

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; and

1 (C) 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 subdivisions (1) of this
16 subsection, the Commissioner shall file the motion requesting the sentencing
17 court to dismiss the probationer from probation.

18 ~~(3)~~(4) The prosecutor shall make a reasonable effort to notify any victim
19 of 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 (1) of this subsection 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. If the probationer has
8 already reached the midpoint of that probationer’s specified term on or before
9 the effective date of this act, the Commissioner shall review the probationer’s
10 record as soon as possible for purposes of filing a motion pursuant to this
11 section.

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

13 § 251. DURATION OF PROBATION

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

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

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

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

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

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

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

16 Sec. 3. EFFECTIVE DATE

17 This act shall take effect on March 31, 2022.

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20 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE