

# Journal of the House

Wednesday, April 21, 2021

At one o'clock and fifteen minutes in the afternoon the Speaker called the House to order.

## Devotional Exercises

A moment of silence was held in lieu of a devotional.

## Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House of Representatives that on the twenty-first day of April, 2021, he signed bills originating in the House of the following titles:

**H. 149** An act relating to modernizing statutes related to the Vermont National Guard

**H. 338** An act relating to reapportionment proposal deadlines

## Message from the Senate No. 46

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolutions of the following titles:

**J.R.S. 24.** Joint resolution relating to amending temporary Joint Rule 22A.

**J.R.S. 25.** Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

## House Bill Introduced

**H. 451**

By Rep. Colston of Winooski,

House bill, entitled

An act relating to creation of the Pension Oversight Board

Was read the first time and referred to the Committee on Government Operations.

### **Senate Bills Referred to Committee on Appropriations**

Appearing on the Calendar for Notice, and pursuant to Rule 35(a), carrying appropriations, the following Senate bills were referred to the Committee on Appropriations:

#### **S. 114**

Senate bill, entitled

An act relating to improving prekindergarten through grade 12 literacy within the State

#### **S. 115**

Senate bill, entitled

An act relating to making miscellaneous changes in education laws

### **Joint Resolution Placed on Calendar**

#### **J.R.S. 24**

By Senator Balint,

**J.R.S. 24.** Joint resolution relating to amending temporary Joint Rule 22A.

Temporary Joint Rule 22A is amended to read as follows:

#### Rule 22A Emergency Rule Regarding Joint Committee Meetings

(a) The Joint Rules Committee is vested with the authority to permit any joint committees of the Vermont Legislature (including itself and Conference Committees) to meet and vote electronically as the Joint Rules Committee determines appropriate. If necessary, the Joint Rules Committee may make this authorization remotely in conformity with this Rule.

(b) The authority of the Joint Rules Committee under this Rule 22A terminates upon the ~~expiration of the Executive's Declared Emergency~~ later of: (1) the termination of the Governor's Declaration of a State of Emergency in Response to COVID-19; or (2) January 7, 2022.

Was read and, under Rule 33, placed on the Calendar for Action on the next legislative day.

**Joint Resolution Adopted in Concurrence****J.R.S. 25**

By Senator Balint,

**J.R.S. 25.** Joint resolution relating to weekend adjournment.

***Resolved by the Senate and House of Representatives:***

That when the two Houses adjourn on Friday, April 23, 2021, it be to meet again no later than Tuesday, April 27, 2021.

Was taken up, read, and adopted in concurrence.

**Second Reading; Proposal of Amendment Agreed to;  
Third Reading Ordered****S. 45**

**Rep. Dolan of Essex**, for the Committee on Corrections and Institutions, to which had been referred Senate bill, entitled

An act relating to earned discharge from probation

Reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 200 is added to read:

**§ 200. PURPOSE OF PROBATION**

It is the policy of this State that the purpose of probation is to rehabilitate offenders, reduce the risk that they will commit a subsequent offense, and protect the safety of the victim and the community.

Sec. 2. 28 V.S.A. § 205(b) is amended to read:

(b)(1) At or before the sentencing hearing, the prosecutor's office shall inform the victim of the mid-point review process for probationers, and that the defendant may be eligible for early discharge from probation pursuant to sections 251 and 252 of this title.

(2) 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.

Sec. 3. 28 V.S.A. § 251 is amended to read:

§ 251. DURATION OF PROBATION

(a) The court placing a person on probation may terminate the period of probation and discharge the person at any time if such termination is warranted by the conduct of the offender and the ends of justice.

(b)(1) Upon the Commissioner's motion to discharge pursuant to subsection 252(d) of this title, the sentencing court shall terminate the period of probation and discharge the person at the midpoint of the probation term unless the prosecutor seeks a continuation of probation within 21 days of receipt of notice of the Commissioner's motion; and

(A) the court finds by a preponderance of the evidence that termination and discharge will present a risk of danger to the victim of the offense or to the community; or

(B) the court finds by clear and convincing evidence that the probationer is not substantially in compliance with the conditions of probation that are related to the probationer's rehabilitation or to victim or community safety.

