

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 183
3 entitled “An act relating to midpoint probation review” respectfully reports that
4 it has considered the same and recommends that the bill be amended by
5 striking out all after the enacting clause and inserting in lieu thereof the
6 following:

7 Sec. 1. 28 V.S.A. § 252 is amended to read:

8 § 252. CONDITIONS OF PROBATION AND MIDPOINT REVIEW

9 * * *

10 (d) Review and recommendation for discharge.

11 (1) The Commissioner shall review the record of each probationer
12 serving a specified term during the month prior to the midpoint of that
13 probationer’s specified term and shall file a motion requesting the sentencing
14 court to dismiss the probationer from probation if the offender:

15 (A) has not been found by the court to have violated the conditions of
16 probation in the six months prior to the review;

17 (B) is not serving a sentence for committing a crime specified in
18 13 V.S.A. chapter 19, subchapters 6 and 7; 13 V.S.A. chapter 72, subchapter 1;
19 or 13 V.S.A. § 2602;

1 (C) is not subject to a pending criminal charge, provided that the
2 Commissioner may file a motion pursuant to subdivision (3) of this subsection
3 (d); and

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

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

12 (3) If a probationer meets the criteria set forth in subdivision (1)(A),
13 1(B), and 1(D) of this subsection and is subject to a pending criminal charge or
14 violation of probation complaint, the Commissioner may file a motion
15 requesting the sentencing court to dismiss the probationer from probation
16 pursuant to this subsection, The motion shall identify the pending criminal
17 charge or probation violation. After any pending criminal charges and
18 probation violations are resolved, and if the probationer still meets the criteria
19 set forth in subdivisions (1)(A), 1(B), and 1(D) of this subsection, the
20 Commissioner shall file the motion requesting the sentencing court to dismiss
21 the probationer from probation.

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

6 (5) Notwithstanding 1 V.S.A. § 214, and notwithstanding the
7 requirement in subdivision (a)(1) of this section that the Commissioner review
8 the probationer’s record during the month prior to the midpoint of that
9 probationer’s specified term, this subsection shall apply retroactively to any
10 probationer serving a specified term of probation. If the probationer has
11 already reached the midpoint of that probationer’s specified term on or before
12 the effective date of this Act, the Commissioner shall review the probationer’s
13 record as soon as possible for purposes of filing a motion pursuant to this
14 section.

15 Sec. 2. 28 V.S.A. § 251 is amended to read:

16 § 251. DURATION OF PROBATION

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

20 (b)(1) Upon the Commissioner’s motion to discharge pursuant to subsection
21 252(d) of this title, the sentencing court shall terminate the period of probation

1 and discharge the person at the midpoint of the probation term unless the
2 prosecutor seeks a continuation of probation within 21 days of receipt of notice
3 of the Commissioner’s motion; and

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

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

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

15 (3) Notwithstanding 1 V.S.A. § 214, this subsection shall apply
16 retroactively to any probationer serving a specified term of probation.

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

19 Sec. 3. EFFECTIVE DATE

20 This act shall take effect on passage.

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2 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE