>Administrative review by Parole Board substantially rewritten by the House to clarify the process. Stakeholders agreed to these changes.</p>
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<p>(2) <u>The Department shall recommend presumptive release for each eligible inmate unless it determines, based on clear and convincing evidence, that:</u></p> <p>(A) <u>there is a reasonable probability that the inmate cannot be released without detriment to the community; or</u></p> <p>(B) <u>the inmate is not willing and capable of fulfilling the obligations of a law-abiding citizen.</u></p>	<p>to the Parole Board <u>for an administrative review</u> at least 60 days prior to the inmate's eligibility date.</p> <p>(2) The Department shall <u>screen each inmate it identifies as eligible for presumptive parole for the risk criteria set forth in this subdivision.</u> If the Department determines that, based on <u>clear and convincing evidence, there is a reasonable probability that the inmate's release would result in a detriment to the community, or that the inmate is not willing and capable of fulfilling the obligations of parole, the Department shall, at least 60 days prior to the inmate's eligibility date, refer the inmate to the Parole Board for a parole hearing.</u></p>	
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<p><u>(3)(A) The Parole Board shall conduct an administrative review of each inmate the Department recommends for presumptive release within 30 days of the inmate's eligibility date. The Board may deny presumptive release and set a hearing if it determines, through its administrative review, that a victim or victims should be notified and given the opportunity to participate in a parole hearing.</u></p>	<p><u>(3)(A) Within 30 days of the inmate's eligibility date, the Parole Board shall conduct an administrative review of each inmate the Department identifies as eligible for presumptive release who does not meet the risk criteria set forth in subdivision (2) of this subsection. The Board may deny presumptive release and set a hearing if it determines, through its administrative review, that a victim or victims should have the opportunity to participate in a parole hearing. If the Board determines there is a victim or victims who should be notified, the Department shall notify the victim or victims, and the Board shall provide them with the opportunity to participate in a parole hearing.</u></p>	<p>House added this language to clarify that Department would notify a victim, not the Parole Board, which conforms with current practice.</p>
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<p><u>(B) The Parole Board shall conduct a parole hearing pursuant to section 502 of this title for each eligible inmate that the Department determines is not appropriate for release based on the criteria in subdivision (2) of this subsection.</u></p>	<p><u>(B) The Parole Board shall conduct a parole hearing pursuant to section 502 of this title for each eligible inmate that the Department determines meets the risk criteria in subdivision (2) of this subsection.</u></p>	
<p>Sec. 11. 28 V.S.A. § 808 is amended to read: § 808. <u>TEMPORARY FURLOUGHS GRANTED TO OFFENDERS</u> (a) The Department may extend the limits of the place of confinement of an offender at any correctional facility if the offender agrees to comply with such conditions of supervision the Department, in its sole discretion, deems appropriate for that offender’s furlough. The Department may authorize <u>a temporary furlough for a</u></p>	<p>[Same as Senate version]</p>	

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<p><u>defined</u> period for any of the following reasons:</p> <ul style="list-style-type: none">(1) To visit a critically ill relative.(2) To attend the funeral of a relative.(3) To obtain medical services.(4) To contact prospective employers.(5) To secure a suitable residence for use upon discharge.(6) To continue the process of reintegration initiated in a correctional facility. The offender may be placed in a program of conditional reentry status by the Department upon the offender's completion of the minimum term of sentence. While on conditional reentry status, the offender shall be required to		
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<p>participate in programs and activities that hold the offender accountable to victims and the community pursuant to section 2a of this title.</p> <p>(b) An offender granted a <u>temporary</u> furlough pursuant to this section may be accompanied by an employee of the Department, in the discretion of the Commissioner, during the period of the offender's furlough. The Department may use electronic monitoring equipment such as global position monitoring, automated voice recognition telephone equipment, and transdermal alcohol monitoring equipment to enable more effective or efficient supervision of individuals placed on furlough.</p>		
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<p>(c) The extension of the limits of the place of confinement authorized by this section shall in no way be interpreted as a probation or parole of the offender, but shall constitute solely a permitted extension of the limits of the place of confinement for offenders committed to the custody of the Commissioner.</p> <p>(d) When any enforcement officer, as defined in 23 V.S.A. § 4, employee of the Department, or correctional officer responsible for supervising an offender believes the offender is in violation of any verbal or written condition of the <u>temporary</u> furlough, the officer or employee may immediately lodge the offender at a correctional facility or orally or in writing deputize any law enforcement</p>		
