

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;

20 (C) is not subject to a pending criminal charge or violation of  
21 probation complaint; and

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

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

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

18           (4) The prosecutor shall make a reasonable effort to notify any victim of  
19 record of a motion filed to reduce a probationer's term pursuant to this  
20 subsection. "Reasonable effort" means attempting to contact the victim by

1 first-class mail at the victim’s last known address and by telephone at the  
2 victim’s last known phone number.

3 (5) Notwithstanding 1 V.S.A. § 214, and notwithstanding the  
4 requirement in subdivision (a)(1) of this section that the Commissioner review  
5 the probationer’s record during the month prior to the midpoint of that  
6 probationer’s specified term, this subsection shall apply retroactively to any  
7 probationer serving a specified term of probation. who had not reached the  
8 midpoint of that specified term on July 1, 2021. If the probationer has already  
9 reached the midpoint of that probationer’s specified term on or before the  
10 effective date of this Act, the Commissioner shall review the probationer’s  
11 record as soon as possible for purposes of filing a motion pursuant to this  
12 section.

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

14 **§ 251. DURATION OF PROBATION**

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

18 (b)(1) Upon the Commissioner’s motion to discharge pursuant to subsection  
19 252(d) of this title, the sentencing court shall terminate the period of probation  
20 and discharge the person at the midpoint of the probation term unless the

1 prosecutor seeks a continuation of probation within 21 days of receipt of notice  
2 of the Commissioner’s motion; and

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

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

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

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

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

18 Sec. 3. EFFECTIVE DATE

19 This act shall take effect on passage.

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1 (Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_

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FOR THE COMMITTEE