

1 H.642

2 An act relating to youthful offender proceedings

3 It is hereby enacted by the General Assembly of the State of Vermont:

4 Sec. 1. 33 V.S.A. § 5285 is amended to read:

5 § 5285. MODIFICATION OR REVOCATION OF DISPOSITION

6 (a)(1) If it appears that the youth has violated the terms of juvenile
7 probation ordered by the court pursuant to subdivision 5284(c)(1) of this title, a
8 motion for modification or revocation of youthful offender status may be filed
9 in the Family Division of the Superior Court. The court shall set the motion
10 for hearing as soon as practicable. The hearing may be joined with a hearing
11 on a violation of conditions of probation under section 5265 of this title. A
12 supervising juvenile or adult probation officer may detain in an adult facility a
13 youthful offender who has attained 18 years of age for violating conditions of
14 probation.

15 (2) Notwithstanding subdivision 5103(c)(2)(D) of this title, when a
16 motion for revocation of youthful offender status is pending pursuant to this
17 section, the Family Division's jurisdiction over the youth shall remain in effect
18 until the youth is discharged or until probation is revoked. The Family
19 Division may extend its jurisdiction over the youth beyond the youth's 22nd
20 birthday to the extent necessary to maintain jurisdiction under this subdivision.

21 (b) A hearing under this section shall be held in accordance with section
22 5268 of this title.

1 (c)(1) If the court finds after the hearing that the youth has violated the
2 terms of ~~his or her~~ the youth's probation, the court may:

3 ~~(1)~~(A) maintain the youth's status as a youthful offender, with modified
4 conditions of juvenile probation if the court deems it appropriate;

5 ~~(2)~~(B) revoke the youth's status as a youthful offender and transfer the
6 case with a record of the petition, affidavit, adjudication, disposition, and
7 revocation to the Criminal Division for sentencing; or

8 ~~(3)~~(C) transfer supervision of the youth to the Department of
9 Corrections with all of the powers and authority of the Department and the
10 Commissioner under Title 28, including graduated sanctions and electronic
11 monitoring.

12 (2) For purposes of making its determination under subdivision (1) of
13 this subsection, the court shall consider whether:

14 (A) under the criteria of subdivision 5284(a)(2) of this title, public
15 safety will be protected by continuing to treat the youth as a youthful offender;

16 (B) the youth continues to be amenable to treatment or rehabilitation
17 as a youthful offender; and

18 (C) there continue to be sufficient services in the juvenile court
19 system, the Department for Children and Families, and the Department of
20 Corrections to meet the youth's treatment and rehabilitation needs.

1 (d) If the youth fails to appear at a probation revocation hearing under this
2 section, the court may, unless it finds there was good cause for the failure to
3 appear, issue an order pursuant to subsection 5108(c) of this title for an officer
4 to pick up the youth and bring the youth to court.

5 (e) If a youth's status as a youthful offender is revoked and the case is
6 transferred to the Criminal Division pursuant to subdivision ~~(e)(2)(c)(1)(B)~~ of
7 this section, the court shall enter a conviction of guilty based on the admission
8 to or finding of merits, hold a sentencing hearing, and impose sentence.

9 Unless it serves the ~~interest~~ interests of justice, the case shall not be transferred
10 back to the Family Division pursuant to section 5203 of this title. When
11 determining an appropriate sentence, the court may take into consideration the
12 youth's degree of progress toward or regression from rehabilitation while on
13 youthful offender status. The Criminal Division shall have access to all Family
14 Division records of the proceeding.

15 Sec. 2. 33 V.S.A. § 5288 is amended to read:

16 § 5288. RIGHTS OF VICTIMS IN YOUTHFUL OFFENDER
17 PROCEEDINGS

18 (a) The victim in a proceeding involving a youthful offender shall have the
19 following rights:

1 (1) To be notified by the prosecutor in a timely manner:

2 (A) when a court proceeding is scheduled to take place and when a
3 court proceeding ~~to~~ of which the victim has been notified will not take place as
4 scheduled; and

5 (B) of any conditions of release or conditions of probation and of any
6 restitution unless otherwise limited by court order.

7 (2) To be present during all court proceedings subject to the provisions
8 of Rule 615 of the Vermont Rules of Evidence; to attend the hearing on the
9 motion to consider youthful offender status and the disposition hearing to
10 present a victim impact statement and to express reasonably the victim's views
11 concerning the offense and the youth, including testimony in support of the
12 victim's claim for restitution; and to submit oral or written statements to the
13 court at such other times as the court may allow. The court shall consider the
14 victim's statement ~~when ordering disposition~~ pursuant to subsection (b) of this
15 section.

16 (3) To be notified by the agency having custody of the youth before the
17 youth is released into the community from a secure or staff-secured residential
18 facility.

19 (4) To be notified by the prosecutor as to the final disposition of the
20 case.

1 (5) To be notified by the prosecutor of the victim’s rights under this
2 section.

3 (b) In accordance with court rules, at a hearing on a motion to consider
4 youthful offender status or at a hearing on ~~for~~ youthful offender treatment
5 disposition, the court shall ask if the victim is present and, if so, whether the
6 victim would like to be heard regarding the motion or disposition. In ordering
7 youthful offender status or disposition, the court shall consider any views
8 offered at the hearing by the victim. If the victim is not present, the court shall
9 ask whether the victim has expressed, either orally or in writing, views
10 regarding youthful offender status or disposition and shall take those views
11 into consideration in ordering youthful offender status or disposition.

12 (c) No youthful offender proceeding shall be delayed or voided by reason
13 of the failure to give the victim the required notice or the failure of the victim
14 to appear.

15 (d) As used in this section, “victim” ~~shall have~~ has the same meaning as in
16 13 V.S.A. § 5301(4).

17 (e) This section shall not prohibit a victim from discussing underlying facts
18 of the alleged offense that resulted in death or physical, emotional, or financial
19 injury to the victim, provided that, unless otherwise provided by law or court
20 order, a victim shall not disclose what occurs during a court proceeding or
21 information learned through a court proceeding that is not an underlying fact of

1 the alleged offense that resulted in death or physical, emotional, or financial
2 injury to the victim.

3 Sec. 3. EFFECTIVE DATE

4 This act shall take effect on July 1, 2026.