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<p>officer or agency to arrest and lodge the offender at such a facility. The officer or employee shall subsequently document the reason for taking such action.</p> <p>(e) The Commissioner may place on medical furlough any offender who is serving a sentence, including an offender who has not yet served the minimum term of the sentence, who is diagnosed with a terminal or serious medical condition so as to render the offender unlikely to be physically capable of presenting a danger to society. The Commissioner shall develop a policy regarding the application for, standards for eligibility of, and supervision of persons on medical furlough. The offender may be released to a hospital, hospice, other licensed inpatient</p>		
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<p>facility, or other housing accommodation deemed suitable by the Commissioner. As used in this subsection, a “serious medical condition” does not mean a condition caused by noncompliance with a medical treatment plan.</p> <p>(f) While appropriate community housing is an important consideration in release of offenders, the Department shall not use lack of housing as the sole factor in denying furlough to offenders who have served at least their minimum sentence for a nonviolent misdemeanor or nonviolent felony provided that public safety and the best interests of the offender will be served by reentering the community on furlough. The Department shall adopt rules to implement this subsection. [Repealed.]</p>		
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<p>(g) Subsections (b)–(f) <u>Subsection (b)</u> of this section shall also apply to sections 808a and 808c of this title.</p>		
<p>Sec. 12. 28 V.S.A. § 808a is amended to read:</p> <p>§ 808a. TREATMENT FURLOUGH</p> <p>(a) An offender may be sentenced to serve a term of imprisonment, but placed by a court on treatment furlough to participate in such programs administered by the Department in the community that reduce the offender’s risk to reoffend or that provide reparation to the community in the form of supervised work activities.</p> <p>(b) Provided the approval of the sentencing judge is first obtained, the Department may place on treatment furlough an offender who has not yet</p>	<p>[Same as Senate version]</p>	

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<p>served the minimum term of the sentence, who, in the Department’s determination, needs residential treatment services not available in a correctional facility. The services may include treatment for substance abuse or personal violence or any other condition that the Department has determined should be addressed in order to reduce the offender’s risk to reoffend or cause harm to himself or herself or to others in the facility. The offender shall be released only to a hospital or residential treatment facility that provides services to the general population. The State’s share of the cost of placement in such a facility, net of any private or federal participation, shall be paid pursuant to memoranda of agreement between and</p>		
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<p>within State agencies reflective of their shared responsibilities to maximize the efficient and effective use of State resources. In the event that a memorandum of agreement cannot be reached, the Secretary of Administration shall make a final determination as to the manner in which costs will be allocated.</p> <p>(c)(1) Except as provided in subdivision (2) of this subsection, the Department, in its own discretion, may place on treatment furlough an offender who has not yet served the minimum term of his or her sentence for an eligible misdemeanor as defined in section 808d of this title if the Department has made a determination based upon a risk assessment that the offender poses a low risk to public safety</p>		
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<p>or victim safety and that employing an alternative to incarceration to hold the offender accountable is likely to reduce the risk of recidivism.</p> <p>(2) Driving under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. §§ 1201 and 1210(e) and boating under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. § 3323 shall be considered eligible misdemeanors for the sole purpose of subdivision (1) of this subsection.</p> <p><u>[Repealed.]</u></p>		
<p>Sec. 13. 28 V.S.A. § 723 is amended to read:</p> <p>§ 723. CONDITIONAL REENTRY <u>COMMUNITY SUPERVISION</u></p>	<p>Sec. 10. 28 V.S.A. § 723 is amended to read:</p> <p>§ 723. CONDITIONAL REENTRY <u>COMMUNITY SUPERVISION</u></p>	

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<u>FURLOUGH</u>	<u>FURLOUGH</u>	
<p>(a) When a sentenced offender has served the minimum term of the total effective sentence, the <u>The</u> Department may release the offender from a correctional facility under section 808 of this title for the offender to participate in a reentry program while serving the remaining sentence in the community <u>a</u> <u>person who:</u></p> <p style="padding-left: 40px;"><u>(1) has served the minimum term of the person's total effective sentence;</u></p> <p style="padding-left: 40px;"><u>(2) is ineligible for presumptive parole pursuant to section 501a of this title or has been returned or revoked to prison for a violation of conditions of parole, furlough, or probation; and</u></p>	<p>(a) When a sentenced offender has served the minimum term of the total effective sentence, the <u>The</u> Department may release the offender from a correctional facility under section 808 of this title for the offender to participate in a reentry program while serving the remaining sentence in the community <u>a</u> <u>person who:</u></p> <p style="padding-left: 40px;"><u>(1) has served the minimum term of the person's total effective sentence;</u></p> <p style="padding-left: 40px;"><u>(2) is ineligible for or refuses presumptive parole pursuant to section 501a of this title or has been returned or revoked to prison for a violation of conditions of parole, furlough, or probation; and</u></p>	<p>Addition requested by DOC to allow furlough eligibility for an offender who refuses presumptive parole.</p>

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<p><u>(3) agrees to comply with such conditions of supervision the Department, in its sole discretion, deems appropriate for that person's furlough.</u></p> <p>(b) The offender's continued supervision in the community is conditioned on the offender's commitment to and satisfactory progress in his or her reentry program and on the offender's compliance with any terms and conditions identified by the Department.</p> <p>(c) Prior to release under this section, the Department shall screen and, if appropriate, assess each felony drug and property offender for substance abuse treatment needs using an assessment tool designed to assess the suitability of a broad range of treatment services, and it shall use</p>	<p><u>(3) agrees to comply with such conditions of supervision the Department, in its sole discretion, deems appropriate for that person's furlough.</u></p> <p>(b) The offender's continued supervision in the community is conditioned on the offender's commitment to and satisfactory progress in his or her reentry program and on the offender's compliance with any terms and conditions identified by the Department.</p> <p>(c) Prior to release under this section, the Department shall screen and, if appropriate, assess each felony drug and property offender for substance abuse treatment needs using an assessment tool designed to assess the suitability of a broad range of treatment services, and it</p>	
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<p>the results of this assessment in preparing a reentry plan. The Department shall attempt to identify all necessary services in the reentry plan and work with the offender to make connections to necessary services prior to release so that the offender can begin receiving services immediately upon release.</p>	<p>shall use the results of this assessment in preparing a reentry plan. The Department shall attempt to identify all necessary services in the reentry plan and work with the offender to make connections to necessary services prior to release so that the offender can begin receiving services immediately upon release.</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> (a) The Department shall identify in the terms and conditions of conditional reentry <u>community supervision furlough</u> those programs necessary to reduce the</p>	<p>Sec. 11. 28 V.S.A. § 724 is amended to read: § 724. <u>TERMS AND CONDITIONS OF CONDITIONAL REENTRY COMMUNITY SUPERVISION FURLOUGH</u> The Department shall identify in the terms and conditions of conditional reentry <u>community supervision furlough</u> those programs necessary to reduce the</p>	<p>House altered the due process provisions set forth in this section and put them in a separate section to take effect in July, 2021.</p>

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<p>offender’s risk of reoffense and to promote the offender’s accountability for 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>(b) <u>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</u></p>	<p>offender’s risk of reoffense and to promote the offender’s accountability for 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 change in status or termination of community supervision furlough status.</u></p> <p>The following language appears in Sec. 12, which takes effect July 1, 2021</p> <p>(b) 30-day interrupt or revocation.</p> <p><u>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</u></p>	
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<p><u>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 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>notification to the Office of the Defender General if duration of the interruption will be thirty days or longer.</u></p> <p><u>(c) Appeal. An offender whose furlough status is revoked or interrupted for 30 days or longer shall have the right to appeal the Department’s determination to the Civil Division of the Superior Court in accordance with Rule 74 of the Vermont Rules of Civil Procedure. The appeal shall be based on a de novo review of the record. The appellant may offer testimony, and, in its discretion for good cause shown, the court may accept additional evidence to supplement the record.</u> The appellant shall have the burden of proving by a preponderance of the evidence that the Department abused</p>	<p>House version gives offenders the right to a Rule 74 review of a DOC determination to revoke their furlough for 30 days or more for a technical violation. Court review is based on a de novo review of the record for abuse of discretion by the DOC.</p>
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<p>(d) <u>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>its discretion in imposing a furlough revocation or interrupt for 30 days or longer pursuant to subsection (d) of this section.</u></p> <p>(d) <u>Technical violations.</u></p> <p>(1) <u>As used in this section, “technical violation” means a violation of conditions of furlough that does not constitute a new crime.</u></p> <p><u>(2) It shall be abuse of the Department’s discretion to revoke furlough or interrupt furlough status for 30 days or longer for a technical violation, unless:</u></p> <p><u>(A) the offender’s risk to reoffend can no longer be adequately controlled in the community, and no other</u></p>	
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	<p><u>method to control noncompliance is suitable; or</u></p> <p><u>(B) the violation or pattern of violations indicates the offender poses a danger to others or to the community or poses a threat to abscond or escape from furlough.</u></p>	<p>House sets out criteria for abuse of discretion by DOC for furlough interrupts of 30+ days for technical violations.</p>
<p>Sec. 15. 28 V.S.A. § 725 is amended to read:</p> <p>§ 725. PAROLE HEARING FOR OFFENDERS ON CONDITIONAL REENTRY <u>COMMUNITY SUPERVISION FURLOUGH</u></p> <p>(a) The Department shall submit to the Parole Board a recommendation relative to whether the offender should be released to parole pursuant to section 502a <u>501</u> of this title when:</p>	<p>[Same as Senate version]</p>	

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<p>(1) an offender sentenced solely for the commission of one or more unlisted crimes has, in the sole discretion of the Department, successfully completed 90 days of <u>community supervision furlough</u> in a conditional reentry program; or</p> <p>(2) an offender sentenced for the commission of at least one or more listed crimes has, in the sole discretion of the Department, successfully completed 180 days of <u>community supervision</u> in a conditional reentry program <u>furlough</u>.</p>		
<p>Sec. 16. 28 V.S.A. § 818 is amended to read:</p> <p>§ 818. EARNED GOOD TIME; REDUCTION OF TERM</p> <p>(a) On or before July 1, 2020, the Department of Corrections shall file a</p>	<p>Sec. 14. 28 V.S.A. § 818 is amended to read:</p> <p>§ 818. EARNED GOOD TIME; REDUCTION OF TERM</p> <p>(a) On or before July 1, 2020 <u>September 1, 2020</u>, the Department of</p>	

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<p>proposed rule pursuant to 3 V.S.A. chapter 25 implementing an earned good time program <u>to become effective on October 1, 2020. The Commissioner shall adopt these amendments as an emergency rule and concurrently propose them as a permanent rule. The emergency rule shall be deemed to meet the standard for the adoption of emergency rules pursuant to 3 V.S.A. § 844(a).</u></p> <p>(b) The earned good time program implemented pursuant to this section shall comply with the following standards:</p> <p>(1) The program shall be available for all sentenced offenders, including furloughed offenders, provided that the</p>	<p>Corrections shall file a proposed rule pursuant to 3 V.S.A. chapter 25 implementing an earned good time program to become effective on January 1, 2021. <u>The Commissioner shall adopt rules to carry out the provisions of this section as an emergency rule and concurrently propose them as a permanent rule. The emergency rule shall be deemed to meet the standard for the adoption of emergency rules pursuant to 3 V.S.A. § 844(a).</u></p> <p>(b) The earned good time program implemented pursuant to this section shall comply with the following standards:</p> <p>(1) The program shall be available for all sentenced offenders, including furloughed offenders, provided that the</p>	
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<p>program shall not be available to offenders on probation or parole, to offenders eligible for a reduction of term pursuant to section 811 of this title, or to offenders sentenced to life without parole.</p> <p>(2) Offenders shall earn a reduction of five <u>seven</u> days in the minimum and maximum sentence for each month <u>30 days</u> during which the offender:</p> <p style="padding-left: 40px;">(A) is not adjudicated of a major disciplinary rule violation; <u>and</u></p> <p style="padding-left: 40px;">(B) is not reincarcerated from the community for a violation of release conditions, provided that an offender who</p>	<p>program shall not be available to offenders on probation or parole, to offenders eligible for a reduction of term pursuant to section 811 of this title, or to offenders sentenced to life without parole.</p> <p><u>Offenders currently serving a sentence shall be eligible to begin earning a reduction in term when the earned good time program becomes effective.</u></p> <p>(2) Offenders shall earn a reduction of five <u>seven</u> days in the minimum and maximum sentence for <u>each month</u> during which the offender:</p> <p style="padding-left: 40px;">(A) is not adjudicated of a major disciplinary rule violation; <u>and</u></p> <p style="padding-left: 40px;">(B) is not reincarcerated from the community for a violation of release conditions, provided that an offender who</p>	<p>House changed “each 30 days” to each month” at the request of DOC. Their system is set up to track monthly.</p>
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<p>loses a residence for a reason other than fault on the part of the offender shall not be deemed reincarcerated under this subdivision; and,</p> <p>(C) complies with a merit-based system designed to incentivize offenders to meet milestones identified by the Department that prepare offenders for reentry, if the offender has received a sentence of greater than one year.</p> <p>(3) An offender who receives post-adjudication treatment in a residential setting for a substance use disorder shall earn a reduction of one day in the minimum and maximum sentence for each day that the offender receives the inpatient treatment. While a person is in residential substance abuse treatment, he or she shall</p>	<p>loses a residence for a reason other than fault on the part of the offender shall not be deemed reincarcerated under this subdivision; and,</p> <p>(C) complies with a merit-based system designed to incentivize offenders to meet milestones identified by the Department that prepare offenders for reentry, if the offender has received a sentence of greater than one year.</p> <p>(3) An offender who receives post-adjudication treatment in a residential setting for a substance use disorder shall earn a reduction of one day in the minimum and maximum sentence for each day that the offender receives the inpatient treatment. While a person is in residential substance abuse treatment, he or she shall</p>	
