

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 642  
3 entitled “An act relating to youthful offender proceedings” respectfully reports  
4 that it has considered the same and recommends that the Senate propose to the  
5 House that the bill be amended by striking out all after the enacting clause and  
6 inserting in lieu thereof the following:

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

8 § 5285. MODIFICATION OR REVOCATION OF DISPOSITION

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

18 (2) Notwithstanding subdivision ~~5103(e)(2)(B)~~ 5103(c)(2)(D) of this  
19 title, when a motion for revocation of youthful offender status is pending  
20 pursuant to this section, the Family Division’s jurisdiction over the youth shall  
21 remain in effect until the youth is discharged or until probation is revoked.

1 The Family Division may extend its jurisdiction over the youth beyond the  
2 youth's 22nd birthday to the extent necessary to maintain jurisdiction under  
3 this subdivision.

4 (b) A hearing under this section shall be held in accordance with section  
5 5268 of this title.

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

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

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

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

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

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

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

3           (C) there continues to be sufficient services in the juvenile court  
4           system and the Department for Children and Families and the Department of  
5           Corrections to meet the youth’s treatment and rehabilitation needs.

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

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

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

21           § 5288. RIGHTS OF VICTIMS IN YOUTHFUL OFFENDER

1 PROCEEDINGS

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

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

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

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

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

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

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

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

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

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

17           (d) As used in this section, “victim” ~~shall have~~ has the same meaning as in  
18 13 V.S.A. § 5301(4).

19           (e) This section shall not prohibit a victim from discussing underlying facts  
20 of the alleged offense that resulted in death or physical, emotional, or financial  
21 injury to the victim, provided that, unless otherwise provided by law or court

1 order, a victim shall not disclose what occurs during a court proceeding or  
2 information learned through a court proceeding that is not an underlying fact of  
3 the alleged offense that resulted in death or physical, emotional, or financial  
4 injury to the victim.

5 Sec. 3. EFFECTIVE DATE

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

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13 (Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_

FOR THE COMMITTEE