

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Corrections and Institutions to which was referred  
3 Senate Bill No. 45 entitled “An act relating to earned discharge from  
4 probation” respectfully reports that it has considered the same and  
5 recommends that the House propose to the Senate that the bill be amended by  
6 striking out all after the enacting clause and inserting in lieu thereof the  
7 following:

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

9 § 200. PURPOSE OF PROBATION

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

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

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

18 (2) The victim of a listed crime as defined in 13 V.S.A. § 5301(7) for  
19 which the offender has been placed on probation shall have the right to request  
20 and receive from the Department of Corrections information regarding the  
21 offender's general compliance with the specific conditions of probation.

1 Nothing in this section shall require the Department of Corrections to disclose  
2 any confidential information revealed by the offender in connection with  
3 participation in a treatment program.

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

5 § 251. DURATION OF PROBATION

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

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

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

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



1 (d) Review and recommendation for discharge.

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

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

10 (B) is not serving a sentence for committing a crime specified in  
11 13 V.S.A. chapter 19, subchapters 6 and 7; 13 V.S.A. chapter 72, subchapter 1;  
12 or 13 V.S.A. § 2602; and

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

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

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

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

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

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

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

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

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

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

5 Sec. 6 SENTENCING COMMISSION; PROBATION TERMS FOR  
6 MISDEMEANORS

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

14 Sec. 7. EFFECTIVE DATE

15 This act shall take effect on July 1, 2021.

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18 (Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_  
FOR THE COMMITTEE