

The Vermont Statutes Online

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Title 28 : Public Institutions and Corrections

Chapter 005 : Probation

Subchapter 001 : GENERAL PROVISIONS

(Cite as: 28 V.S.A. § 205)

§ 205. Probation

(a)(1) After passing sentence, a court may suspend all or part of the sentence and place the person so sentenced in the care and custody of the Commissioner upon such conditions and for such time as it may prescribe in accordance with law or until further order of court.

(2) The term of probation for misdemeanors shall be for a specific term not to exceed two years unless the court, in its sole discretion, specifically finds that the interests of justice require a longer or an indefinite period of probation.

(3)(A) The term of probation for nonviolent felonies shall not exceed four years or the statutory maximum term of imprisonment for the offense, whichever is less, unless the court, in its sole discretion, specifically finds that the interests of justice require a longer or an indefinite period of probation.

(B) As used in this subdivision, “nonviolent felonies” means an offense that is not:

(i) a listed crime as defined in 13 V.S.A. § 5301(7); or

(ii) an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(4) Nothing in this subsection shall prevent the court from terminating the period of probation and discharging a person pursuant to section 251 of this title.

(5) The probation officer of a person on probation for a specific term shall review the person’s case file during probation and, not less than 45 days prior to the expiration of the probation term, may file a petition with the court requesting the court to extend the period of probation for a specific term not to exceed one year in order to provide the

person the opportunity to complete programming consistent with special conditions of probation. A hearing on the petition for an extension of probation under this subsection shall comply with the procedures set forth in Rule 32.1 of the Vermont Rules of Criminal Procedure.

(b)(1) At or before the sentencing hearing, the prosecutor's office shall inform the victim of the midpoint review process for probationers, and that the defendant may be eligible for early discharge from probation pursuant to sections 251 and 252 of this title.

(2) The victim of a listed crime as defined in 13 V.S.A. § 5301(7) for which the offender has been placed on probation shall have the right to request and receive from the Department of Corrections information regarding the offender's general compliance with the specific conditions of probation. Nothing in this section shall require the Department of Corrections to disclose any confidential information revealed by the offender in connection with participation in a treatment program.

(c)(1) Unless the court in its discretion finds that the interests of justice require additional standard and special conditions of probation, when the court orders a specific term of probation for a qualifying offense, the offender shall be placed on administrative probation, which means that the only conditions of probation shall be that the probationer:

(A) register with the Department of Corrections' probation and parole office in his or her district;

(B) notify the probation officer of his or her current address each month;

(C) within 72 hours, notify the Department of Corrections if probable cause is found for a criminal offense during the term of probation; and

(D) not be convicted of a criminal offense during the term of probation.

(2) As used in this subsection, "qualifying offense" means:

(A) Unlawful mischief under 13 V.S.A. § 3701.

(B) Retail theft under 13 V.S.A. §§ 2575 and 2577.

(C) Operating after suspension or revocation of license under 23 V.S.A. § 674(a).

(D) Bad checks under 13 V.S.A. § 2022.

(E) Theft of services under 13 V.S.A. § 2582.

(F) Disorderly conduct under 13 V.S.A. § 1026, unless the original charge was a listed offense as defined in 13 V.S.A. § 5301(7).

(G) Theft of rented property under 13 V.S.A. § 2591.

(H) Operation without consent of owner under 23 V.S.A. § 1094(a).

(I) Petit larceny under 13 V.S.A. § 2502.

(J) Negligent operation of a motor vehicle under 23 V.S.A. § 1091(a).

(K) False reports to law enforcement under 13 V.S.A. § 1754.

(L) Setting fires under 13 V.S.A. § 508.

(M) [Repealed.]

(N) Simple assault by mutual consent under 13 V.S.A. § 1023(b) unless the original charge was a listed offense as defined in 13 V.S.A. § 5301(7).

(O) Unlawful trespass under 13 V.S.A. § 3705(a).

(P) A first offense of possession under 18 V.S.A. § 4230(a)(1).

(3) Nothing in this subsection shall prohibit a court from requiring participation in the Restorative Justice Program established in chapter 12 of this title. (Added 1971, No. 199 (Adj. Sess.), § 20; amended 1995, No. 170 (Adj. Sess.), § 19, eff. Sept. 1, 1996; 1999, No. 4, § 4; 2003, No. 145 (Adj. Sess.), § 1, eff. June 3, 2004; 2005, No. 192 (Adj. Sess.), § 18, eff. May 26, 2006; 2007, No. 179 (Adj. Sess.), § 4; 2009, No. 146 (Adj. Sess.), § D5; 2015, No. 147 (Adj. Sess.), § 9, eff. May 31, 2016; 2021, No. 24, § 2.)