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<p>not be eligible for good time except as provided in this subsection.</p> <p>(4) The Department shall provide timely notice no <u>not</u> less frequently than every 90 days to the offender and to any victim of record any time the offender receives a reduction in his or her term of supervision pursuant to this section, and the Department shall maintain a system that documents and records all such reductions in each offender's permanent record.</p>	<p>not be eligible for good time except as provided in this subsection.</p> <p>(4) The Department shall:</p> <p><u>(A) ensure that all victims of record are notified of the earned good time program at its outset and made aware of the option to receive notifications from the Department pursuant to this subdivision;</u></p> <p><u>(B)</u> provide timely notice no <u>not</u> less frequently than every 90 days to the offender and to any victim of record any time the offender receives a reduction in his or her term of supervision pursuant to this section, and the Department shall;</p> <p><u>(C)</u> maintain a system that documents and records all such reductions in each offender's permanent record; <u>and</u></p>	
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<p>(5) The program shall become effective upon the Department's adoption of final proposed rules pursuant to 3 V.S.A. § 843.</p>	<p style="text-align: center;"><u>(D) record any reduction in an offender's term of supervision pursuant to this section on a monthly basis and ensure that victims who want information regarding changes in scheduled release dates have access to such information.</u></p> <p>(5) The program shall become effective upon the Department's adoption of final proposed rules pursuant to 3 V.S.A. § 843.</p>	
<p>[No corresponding provision in Senate version]</p>	<p>Sec. 15. 13 V.S.A. § 5305 is amended to read:</p> <p>§ 5305. INFORMATION CONCERNING RELEASE FROM CUSTODY</p> <p>(a) Victims, other than victims of acts of delinquency, and affected persons shall have the right to request notification by</p>	<p>House added this section to codify existing practice that victims' advocates are informing victims of the right to receive notifications regarding scheduled release dates for offenders.</p>

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	<p>the agency having custody of the defendant before the defendant is released, including a release on bail or conditions of release, furlough, or other community program, upon termination or discharge from probation, or whenever the defendant escapes, is recaptured, dies, or receives a pardon or commutation of sentence. Notice shall be given to the victim or affected person as expeditiously as possible at the address or telephone number provided to the agency having custody of the defendant by the person requesting notice. Any address or telephone number so provided shall be kept confidential. The prosecutor's office shall ensure that victims are made aware of their right to notification of an</p>	
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	<p><u>offender's scheduled release date pursuant to this section.</u></p> <p>(b) If the defendant is released on conditions at arraignment, the prosecutor's office shall inform the victim of a listed crime of the conditions of release.</p> <p>(c) If requested by a victim of a listed crime, the Department of Corrections shall:</p> <p>(1) at least 30 days before a parole board hearing concerning the defendant, inform the victim of the hearing and of the victim's right to testify before the parole board or to submit a written statement for the parole board to consider; and</p> <p>(2) promptly inform the victim of the decision of the parole board, including</p>	
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	<p>providing to the victim any conditions attached to the defendant's release on parole.</p>	
<p>Sec. 17. 28 V.S.A. § 808d is amended to read: § 808d. DEFINITION; ELIGIBLE MISDEMEANOR; FURLOUGH AT THE DISCRETION OF THE DEPARTMENT</p> <p>For purposes of sections 808a-808e <u>As used in section 808c</u> of this title, "eligible misdemeanor" means a misdemeanor crime that is not one of the following crimes:</p> <p style="text-align: center;">* * *</p>	<p>[Same as Senate version]</p>	
<p>Sec. 18. 28 V.S.A. § 808e is amended to read:</p>	<p>[Same as Senate version]</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 subdivision <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>		
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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 as Senate version]</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 style="padding-left: 40px;">(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 style="padding-left: 40px;">(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), <u>or § 723</u>;</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> <p>(3) It shall not be a violation of subdivision (1)(A), (1)(B), or (1)(C) of this</p>		
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<p>subsection (b) if <u>If</u> the person is on furlough status pursuant to 28 V.S.A. § <u>723</u> 808(a)(6), 808(e), 808(f), or 808a, 808b, or 808e a violation of this subdivision (1) of this subsection (b) requires a showing that <u>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>(a) During the 2020 legislative interim, the Chief Superior Judge, the Attorney General, the Defender General, the Department of Corrections, and the</u></p>	<p>Sec. 19. RACIAL DISPARITIES IN THE CRIMINAL JUSTICE SYSTEM STUDY AND RECOMMENDATIONS; VERMONT SENTENCING COMMISSION</p> <p><u>(a) During the 2020 legislative interim, the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel, the Executive Director of</u></p>	<p>House added this group at the request of the AG.</p>

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<p><u>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 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</u></p>	<p><u>Racial Equity, 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 further</u></p>	
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<p><u>the Joint Legislative Justice Oversight Committee on or before October 1, 2020.</u></p>	<p><u>identify differences in how people are charged and sentenced by county, race, and gender. The stakeholders identified in this subsection shall also:</u></p> <p style="padding-left: 40px;"><u>(1) Perform an initial analysis of sentencing patterns across the State to identify where the use and length of incarceration may result in or exacerbate racial disparities and make any related proposals for legislative action, including recommendations for further study.</u></p> <p style="padding-left: 40px;"><u>(2) Jointly report their findings pursuant to this subsection and any associated recommendations pursuant to subdivisions (1) and (2) of this subsection to the Joint Legislative Justice Oversight Committee and the Vermont Sentencing Commission on or before December 1,</u></p>	
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<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>(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>2020. The report shall include any dissenting opinions among the stakeholders.</u></p> <p><u>(b)(1) The Vermont Sentencing Commission shall consider relevant findings and recommendations developed by the stakeholder group pursuant to subsection (a) of this section and:</u></p> <p><u>(A) consider whether changes to Vermont’s sentencing structure are necessary to address the findings and implement the recommendations developed by the stakeholder group; and</u></p> <p><u>(B) if it deems appropriate, issue nonbinding guidance for offenses for which there are racial and geographic disparities in sentencing.</u></p>	<p>House substantially re-wrote this section to change the scope of work for the Sentencing Commission.</p>
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<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, 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>(2) On or before February 26, 2021, the Vermont Sentencing Commission shall report to the House and Senate Committees on Judiciary and the House Committee on Corrections and Institutions on its determinations pursuant to subdivision (1) of this subsection.</u></p>	
<p>[No corresponding provision in Senate version]</p>	<p>Sec. 20. PAROLE REPORT; JUDICIARY; PAROLE BOARD</p> <p><u>On or before January 15, 2022, the Chair of the Vermont Parole Board shall</u></p>	<p>House added this section to require Parole Board to report on administrative burden of presumptive parole before</p>

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	<p><u>report to the Senate Committee on Judiciary and the House Committee on Corrections and Institutions on the implementation of presumptive parole as established by 28 V.S.A. §§ 501a and 502a. The report shall include an analysis of the current administrative burden of presumptive parole and the anticipated administrative burden of expanding presumptive parole eligibility to offenders who have committed a listed crime as defined in 13 V.S.A. § 5201.</u></p>	<p>eligibility is expanded to offenders who commit certain listed crimes.</p>
<p>Sec. 20. DEPARTMENT OF CORRECTIONS PROGRAMMING WORKING GROUP <u>(a) During the 2020 legislative interim, the Chief Superior Judge, the Defender General, the Department of Corrections,</u></p>	<p>Sec. 21. JUSTICE REINVESTMENT II WORKING GROUP; OVERSIGHT AND IMPLEMENTATION OF JUSTICE REINVESTMENT II <u>(a) Justice Reinvestment II Working Group. The Justice Reinvestment II</u></p>	<p>House created the JR II working group and incorporated the work of the DOC Programming Working Group into the JR II Working Group’s directives.</p>

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<p><u>and the Executive Director of the Department of State’s Attorneys and Sheriffs shall work with the Council of State Governments to:</u></p> <p><u>(1) identify tools to assist in identifying specific offender risk factors that can be targeted with services and treatment programs based on evidence-based practices shown to be effective in reducing recidivism;</u></p> <p><u>(2) determine how to share information about risk assessments and available programming among each other to inform plea agreement, sentencing, and probation revocation decisions; and</u></p> <p><u>(3) on or before January 15, 2021, report to the House and Senate Committees on Judiciary and the House Committee on</u></p>	<p><u>Working Group, established by the Governor in Executive Order 03-19, shall oversee the implementation of Justice Reinvestment II as provided in this section. A representative of the Vermont Parole Board shall join the Justice Reinvestment II Working Group to carry out the duties set forth in this section.</u></p> <p><u>(b) Duties. The Working Group shall provide oversight over the rollout of Justice Reinvestment II, including the implementation of case reviews and releases for individuals newly eligible for presumptive parole, calculations of earned good time for eligible individuals within Department of Corrections facilities, and the Department’s efforts to assess how its graduated sanctions are implemented in</u></p>	
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<p><u>Corrections and Institutions regarding suggested legislation to ensure sentencing, revocation, and plea agreement decisions are informed by available programming and individual risk assessment information.</u></p>	<p><u>local field offices in compliance with Sec. 23 of this act. The Working Group shall also work with the Council on State Governments to:</u></p> <p style="padding-left: 40px;"><u>(1) based on the information provided by the Agency of Human Services pursuant to Sec. 22 of this act, identify current screening, assessment, and case planning gaps for incarcerated individuals and propose system improvements for minimizing gaps in screening and assessment and ensuring case plans reflect both the individual's identified criminogenic and behavioral health needs;</u></p> <p style="padding-left: 40px;"><u>(2) identify tools to assist in identifying specific offender risk factors that can be targeted with services and</u></p>	
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	<p><u>treatment programs based on evidence-based practices shown to be effective in reducing recidivism;</u></p> <p><u>(3) determine how to share information about risk assessments and available Department and community-based programming among each other to inform plea agreement, sentencing, and probation revocation decisions;</u></p> <p><u>(4) study the efficacy of using probation as a presumptive sentencing structure for certain types of offenses for which connections to community-based programming leads to better outcomes;</u></p> <p><u>(5) evaluate the policy of probationers earning one day of credit towards their suspended sentence for each</u></p>	
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	<p>day served on probation without violation, including:</p> <p style="padding-left: 40px;">(A) how best to implement such a policy without impacting the length of probation terms or suspended sentences imposed;</p> <p style="padding-left: 40px;">(B) whether the credit accrued should apply to both the minimum and maximum suspended sentences;</p> <p style="padding-left: 40px;">(C) whether accrual of credit equal to the imposed maximum term of imprisonment or statutory maximum term of imprisonment for the offense should result in the termination and discharge of probation; and</p> <p style="padding-left: 40px;">(D) whether terms of probation for misdemeanors should be for a specific duration, not to exceed two years, or if the</p>	
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	<p><u>court should have discretion to impose a longer term in the interests of justice;</u></p> <p><u>(6) explore additional options, including an option modeled after probation midpoint reviews provided for in 28 V.S.A. § 252(d), for allowing release from probation prior to the end of the imposed probation term, either in addition to or instead of a policy for providing one day of credit towards a suspended sentence for each day served on probation without violation as detailed in subdivision (5) of this subsection;</u></p> <p><u>(7) evaluate the appeal process set forth in Sec. 12 of this Act for offenders on community supervision furlough who are returned to a correctional facility for 30 days or longer for a technical violation</u></p>	
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	<p>as an appropriate due process mechanism for offenders returned from furlough;</p> <p>(8) develop funding and appropriation recommendations for future justice reinvestments; and</p> <p>(9) recommend any necessary legislative action based on information gathered during the implementation of this act.</p> <p>(c) Reports.</p> <p>(1) On or before January 15, 2021, the Working Group shall report to the House and Senate Committees on Judiciary and the House Committee on Corrections and Institutions on the results of its work pursuant to subdivisions (2)– (7) of subsection (b) of this section and suggested legislative action regarding</p>	
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	<p><u>probation and earned credit on probation,</u> <u>a process by which offenders may appeal</u> <u>certain furlough revocations or interrupts</u> <u>by the Department, and how to ensure</u> <u>sentencing, revocation, and plea</u> <u>agreement decisions are informed by</u> <u>available programming, including</u> <u>community treatment programs and</u> <u>individual risk assessment information.</u></p> <p><u>(2) On or before January 15, 2022,</u> <u>the Working Group shall report to the</u> <u>House and Senate Committees on</u> <u>Judiciary and the House Committee on</u> <u>Corrections and Institutions with its</u> <u>findings pursuant to subsection (b) of this</u> <u>section and any recommendations for</u> <u>legislative action.</u></p>	
