

1 Introduced by Committee on Judiciary

2 Date:

3 Subject: Criminal procedure; corrections policy; diversion; pretrial services;
4 probation and parole; furlough

5 Statement of purpose of bill as introduced: This bill proposes to reform the
6 State’s approach to criminal justice by reducing the population of incarcerated
7 Vermonters and reinvesting the savings in strategies to improve public safety,
8 with the goals of: reducing recidivism and revocations to prison, supporting
9 individual success on supervision, achieving a more equitable justice system
10 across race and geography, and improving data and reporting to inform
11 decision-making.

12 An act relating to justice reinvestment

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

14 Sec. 1. FINDINGS AND PURPOSE

15 (a) The General Assembly finds:

16 (1) Almost 80 percent of sentenced Department of Corrections
17 admissions are for people returned or revoked from furlough, parole, and
18 probation, primarily driven by furlough violators.

1 (2) Nearly one-half of Vermont’s sentenced prison population at the end
2 of FY 2019 consisted of people who were returned from community
3 supervision, primarily furlough.

4 (3) Nearly 80 percent of furlough returns to incarceration are due to
5 technical violations rather than new crime offenses.

6 (4) A decrease of 106 to 135 people would represent an 8–10 percent
7 drop in the sentenced incarceration population and could mean a 40–50 percent
8 reduction in the out-of-state contract population.

9 (5) Revocations and returns from supervision are driving a large share of
10 prison admissions, and limited funding leaves large numbers of high-risk
11 people without the programs and services they need to succeed in the
12 community.

13 (6) Over the last three years, the average annual proportion of
14 admissions to sentenced incarceration that were people returning or being
15 revoked from furlough, parole, and probation was 78 percent.

16 (7) Vermont incarcerates more people than current facilities can
17 accommodate and that incarceration population is growing.

18 (b) The purpose of this act is to:

19 (1) Improve public safety in Vermont, while creating immediate
20 opportunities to reduce recidivism and achieve long-term savings by reducing
21 contract bed needs significantly.

1 (b) The sentence of imprisonment of any person convicted of an offense
2 shall commence to run from the date on which the person is received at the
3 correctional facility for service of the sentence. The court shall give the person
4 credit toward service of his or her sentence for any days spent in custody as
5 follows:

6 (1) The period of credit for concurrent and consecutive sentences shall
7 include all days served from the date of arraignment or the date of the earliest
8 detention for the offense, whichever occurs first, and end on the date of the
9 sentencing. Only a single credit shall be awarded in cases of consecutive
10 sentences, and no credit for one period of time shall be applied to a later
11 period.

12 (2) In sentencing a violation of probation, the court shall give the person
13 credit for any days spent in custody from the time the violation is filed or the
14 person is detained on the violation, whichever occurs first, until the violation is
15 sentenced. In a case in which probation is revoked and the person is ordered to
16 serve the underlying sentence, the person shall receive credit for all time
17 previously served in connection with the offense and all time served on
18 probation prior to the time the violation is filed.

19 (3) A defendant who has received pre-adjudication treatment in a
20 residential setting for a substance use disorder after the charge has been filed

1 shall earn a reduction of one day in the offender’s minimum and maximum
2 sentence for each day that the offender receives the inpatient treatment.

3 (c) If any such person is committed to a jail or other place of detention to
4 await transportation to the place at which his or her sentence is to be served,
5 his or her sentence shall commence to run from the date on which he or she is
6 received at the jail or the place of detention.

7 (d) A person who receives a zero minimum sentence for a conviction of a
8 nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301
9 shall report to probation and parole as directed by the court and begin to serve
10 the sentence in the community immediately, unless the person is serving a
11 prior sentence at the time.

12 Sec. 3. 28 V.S.A. § 205 is amended to read:

13 § 205. PROBATION

14 (a)(1) After passing sentence, a court may suspend all or part of the
15 sentence and place the person so sentenced in the care and custody of the
16 Commissioner upon such conditions and for such time as it may prescribe in
17 accordance with law or until further order of court. All terms of probation set
18 by the court shall be for a specific duration, not to exceed the statutory
19 maximum term of imprisonment for the offense.

20 (2) The term of probation for misdemeanors shall be for a specific term
21 not to exceed two years unless the court, in its sole discretion, specifically

1 finds that the interests of justice require a longer ~~or an indefinite~~ period of
2 probation.

3 (3)(A) The term of probation for nonviolent felonies shall not exceed
4 four years or the statutory maximum term of imprisonment for the offense,
5 whichever is less, unless the court, in its sole discretion, specifically finds that
6 the interests of justice require a longer ~~or an indefinite~~ period of probation.

7 (B) As used in this subdivision, “nonviolent felonies” means an
8 offense that is not:

- 9 (i) a listed crime as defined in 13 V.S.A. § 5301(7); or
10 (ii) an offense involving sexual exploitation of children in
11 violation of 13 V.S.A. chapter 64.

12 (4) Nothing in this subsection shall prevent the court from terminating
13 the period of probation and discharging a person pursuant to section 251 of this
14 title.

15 (5) The probation officer of a person on probation for a specific term
16 shall review the person’s case file during probation and, not less than 45 days
17 prior to the expiration of the probation term, may file a petition with the court
18 requesting the court to extend the period of probation for a specific term not to
19 exceed one year in order to provide the person the opportunity to complete
20 programming consistent with special conditions of probation. A hearing on the
21 petition for an extension of probation under this subsection shall comply with

1 the procedures set forth in Rule 32.1 of the Vermont Rules of Criminal
2 Procedure.

3 (b) The victim of a listed crime as defined in 13 V.S.A. § 5301(7) for
4 which the offender has been placed on probation shall have the right to request
5 and receive from the Department of Corrections information regarding the
6 offender's general compliance with the specific conditions of probation.
7 Nothing in this section shall require the Department of Corrections to disclose
8 any confidential information revealed by the offender in connection with
9 participation in a treatment program.

10 (c)(1) Unless the court in its discretion finds that the interests of justice
11 require additional standard and special conditions of probation, when the court
12 orders a specific term of probation for a qualifying offense, the offender shall
13 be placed on administrative probation, which means that the only conditions of
14 probation shall be that the probationer:

15 (A) register with the Department of Corrections' probation and
16 parole office in his or her district;

17 (B) notify the probation officer of his or her current address each
18 month;

19 (C) within 72 hours, notify the Department of Corrections if probable
20 cause is found for a criminal offense during the term of probation; and

1 (D) not be convicted of a criminal offense during the term of
2 probation.

3 (2) As used in this subsection, “qualifying offense” means:

4 (A) Unlawful mischief under 13 V.S.A. § 3701.

5 (B) Retail theft under 13 V.S.A. §§ 2575 and 2577.

6 (C) Operating after suspension or revocation of license under
7 23 V.S.A. § 674(a).

8 (D) Bad checks under 13 V.S.A. § 2022.

9 (E) Theft of services under 13 V.S.A. § 2582.

10 (F) Disorderly conduct under 13 V.S.A. § 1026, unless the original
11 charge was a listed offense as defined in 13 V.S.A. § 5301(7).

12 (G) Theft of rented property under 13 V.S.A. § 2591.

13 (H) Operation without consent of owner under 23 V.S.A. § 1094(a).

14 (I) Petit larceny under 13 V.S.A. § 2502.

15 (J) Negligent operation of a motor vehicle under 23 V.S.A.

16 § 1091(a).

17 (K) False reports to law enforcement under 13 V.S.A. § 1754.

18 (L) Setting fires under 13 V.S.A. § 508.

19 (M) [Repealed.]

1 (N) Simple assault by mutual consent under 13 V.S.A. § 1023(b)
2 unless the original charge was a listed offense as defined in 13 V.S.A.
3 § 5301(7).

4 (O) Unlawful trespass under 13 V.S.A. § 3705(a).

5 (P) A first offense of possession under 18 V.S.A. § 4230(a)(1).

6 (3) Nothing in this subsection shall prohibit a court from requiring
7 participation in the Restorative Justice Program established in chapter 12 of
8 this title.

9 (d)(1) A probationer shall receive one day of credit towards the
10 probationer's minimum sentence for each day served on probation. The
11 probationer shall cease accruing credit towards the minimum sentence the day
12 an arrest warrant for the probationer is filed. The court may determine that a
13 person returned to probation after an arrest may again accrue credit towards the
14 minimum sentence.

15 (2) Once a probationer accrues credit equal to the maximum term of
16 imprisonment for the offense, the court shall terminate the probation and
17 discharge the person pursuant to section 251 of this title.

18 Sec. 4. 28 V.S.A. § 304 is amended to read:

19 § 304. DISPOSITION ALTERNATIVES UPON VIOLATION OF
20 PROBATION

21 (a) Revocation and imposition of sentence.

1 (1) If a violation is established by a proceeding conducted in accordance
2 with section 302 of this title, the court may, in its discretion, revoke probation
3 and require the probationer to serve the remainder of the sentence that was
4 suspended or order that the remainder of the sentence be served in the
5 community pursuant to the provisions of chapter 6 of this title.

6 (2) In the event the court revokes probation and requires the probationer
7 to serve the suspended sentence pursuant to this section, the duration of the
8 remaining suspended sentence shall be reduced in accordance with
9 subdivision 205(d) of this title and 13 V.S.A. § 7031(b)(2).

10 (b) Alternative sanctions. As an alternative to revocation and imposition of
11 sentence as provided in subsection (a) of this section, the court, in its
12 discretion, after a violation has been established, may:

13 (1) continue the probationer on the existing sentence;

14 (2) effect, in accordance with subsection 253(b) of this title, necessary
15 or desirable changes or enlargements in the conditions of probation;

16 (3) conduct a formal or informal conference with the probationer in
17 order to reemphasize to him or her the necessity of compliance with the
18 conditions of probation;

19 (4) issue a formal or informal warning to the probationer that further
20 violations may result in revocation of probation by the court; or

1 (5) continue the probationer on the existing sentence, but require the
2 probationer to serve any portion of the sentence.

3 (c) Guidelines. Prior to ordering either revocation or an alternative
4 sanction for a violation of probation in accordance with subsection (b) of this
5 section, the court shall consider, but has complete discretion whether to follow,
6 sanction guidelines established by the Department of Corrections pursuant to
7 subsection (e) of this section.

8 (d) Discretion of the court. No plea agreement shall limit the court's
9 discretion under this section.

10 (e) Rules. The Department of Corrections shall adopt rules pursuant to
11 3 V.S.A. chapter 25 that establish graduated sanction guidelines for probation
12 violations as an alternative to revocation and imposition of the remainder of
13 the original sentence. These guidelines do not grant the Department any
14 authority to impose sanctions for probation violations.

15 * * * Parole * * *

16 Sec. 5. 28 V.S.A. § 402 is amended to read:

17 § 402. DEFINITIONS

18 ~~Whenever~~ As used in this chapter:

19 (1) "Parole" means the release of an inmate to the community by the
20 Parole Board before the end of the inmate's sentence subject to conditions
21 imposed by the Board and subject to the supervision and control of the

1 Commissioner. If a court or other authority files a warrant or detainer against
2 an inmate, the Board may release him or her on parole to answer the warrant
3 and serve any subsequent sentences.

4 (2) “Interview” means an appearance by the inmate at a meeting of the
5 Parole Board.

6 (3) “Review” means an evaluation of an inmate’s records without an
7 appearance by the inmate before the Parole Board.

8 Sec. 6. 28 V.S.A. § 501 is amended to read:

9 § 501. ELIGIBILITY FOR PAROLE CONSIDERATION; PRESUMPTIVE

10 PAROLE

11 (a) Parole eligibility. ~~An inmate~~ A person who is serving a sentence of
12 imprisonment who is not eligible for presumptive parole pursuant to subsection

13 (b) of this section shall be eligible for parole consideration as follows:

14 (1) If the ~~inmate’s~~ person’s sentence has no minimum term or a zero
15 minimum term, the ~~inmate~~ person shall be eligible for parole consideration
16 within 12 months after commitment to a correctional facility.

17 (2) If the ~~inmate’s~~ person’s sentence has a minimum term, the ~~inmate~~
18 person shall be eligible for parole consideration after the ~~inmate~~ person has
19 served the minimum term of the sentence.

20 (3) If the person is 65 years of age or older, is not serving a sentence of life
21 without parole, and has served five years but not the minimum term of the
22 sentence, the person shall be eligible for parole consideration unless the person

1 has programming requirements that have not been fulfilled or has received a major
2 disciplinary conviction within the previous 12 months.

3 (b) Presumptive parole.

4 (1) A person who is serving a sentence of imprisonment shall be eligible
5 for presumptive release in accordance with subsection 502a(e) of this title at
6 the expiration of the person's minimum or aggregate minimum term of
7 imprisonment if the person:

8 (A) has acquired no new criminal conviction while incarcerated or on
9 supervision for the current offense;

10 (B) has no outstanding warrants, detainers, commitments, or pending
11 charges;

12 (C) is compliant with the person's case plan during the period of
13 incarceration if the person is incarcerated for less than 90 days or is compliant
14 for the 90 days preceding the completion of the person's minimum term if the
15 person is incarcerated for 90 days or more;

16 (D) is compliant with the conditions of the person's supervision if the
17 person is supervised in the community on furlough during:

18 (i) the entire period of supervision if the term of supervision is less
19 than 90 days; or

20 (ii) the 90 days prior to the consideration of parole eligibility if the
21 term of supervision is 90 days or more;

1 (C) is compliant with the person’s case plan during the period of
2 incarceration if the person is incarcerated for less than 90 days or is compliant
3 for the 90 days preceding the completion of the person’s minimum term if the
4 person is incarcerated for 90 days or more;

5 (D) is compliant with the conditions of the person’s supervision if the
6 person is supervised in the community on furlough during:

7 (i) the entire period of supervision if the term of supervision is less
8 than 90 days; or

9 (ii) the 90 days prior to the consideration of parole eligibility if the
10 term of supervision is 90 days or more;

11 (E) has no major disciplinary convictions or pending infractions
12 during the period of incarceration if the person is incarcerated for less than 12
13 months, or has no major disciplinary convictions or pending infractions during
14 the preceding 12 months if the person is incarcerated for 12 months or more;

15 (F) has not had parole revoked on the person’s current sentence; and

16 (G) is not serving a sentence for committing a crime specified in ~~13~~
17 ~~V.S.A. § 5301~~ 33 V.S.A. § 5204(a).

18 Sec. 8. 28 V.S.A. § 502 is amended to read:

19 § 502. PAROLE INTERVIEWS AND REVIEWS

20 (a) The Board shall interview each inmate eligible for parole consideration
21 under section 501 of this title before ordering the inmate released on parole.

1 The Board shall consider all pertinent information regarding an inmate in order
2 to determine the inmate's eligibility for parole. The Board may grant parole
3 only after an inmate is interviewed in accordance with this section. The Parole
4 Board may conduct the interview in person, by telephone or videoconference,
5 or by any other method it deems appropriate.

6 (b) An initial interview of the inmate shall occur at least 30 days prior to
7 the date when the inmate becomes eligible for parole consideration under
8 section 501 of this title.

9 (c) An inmate eligible for parole consideration shall, subsequent to the
10 initial interview provided for above, be reviewed and interviewed thereafter, as
11 follows:

12 (1) If the inmate is serving a maximum sentence of less than 15 years:

13 (A) the Board shall review the inmate's record once every 12
14 months;

15 (B) the Board shall conduct an interview of the inmate at the request
16 of the Department; and

17 (C) upon written request of the inmate, the Board shall conduct an
18 interview, but not more than once in any two-year period.

19 (2) If the inmate is serving a sentence with a maximum of 15 years up to
20 a maximum of life:

21 (A) the Board shall review the inmate's record once every two years;

1 (B) the Board shall conduct an interview of the inmate at the request
2 of the Department; and

3 (C) upon written request of the inmate, the Board may conduct an
4 interview, but not more than once in any two-year period.

5 (d) The Board in its discretion may hear from attorneys or other persons
6 with an interest in the case before the Board. A person presenting statements
7 to the Board may be required to submit the statement in writing.

8 (e) Interviews and reviews shall be conducted in accordance with the rules
9 and regulations established by the Board, which shall be consistent with this
10 section.

11 (f) The Board ~~may~~, when formulating the conditions of a parole, shall take
12 into consideration the emotional needs of the victim of an offender's crime
13 plus the needs of the victim's family.

14 Sec. 9. 28 V.S.A. § 502a is amended to read:

15 § 502a. RELEASE ON PAROLE

16 (a) No inmate serving a sentence with a minimum term shall be released on
17 parole until the inmate has served the minimum term of the sentence, less any
18 reductions for good behavior.

19 (b) An inmate who is not eligible for presumptive parole pursuant to
20 subsection 501(b) of this title shall be released on parole by the written order
21 of the Parole Board if the Board determines:

1 (1) the inmate is eligible for parole;

2 (2) there is a reasonable probability that the inmate can be released
3 without detriment to the community or to the inmate; and

4 (3) the inmate is willing and capable of fulfilling the obligations of a
5 law-abiding citizen.

6 (c) A parole under subsection (b) or (e) of this section shall be ordered only
7 for the best interests of the community and of the inmate, and shall not be
8 regarded as an award of clemency, a reduction of sentence, or a conditional
9 pardon.

10 (d) Notwithstanding subsection (a) or (e) of this section, or any other
11 provision of law to the contrary, any inmate who is serving a sentence,
12 including an inmate who has not yet served the minimum term of the sentence,
13 who is diagnosed as having a terminal or serious medical condition so as to
14 render the inmate unlikely to be physically capable of presenting a danger to
15 society, may be released on medical parole to a hospital, hospice, other
16 licensed inpatient facility, or suitable housing accommodation as specified by
17 the Parole Board. Provided the inmate has authorized the release of his or her
18 personal health information, the Department shall promptly notify the Parole
19 Board upon receipt of medical information of an inmate's diagnosis of a
20 terminal or serious medical condition. As used in this subsection, a "serious

1 medical condition” does not mean a condition caused by noncompliance with a
2 medical treatment plan.

3 (e)(1) The Department shall identify each inmate meeting the presumptive
4 parole eligibility criteria in subsection 501(b) of this title and refer each
5 eligible inmate to the Parole Board at least 60 days prior to the inmate’s
6 eligibility date.

7 (2) The Department shall recommend presumptive release for each
8 eligible inmate unless it determines, based on clear and convincing evidence,
9 that:

10 (A) there is a reasonable probability that the inmate cannot be
11 released without detriment to the community; or

12 (B) the inmate is not willing and capable of fulfilling the obligations
13 of a law-abiding citizen.

14 (3)(A) The Parole Board shall conduct an administrative review of each
15 inmate the Department recommends for presumptive release within 30 days of
16 the inmate’s eligibility date. The Board may deny presumptive release and set
17 a hearing if it determines, through its administrative review, that a victim or
18 victims should be notified and given the opportunity to participate in a parole
19 hearing.

20 (B) The Parole Board shall conduct a parole hearing pursuant to section
21 502 of this title for each eligible inmate that the Department determines is not

1 appropriate for release based on the criteria in subdivision (2) of this
2 subsection.

3 Sec. 10. 28 V.S.A. § 507 is amended to read:

4 § 507. NOTIFICATION TO VICTIM AND OPPORTUNITY TO TESTIFY

5 (a) At least 30 days prior to a parole eligibility hearing, the victim of a
6 listed crime as defined in 13 V.S.A. § 5301(7), shall be notified as to the time
7 and location of the hearing. Such notification may be waived by the victim in
8 writing.

9 (b) At a parole eligibility hearing, unless waived by the victim of a listed
10 crime as defined in 13 V.S.A. § 5301(7), the inmate shall not be present when
11 the victim testifies before the Parole Board.

12 (c) Parole Board proceedings shall be subject to the Vermont Open
13 Meeting Law.

14 (d) As used in this section, “victim” means:

15 (1) a victim of the listed crime for which the Parole Board is
16 determining the inmate’s eligibility for parole; and

17 (2) a victim of a listed crime of which the inmate was convicted other
18 than the listed crime for which the Parole Board is determining the inmate’s
19 eligibility for parole.

* * * Furlough * * *

Sec. 11. 28 V.S.A. § 808 is amended to read:

§ 808. TEMPORARY FURLOUGHS GRANTED TO OFFENDERS

(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 a temporary furlough for a defined period for any of the following reasons:

(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 participate in programs and activities that hold the offender accountable to victims and the community pursuant to section 2a of this title.~~

(b) An offender granted a temporary furlough pursuant to this section may be accompanied by an employee of the Department, in the discretion of the

1 Commissioner, during the period of the offender’s furlough. The Department
2 may use electronic monitoring equipment such as global position monitoring,
3 automated voice recognition telephone equipment, and transdermal alcohol
4 monitoring equipment to enable more effective or efficient supervision of
5 individuals placed on furlough.

