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	<u>§ 200. PURPOSE OF PROBATION</u>
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.
	VT LEG #355424 v.2

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	(2) If the court grants the prosecutor's motion to continue probation, it
2	may continue probation for the full term or any portion thereof. The court
3	shall also review the conditions of probation and remove any conditions that
4	are no longer necessary for the remainder of the term.
5	(c) A probationer shall not be deemed ineligible for discharge or term
6	reduction due to unpaid restitution, fees, or surcharges.
7	Sec. 4. 28 V.S.A. § 252 is amended to read:
8	§ 252. CONDITIONS OF PROBATION AND MIDPOINT REVIEW
9	(a) <u>Conditions, generally.</u> The conditions of probation shall be such as the
10	court in its discretion deems reasonably necessary to ensure that the offender
11	will lead a law-abiding life or to assist the offender to do so. The court shall
12	provide as an explicit condition of every sentence to probation that if the
13	offender is convicted of another offense during the period for which the
14	sentence remains subject to revocation, then the court may impose revocation
15	of the offender's probation.
16	(b) <u>Probation conditions.</u> When imposing a sentence of probation, the
17	court may, as a condition of probation, require that the offender:
18	* * *
19	(c) <u>Certificate</u> . When an offender is placed on probation, he or she shall be
20	given a certificate explicitly setting forth the conditions upon which he or she
21	is being released.

VT LEG #355424 v.2

1	(d) <u>Review and recommendation for discharge.</u>
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.
	VT LEG #355424 v 2

VT LEG #355424 v.2

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.
16	
17	
18	(Committee vote:)
19	
20	Representative
21	FOR THE COMMITTEE
	VT LEG #355424 v.2