

1

H.642

2 An act relating to youthful offender proceedings

3 The Senate proposes to the House to amend the bill by striking out all after  
4 the enacting clause and inserting in lieu thereof the following:

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

6 § 5285. MODIFICATION OR REVOCATION OF DISPOSITION

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

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

1 (b) A hearing under this section shall be held in accordance with section  
2 5268 of this title.

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

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

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

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

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

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

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

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

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

8           (e) If a youth's status as a youthful offender is revoked and the case is  
9 transferred to the Criminal Division pursuant to subdivision ~~(e)(2)(c)(1)(B)~~ of  
10 this section, the court shall enter a conviction of guilty based on the admission  
11 to or finding of merits, hold a sentencing hearing, and impose sentence.  
12 Unless it serves the ~~interest~~ interests of justice, the case shall not be transferred  
13 back to the Family Division pursuant to section 5203 of this title. When  
14 determining an appropriate sentence, the court may take into consideration the  
15 youth's degree of progress toward or regression from rehabilitation while on  
16 youthful offender status. The Criminal Division shall have access to all Family  
17 Division records of the proceeding.

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

19 § 5288. RIGHTS OF VICTIMS IN YOUTHFUL OFFENDER

20           PROCEEDINGS

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

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

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

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

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

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

20 (4) To be notified by the prosecutor as to the final disposition of the  
21 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 for youthful  
4 offender treatment, the court shall ask if the victim is present and, if so,  
5 whether the victim would like to be heard regarding disposition. In ordering  
6 disposition, the court shall consider any views offered at the hearing by the  
7 victim. If the victim is not present, the court shall ask whether the victim has  
8 expressed, either orally or in writing, views regarding disposition and shall  
9 take those views into consideration in ordering disposition.

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

13          (d) As used in this section, “victim” ~~shall have~~ has the same meaning as in  
14 13 V.S.A. § 5301(4).

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

1 Sec. 3. EFFECTIVE DATE

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