

Senate Judiciary Committee
S.45 Testimony
Chris Fenno, Executive Director
February 4, 2021

Thank you for the opportunity to testify. The Center for Crime Victim Services generally supports the concept of this bill, but we would like to address a few issues that we are concerned about for the impact they could have on victims and possible risk to victims if probation is lifted without appropriate safeguards.

1. **CLEAR AND CONVINCING EVIDENCE:** this could prove to be a high bar that would, in effect, pertain to very few cases. We propose A PERPONERANCE OF THE EVIDENCE that discharge is not in the best interests of the person or that discharging the person will present a risk of danger to the victim or the community. And to add IN THE EVENT DISCHARGE IS NOT GRANTED, THE COURT MAY CONTINUE PROBATION FOR THE FULL TERM OR ANY PORTION AND MODIFY EXISTING CONDICTIONS.
2. The offender’s programming must be satisfied prior to the termination of probation. Once probation is terminated and conditions of probation are lifted, the offender may not continue programming or follow conditions.
3. Related to victims of child sex offenses - Probation conditions often are crafted to protect other children in the household – who are not the victim and thus not eligible for an RFA – and other children in the community. For example, we use conditions like “defendant shall not be alone or unsupervised around females under the age of 16” or “defendant shall not reside with children” to protect other children. When defendant is discharged, those protections disappear, and children are at risk.
4. Related to child victims - RFA orders may not be in place when there is a child victim involved. It is not unusual for a Family Court judge to not issue an RFA in this situation. Rather than have a child testify, the judge will state that conditions of release or probation already protect the child so n RFA is redundant.