6 (c) The extension of the limits of the place of confinement authorized by
7 this section shall in no way be interpreted as a probation or parole of the
8 offender, but shall constitute solely a permitted extension of the limits of the
9 place of confinement for offenders committed to the custody of the
10 Commissioner.

11 (d) When any enforcement officer, as defined in 23 V.S.A. § 4, employee
12 of the Department, or correctional officer responsible for supervising an
13 offender believes the offender is in violation of any verbal or written condition
14 of the temporary furlough, the officer or employee may immediately lodge the
15 offender at a correctional facility or orally or in writing deputize any law
16 enforcement officer or agency to arrest and lodge the offender at such a
17 facility. The officer or employee shall subsequently document the reason for
18 taking such action.

19 (e) The Commissioner may place on medical furlough any offender who is
20 serving a sentence, including an offender who has not yet served the minimum
21 term of the sentence, who is diagnosed with a terminal or serious medical

1 condition so as to render the offender unlikely to be physically capable of
2 presenting a danger to society. The Commissioner shall develop a policy
3 regarding the application for, standards for eligibility of, and supervision of
4 persons on medical furlough. The offender may be released to a hospital,
5 hospice, other licensed inpatient facility, or other housing accommodation
6 deemed suitable by the Commissioner. As used in this subsection, a “serious
7 medical condition” does not mean a condition caused by noncompliance with a
8 medical treatment plan.

9 ~~(f) While appropriate community housing is an important consideration in~~
10 ~~release of offenders, the Department shall not use lack of housing as the sole~~
11 ~~factor in denying furlough to offenders who have served at least their~~
12 ~~minimum sentence for a nonviolent misdemeanor or nonviolent felony~~
13 ~~provided that public safety and the best interests of the offender will be served~~
14 ~~by reentering the community on furlough. The Department shall adopt rules to~~
15 ~~implement this subsection. [Repealed].~~

16 (g) ~~Subsections (b)–(f)~~ Subsection (b) of this section shall also apply to
17 sections 808a and 808c of this title.

18 Sec. 12. 28 V.S.A. § 808a is amended to read:

19 § 808a. TREATMENT FURLOUGH

20 (a) An offender may be sentenced to serve a term of imprisonment, but
21 placed by a court on treatment furlough to participate in such programs

1 administered by the Department in the community that reduce the offender's
2 risk to reoffend or that provide reparation to the community in the form of
3 supervised work activities.

4 (b) Provided the approval of the sentencing judge is first obtained, the
5 Department may place on treatment furlough an offender who has not yet
6 served the minimum term of the sentence, who, in the Department's
7 determination, needs residential treatment services not available in a
8 correctional facility. The services may include treatment for substance abuse
9 or personal violence or any other condition that the Department has determined
10 should be addressed in order to reduce the offender's risk to reoffend or cause
11 harm to himself or herself or to others in the facility. The offender shall be
12 released only to a hospital or residential treatment facility that provides
13 services to the general population. The State's share of the cost of placement
14 in such a facility, net of any private or federal participation, shall be paid
15 pursuant to memoranda of agreement between and within State agencies
16 reflective of their shared responsibilities to maximize the efficient and
17 effective use of State resources. In the event that a memorandum of agreement
18 cannot be reached, the Secretary of Administration shall make a final
19 determination as to the manner in which costs will be allocated.

20 ~~(c)(1) Except as provided in subdivision (2) of this subsection, the~~
21 ~~Department, in its own discretion, may place on treatment furlough an offender~~

1 who has not yet served the minimum term of his or her sentence for an eligible
2 misdemeanor as defined in section 808d of this title if the Department has
3 made a determination based upon a risk assessment that the offender poses a
4 low risk to public safety or victim safety and that employing an alternative to
5 incarceration to hold the offender accountable is likely to reduce the risk of
6 recidivism.

7 (2) ~~Driving under the influence of alcohol or drugs, second offense, as~~
8 ~~defined in 23 V.S.A. §§ 1201 and 1210(e) and boating under the influence of~~
9 ~~alcohol or drugs, second offense, as defined in 23 V.S.A. § 3323 shall be~~
10 ~~considered eligible misdemeanors for the sole purpose of subdivision (1) of~~
11 ~~this subsection. [Repealed.]~~

12 Sec. 13. 28 V.S.A. § 723 is amended to read:

13 § 723. ~~CONDITIONAL REENTRY~~ COMMUNITY SUPERVISION

14 FURLOUGH

15 (a) ~~When a sentenced offender has served the minimum term of the total~~
16 ~~effective sentence, the~~ The Department may release the offender from a
17 correctional facility ~~under section 808 of this title for the offender to~~
18 participate in a reentry program while serving the remaining sentence in the
19 community a person who:

20 (1) has served the minimum term of the person's total effective
21 sentence;

1 (2) is ineligible for presumptive parole pursuant to section 501 of this
2 title or has been returned or revoked to prison for a violation of conditions of
3 parole, furlough, or probation; and

4 (3) agrees to comply with such conditions of supervision the
5 Department, in its sole discretion, deems appropriate for that person's
6 furlough.

7 (b) The offender's continued supervision in the community is conditioned
8 on the offender's commitment to and satisfactory progress in his or her reentry
9 program and on the offender's compliance with any terms and conditions
10 identified by the Department.

11 (c) Prior to release under this section, the Department shall screen and, if
12 appropriate, assess each felony drug and property offender for substance abuse
13 treatment needs using an assessment tool designed to assess the suitability of a
14 broad range of treatment services, and it shall use the results of this assessment
15 in preparing a reentry plan. The Department shall attempt to identify all
16 necessary services in the reentry plan and work with the offender to make
17 connections to necessary services prior to release so that the offender can begin
18 receiving services immediately upon release.

19 Sec. 14. 28 V.S.A. § 724 is amended to read:

20 § 724. ~~TERMS AND CONDITIONS OF CONDITIONAL REENTRY~~

21 COMMUNITY SUPERVISION FURLOUGH

1 (a) The Department shall identify in the terms and conditions of ~~conditional~~
2 ~~reentry~~ community supervision furlough those programs necessary to reduce
3 the offender's risk of reoffense and to promote the offender's accountability
4 for progress in the reintegration process. The Department shall make all
5 determinations of violations of conditions of community supervision furlough
6 pursuant to this subchapter and any resulting alternative sentence or
7 termination of community supervision furlough status.

8 **(b) Any interruption of an offender's community supervision furlough**
9 **following a technical violation of conditions shall, on the 30th day of the**
10 **interruption, trigger a Department Central Office review of the case and**
11 **notification of the Office of the Defender General.**

12 Sec. 15. 28 V.S.A. § 725 is amended to read:

13 § 725. PAROLE HEARING FOR OFFENDERS ON ~~CONDITIONAL~~
14 ~~REENTRY~~ COMMUNITY SUPERVISION FURLOUGH

15 (a) The Department shall submit to the Parole Board a recommendation
16 relative to whether the offender should be released to parole pursuant to
17 section ~~502a~~ 501 of this title when:

18 (1) an offender sentenced solely for the commission of one or more
19 unlisted crimes has, in the sole discretion of the Department, successfully
20 completed 90 days of community supervision furlough ~~in a conditional reentry~~
21 ~~program~~; or

1 (2) an offender sentenced for the commission of at least one or more
2 listed crimes has, in the sole discretion of the Department, successfully
3 completed 180 days of community supervision furlough ~~in a conditional~~
4 ~~reentry program~~.

5 Sec. 16. 28 V.S.A. § 818 is amended to read:

6 § 818. EARNED GOOD TIME; REDUCTION OF TERM

7 (a) On or before July 1, 2020, the Department of Corrections shall file a
8 proposed rule pursuant to 3 V.S.A. chapter 25 implementing an earned good
9 time program. The Commissioner shall adopt these amendments as an
10 emergency rule and concurrently propose them as a permanent rule. The
11 emergency rule shall be deemed to meet the standard for the adoption of
12 emergency rules pursuant to 3 V.S.A. § 844(a).