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<p>[No corresponding provision in Senate version]</p>	<p>Sec. 22. AGENCY OF HUMAN SERVICES; REPORT TO JUSTICE REINVESTMENT II WORKING GROUP</p> <p><u>On or before December 1, 2020, the Agency of Human Services, with assistance from the Council of State Governments Justice Center, shall coordinate the provision of the following information to the Justice Reinvestment II Working Group:</u></p> <p><u>(1) the nature and scope of available screening and assessment of mental health and substance use needs among incarcerated populations, and how screening and assessment results inform case plans for sentenced individuals while they are incarcerated and prior to their</u></p>	<p>House added this section to direct AHS to provide information to the JR II Working Group to assist in its work.</p>
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	<p><u>release into community supervision, including individuals on probation; and</u></p> <p><u>(2) the existing behavioral health collaborative care coordination and case management protocols that serve people in Department of Corrections custody or supervision and any existing challenges to information sharing between service providers and the Department.</u></p>	
	<p>Sec. 23. 2020 Acts and Resolves No. 88, Sec. 70a is amended to read:</p> <p>Sec. 70a. DEPARTMENT OF CORRECTIONS; GRADUATED SANCTIONS; REENTRY HOUSING; REPORT</p> <p>(a) On or before April 1, 2020 <u>January 15, 2021</u>, the Department of Corrections shall report to the Senate Committee on</p>	<p>House added this section to make technical corrections to the graduated sanctions language that passed in the budget adjustment act.</p>

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	<p>Judiciary, the House Committee on Corrections and Institutions, and the House and Senate Committees on Appropriations on how to strengthen existing graduated sanctions and incentives policies to ensure they reflect current research on best practices for responses to violation behavior that most effectively achieve behavior change and uphold public safety. The Department shall also identify reentry housing needs for corrections populations. As a part of this work, the Department shall submit its recommendations including initial cost estimates regarding:</p> <p style="padding-left: 40px;">(1) formalizing the use of incentives and sanctions <u>positive to negative reinforcements</u> in supervision</p>	
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	<p>practices at a 4:1 ratio and require incentives <u>reinforcements</u> to be entered and tracked in the community supervision case management system;</p> <p style="text-align: center;">* * *</p>	
	<p>Sec. 24. JUSTICE REINVESTMENT II APPROPRIATION</p> <p><u>(a) In FY21, \$2,000,000.00 is appropriated from the General Fund to the Agency of Human Services to fund Justice Reinvestment II investments as follows:</u></p> <p><u>(1) \$400,000.00 is reserved for risk-based domestic violence intervention programming available in communities that are certified by the Vermont Council on Domestic Violence, and statewide coordination of those efforts through the</u></p>	<p>House added the Appropriation language that came out of the Senate Judiciary Committee and was removed by Senate Appropriations.</p>

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	<p><u>Vermont Council on Domestic Violence.</u> <u>On or before January 15, 2021, the</u> <u>Vermont Network against Domestic and</u> <u>Sexual Violence will provide an interim</u> <u>report to the House and Senate</u> <u>Committees on Judiciary and the House</u> <u>Committee on Corrections and Institutions</u> <u>on progress related to outcome indicators</u> <u>for domestic violence accountability</u> <u>programming. On or before January 15,</u> <u>2022, the Network shall provide a final</u> <u>report to the same committees.</u></p> <p><u>(2) \$1,000,000.00 is reserved for</u> <u>additional evidence-based transitional</u> <u>housing programming.</u></p> <p><u>(3) The remainder is reserved for</u> <u>evidence-based programming for</u> <u>offenders transitioning back into the</u></p>	
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	<p><u>community, including workforce development and other community reentry supports.</u></p> <p><u>(b) The General Assembly intends that this appropriation of onetime funds is to immediately invest funds to reduce recidivism and increase public safety, and for savings achieved in and FY21 as a result of the legislative action taken in this act to be used to fund these investments in FY22 and in the future.</u></p>	
<p>Sec. 21. REPEALS</p> <p><u>28 V.S.A. § 808b (home confinement furlough) and 28 V.S.A. § 808c (reintegration furlough) are repealed on July 1, 2020.</u></p>	<p>Sec. 25. REPEALS</p> <p><u>28 V.S.A. § 808b (home confinement furlough) and 28 V.S.A. § 808c (reintegration furlough) are repealed on January 1, 2021.</u></p>	<p>House moved back the repeal date for these furlough statuses to align with the effective date for the rest of the bill.</p>
<p>Sec. 22. EFFECTIVE DATES</p>	<p>Sec. 26. EFFECTIVE DATES</p>	

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<p><u>(a) This section and Secs. 16 (earned good time; reduction of term) and 21 (repeals) shall take effect on passage.</u></p> <p><u>(b) Sec. 8 (presumptive parole) shall take effect on January 1, 2023.</u></p> <p><u>(c) All other sections shall take effect on January 1, 2021.</u></p>	<p><u>(a) This section and Secs. 14 (earned good time; reduction of term) and 25 (repeals) shall take effect on passage.</u></p> <p><u>(b) Sec. 12 (terms and conditions of community supervision furlough) shall take effect on July 1, 2021.</u></p> <p><u>(c) Sec. 5 (presumptive parole) shall take effect on January 1, 2023.</u></p> <p><u>(d) All other sections shall take effect on January 1, 2021.</u></p>	<p>House added this effective date for the appeal process for furloughees who are revoked or interrupted for 30+ days for a technical violation.</p>
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