(2) If the court grants the prosecutor's motion to continue probation, it may continue probation for the full term or any portion thereof. The court shall also review the conditions of probation and remove any conditions that are no longer necessary for the remainder of the term.

(c) A probationer shall not be deemed ineligible for discharge or term reduction due to unpaid restitution, fees, or surcharges.

Sec. 4. 28 V.S.A. § 252 is amended to read:

§ 252. CONDITIONS OF PROBATION AND MIDPOINT REVIEW

(a) Conditions, generally. The conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the offender will lead a law-abiding life or to assist the offender to do so. The court shall provide as an explicit condition of every sentence to probation that if the offender is convicted of another offense during the period for which the sentence remains subject to revocation, then the court may impose revocation of the offender's probation.

(b) Probation conditions. When imposing a sentence of probation, the court may, as a condition of probation, require that the offender:

\* \* \*

(c) Certificate. When an offender is placed on probation, he or she shall be given a certificate explicitly setting forth the conditions upon which he or she is being released.

(d) Review and recommendation for discharge.

(1) The Commissioner shall review the record of each probationer serving a specified term during the month prior to the midpoint of that probationer's specified term and ~~may~~ shall file a motion requesting the sentencing court to dismiss the probationer from probation ~~or deduct a portion of the specified term from the period of probation~~ if the offender:

(A) has successfully completed a program or has attained a goal or goals specified by the conditions of probation not been found by the court to have violated the conditions of probation in the six months prior to the review;

(B) is not serving a sentence for committing a crime specified in 13 V.S.A. chapter 19, subchapters 6 and 7; 13 V.S.A. chapter 72, subchapter 1; or 13 V.S.A. § 2602; and

(C) has completed those rehabilitative or risk reduction services required as a condition of probation which have a duration that is set and knowable at the outset of probation.

~~The Commissioner may include in the motion a request that the court deduct a portion of the specified term for each condition completed or goal attained. Any motion under this section shall be made pursuant to a rule adopted by the Commissioner under 3 V.S.A. chapter 25 that shall provide that the decision to make or refrain from making a motion shall be made at the sole discretion of the Commissioner and shall not be subject to appeal.~~

(2) If the probationer does not meet the criteria set forth in subdivision (1) of this subsection, or if the court denies the Commissioner's motion to discharge, the Commissioner shall file a motion requesting the sentencing court to discharge the probation term once the probationer meets the criteria set forth in subdivision (1) of this subsection.

(3) The prosecutor shall make a reasonable effort to notify any victim of record of a motion filed to reduce a probationer's term pursuant to this subsection. "Reasonable effort" means attempting to contact the victim by first-class mail at the victim's last known address and by telephone at the victim's last known phone number.

Sec. 5. DEPARTMENT OF CORRECTIONS; PROBATION MIDPOINT  
REVIEW; REPORT

(a) Beginning on July 1, 2021, the Department of Corrections shall collect the following data regarding the probation midpoint review process:

(1) the number of probation discharge or probation term reduction motions filed by the Department;

(2) the number of probation terms that were reduced or terminated pursuant to this Act; and

(3) the amount of time reduced from probation terms as a result of probation term reduction motions granted by the court.

(b) On or before August 1, 2022 and August 1, 2023, the Department shall report to the Joint Legislative Justice Oversight Committee with the data collected pursuant to this section and any recommendations for further legislative action to improve the probation midpoint review process.

Sec. 6 SENTENCING COMMISSION; PROBATION TERMS FOR  
MISDEMEANORS

During the 2021 legislative interim, the Vermont Sentencing Commission shall review 28 V.S.A. § 205 and the December 3, 2020 report of the Pew Charitable Trusts, "States Can Shorten Probation and Protect Public Safety," and consider whether Vermont should limit the duration of probation terms for misdemeanor offenses to two years. On or before October 1, 2021, the Commission shall issue its recommendation pursuant to this section to the Joint Legislative Justice Oversight Committee.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

The bill, having appeared on the Calendar one day for Notice, was taken up, read the second time, the report of the Committee on Corrections and Institutions agreed to, and third reading ordered.

**Adjournment**

At one o'clock and thirty-eight minutes in the afternoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.