13 (b) The earned good time program implemented pursuant to this section
14 shall comply with the following standards:

15 (1) The program shall be available for all sentenced offenders, including
16 furloughed offenders, provided that the program shall not be available to
17 offenders on probation or parole, to offenders eligible for a reduction of term
18 pursuant to section 811 of this title, or to offenders sentenced to life without
19 parole.

20 (2) Offenders shall earn a reduction of ~~five~~ seven days in the minimum
21 and maximum sentence for each ~~month~~ 30 days during which the offender:

1 (A) is not adjudicated of a major disciplinary rule violation; and

2 (B) is not reincarcerated from the community for a violation of
3 release conditions, provided that an offender who loses a residence for a reason
4 other than fault on the part of the offender shall not be deemed reincarcerated
5 under this subdivision; and.

6 ~~(C) complies with a merit based system designed to incentivize~~
7 ~~offenders to meet milestones identified by the Department that prepare~~
8 ~~offenders for reentry, if the offender has received a sentence of greater than~~
9 ~~one year.~~

10 (3) An offender who receives post-adjudication treatment in a residential
11 setting for a substance use disorder shall earn a reduction of one day in the
12 minimum and maximum sentence for each day that the offender receives the
13 inpatient treatment. While a person is in residential substance abuse treatment,
14 he or she shall not be eligible for good time except as provided in this
15 subsection.

16 (4) The Department shall provide timely notice ~~no~~ not less frequently
17 than every 90 days to the offender and to any victim of record any time the
18 offender receives a reduction in his or her term of supervision pursuant to this
19 section, and the Department shall maintain a system that documents and
20 records all such reductions in each offender's permanent record.

1 (5) The program shall become effective upon the Department’s adoption
2 of final proposed rules pursuant to 3 V.S.A. § 843.

3 Sec. 17. 28 V.S.A. § 808d is amended to read:

4 § 808d. DEFINITION; ELIGIBLE MISDEMEANOR; ~~FURLOUGH AT~~

5 ~~THE DISCRETION OF THE DEPARTMENT~~

6 ~~For purposes of sections 808a-808e~~ As used in section 808c of this title,
7 “eligible misdemeanor” means a misdemeanor crime that is not one of the
8 following crimes:

9 * * *

10 Sec. 18. 28 V.S.A. § 808e is amended to read:

11 § 808e. ABSCONDING FROM FURLOUGH; WARRANT

12 (a) The Commissioner of Corrections may issue a warrant for the arrest of
13 a person who has absconded from furlough status in violation of ~~subdivision~~
14 subsection 808(a)(6), subsection 808(e) or 808(f), or section 808a, 808b, or
15 808c of this title, requiring the person to be returned to a correctional facility.

16 A law enforcement officer who is provided with a warrant issued pursuant to
17 this section shall execute the warrant and return the person who has absconded
18 from furlough to the Department of Corrections.

19 (b) A person for whom an arrest warrant is issued pursuant to this section
20 shall not earn credit toward service of his or her sentence for any days that the
21 warrant is outstanding.

1 (A) analyze sentencing patterns across the State to identify where the
2 use and length of incarceration may result in or exacerbate racial disparities;
3 and

4 (B) work with the Executive Director of Racial Equity and the Racial
5 Disparities in the Criminal and Juvenile Justice System Advisory Panel in
6 identifying the types of offenses for which there are racial and geographic
7 disparities in sentencing and propose standardized sentencing guidance for
8 those offenses.

9 (2) The Commission shall work with the Crime Research Group for the
10 analyses pursuant to this section.

11 (3) On or before December 1, 2020, the Commission shall provide an
12 interim report to the Joint Legislative Justice Oversight Committee with the
13 results of its work pursuant to this subsection. On or before January 15, 2021,
14 the Commission shall provide its final report on its work pursuant to this
15 subsection to the House and Senate Committees on Judiciary.

16 Sec. 20. DEPARTMENT OF CORRECTIONS PROGRAMMING
17 WORKING GROUP

18 (a) During the 2020 legislative interim, the Chief Superior Judge, the
19 Defender General, the Department of Corrections, and the Executive Director
20 of the Department of State's Attorneys and Sheriffs shall work with the
21 Council of State Governments to:

