

1 Introduced by Committee on Judiciary

2 Date:

3 Subject: Criminal procedure; corrections policy; diversion; pretrial services;  
4 probation and parole; furlough

5 Statement of purpose of bill as introduced: This bill proposes to reform the  
6 State’s approach to criminal justice by reducing the population of incarcerated  
7 Vermonters and reinvesting the savings in strategies to improve public safety,  
8 with the goals of: reducing recidivism and revocations to prison, supporting  
9 individual success on supervision, achieving a more equitable justice system  
10 across race and geography, and improving data and reporting to inform  
11 decision-making.

12 An act relating to justice reinvestment

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

14 Sec. 1. FINDINGS AND PURPOSE

15 (a) The General Assembly finds:

16 (1) Almost 80 percent of sentenced Department of Corrections  
17 admissions are for people returned or revoked from furlough, parole, and  
18 probation, primarily driven by furlough violators.



1     § 7142. NOTICE, HEARING, AND DECISION

2           (a) Unless the petition and the files and records of the case conclusively show  
3     that the inmate is not entitled to relief, the court shall cause notice to be served  
4     upon the Office of the Attorney General and the State’s Attorney. The Office of  
5     the Attorney General and a State’s Attorney who receive notice may elect to  
6     appear as parties.

7           (b) The court may decide the petition upon the files and records of the case or  
8     may grant a hearing. If the court grants a hearing, the court may entertain and  
9     decide the petition without requiring the inmate to attend the hearing.

10          (c) The court shall grant the petition if it finds by a preponderance of the  
11     evidence that:

12           (1) the inmate:

13            (A) has been diagnosed with a terminal, incurable disease and has a life  
14     expectancy of 18 months or less; or

15            (B) has been diagnosed with an incurable and progressive illness or has  
16     suffered a debilitating injury; and:

17            (i) cannot care for himself or herself and is confined to a bed or chair;  
18     or

19            (ii) can only care for himself or herself on a limited basis and is  
20     confined to a bed or chair for at least 50 percent of his or her waking hours; or

21            (C) is XX years of age or older; and:

22            (i) suffers from a chronic or serious medical condition; and



1 portion of the sentence shall be the minimum term of sentence solely for the  
2 purpose of any reductions of term for good behavior as set forth in 28 V.S.A.  
3 § 811. A sentence shall not be considered fixed as long as the maximum and  
4 minimum terms are not identical.

5 (b) The sentence of imprisonment of any person convicted of an offense  
6 shall commence to run from the date on which the person is received at the  
7 correctional facility for service of the sentence. The court shall give the person  
8 credit toward service of his or her sentence for any days spent in custody as  
9 follows:

10 (1) The period of credit for concurrent and consecutive sentences shall  
11 include all days served from the date of arraignment or the date of the earliest  
12 detention for the offense, whichever occurs first, and end on the date of the  
13 sentencing. Only a single credit shall be awarded in cases of consecutive  
14 sentences, and no credit for one period of time shall be applied to a later  
15 period.

16 (2) In sentencing a violation of probation, the court shall give the person  
17 credit for any days spent in custody from the time the violation is filed or the  
18 person is detained on the violation, whichever occurs first, until the violation is  
19 sentenced. In a case in which probation is revoked and the person is ordered to  
20 serve the underlying sentence, the person shall receive credit for all time  
21 previously served in connection with the offense and all time served on

1 probation prior to the time the violation is filed or the person is detained on the  
2 violation, whichever occurs later.

3 (3) A defendant who has received pre-adjudication treatment in a  
4 residential setting for a substance use disorder after the charge has been filed  
5 shall earn a reduction of one day in the offender's minimum and maximum  
6 sentence for each day that the offender receives the inpatient treatment.

7 (c) If any such person is committed to a jail or other place of detention to  
8 await transportation to the place at which his or her sentence is to be served,  
9 his or her sentence shall commence to run from the date on which he or she is  
10 received at the jail or the place of detention.

11 (d) A person who receives a zero minimum sentence for a conviction of a  
12 nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301  
13 shall report to probation and parole as directed by the court and begin to serve  
14 the sentence in the community immediately, unless the person is serving a  
15 prior sentence at the time.

16 Sec. 4. 28 V.S.A. § 205 is amended to read:

17 § 205. PROBATION

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

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

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

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

- 11           (i) a listed crime as defined in 13 V.S.A. § 5301(7); or  
12           (ii) an offense involving sexual exploitation of children in  
13 violation of 13 V.S.A. chapter 64.

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

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

1 programming consistent with special conditions of probation. A hearing on the  
2 petition for an extension of probation under this subsection shall comply with  
3 the procedures set forth in Rule 32.1 of the Vermont Rules of Criminal  
4 Procedure.

5 (b) The victim of a listed crime as defined in 13 V.S.A. § 5301(7) for  
6 which the offender has been placed on probation shall have the right to request  
7 and receive from the Department of Corrections information regarding the  
8 offender's general compliance with the specific conditions of probation.

9 Nothing in this section shall require the Department of Corrections to disclose  
10 any confidential information revealed by the offender in connection with  
11 participation in a treatment program.

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

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

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

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

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

5 (2) As used in this subsection, “qualifying offense” means:

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

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

8 (C) Operating after suspension or revocation of license under  
9 23 V.S.A. § 674(a).

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

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

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

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

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

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

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

18 § 1091(a).

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

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

21 (M) [Repealed.]

1 (N) Simple assault by mutual consent under 13 V.S.A. § 1023(b)  
2 unless the original charge was a listed offense as defined in 13 V.S.A.  
3 § 5301(7).

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

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

6 (3) Nothing in this subsection shall prohibit a court from requiring  
7 participation in the Restorative Justice Program established in chapter 12 of  
8 this title.

9 (d) The court shall reduce the term of the suspended sentence one day for  
10 each day the person serves on probation without violating one more conditions  
11 of the probation.

12 Sec. 5. 28 V.S.A. § 304 is amended to read:

13 § 304. DISPOSITION ALTERNATIVES UPON VIOLATION OF  
14 PROBATION

15 (a) Revocation and imposition of sentence.

16 (1) If a violation is established by a proceeding conducted in accordance  
17 with section 302 of this title, the court may, in its discretion, revoke probation  
18 and require the probationer to serve the remainder of the sentence that was  
19 suspended or order that the remainder of the sentence be served in the  
20 community pursuant to the provisions of chapter 6 of this title.

1           (2) In the event the court revokes probation and requires the probationer  
2           to serve the suspended sentence pursuant to this section, the duration of the  
3           remaining suspended sentence shall be reduced in accordance with  
4           subdivision 205(d) of this title and 13 V.S.A. § 7031(b)(2).

5           (b) Alternative sanctions. As an alternative to revocation and imposition of  
6           sentence as provided in subsection (a) of this section, the court, in its  
7           discretion, after a violation has been established, may:

8                   (1) continue the probationer on the existing sentence;

9                   (2) effect, in accordance with subsection 253(b) of this title, necessary  
10           or desirable changes or enlargements in the conditions of probation;

11                   (3) conduct a formal or informal conference with the probationer in  
12           order to reemphasize to him or her the necessity of compliance with the  
13           conditions of probation;

14                   (4) issue a formal or informal warning to the probationer that further  
15           violations may result in revocation of probation by the court; or

16                   (5) continue the probationer on the existing sentence, but require the  
17           probationer to serve any portion of the sentence.

18           (c) Guidelines. Prior to ordering either revocation or an alternative  
19           sanction for a violation of probation in accordance with subsection (b) of this  
20           section, the court shall consider, but has complete discretion whether to follow,

1 sanction guidelines established by the Department of Corrections pursuant to  
2 subsection (e) of this section.

3 (d) Discretion of the court. No plea agreement shall limit the court’s  
4 discretion under this section.

5 (e) Rules. The Department of Corrections shall adopt rules pursuant to  
6 3 V.S.A. chapter 25 that establish graduated sanction guidelines for probation  
7 violations as an alternative to revocation and imposition of the remainder of  
8 the original sentence. These guidelines do not grant the Department any  
9 authority to impose sanctions for probation violations.

10 \* \* \* Parole \* \* \*

11 Sec. 6. 28 V.S.A. § 402 is amended to read:

12 § 402. DEFINITIONS

13 ~~Whenever~~ As used in this chapter:

14 (1) “Parole” means the release of an inmate to the community by the  
15 Parole Board before the end of the inmate’s sentence subject to conditions  
16 imposed by the Board and subject to the supervision and control of the  
17 Commissioner. If a court or other authority files a warrant or detainer against  
18 an inmate, the Board may release him or her on parole to answer the warrant  
19 and serve any subsequent sentences.

20 (2) “Interview” means an appearance by the inmate at a meeting of the  
21 Parole Board.

1 (3) “Review” means an evaluation of an inmate’s records without an  
2 appearance by the inmate before the Parole Board.

3 Sec. 7. 28 V.S.A. § 501 is amended to read:

4 § 501. ELIGIBILITY FOR PAROLE CONSIDERATION; PRESUMPTIVE  
5 PAROLE

6 (a) Parole eligibility. ~~An inmate~~ A person who is serving a sentence of  
7 imprisonment who is not eligible for presumptive parole pursuant to subsection  
8 (b) of this section shall be eligible for parole consideration as follows:

9 (1) If the ~~inmate’s~~ person’s sentence has no minimum term or a zero  
10 person minimum term, the ~~inmate~~ person shall be eligible for parole  
11 consideration within 12 months after commitment to a correctional facility.

12 (2) If the ~~inmate’s~~ person’s sentence has a minimum term, the ~~inmate~~  
13 person shall be eligible for parole consideration after the ~~inmate~~ person has  
14 served the minimum term of the sentence.

15 (b) Presumptive parole.

16 (1) A person who is serving a sentence of imprisonment shall be eligible  
17 for presumptive release in accordance with subsection 502a(e) of this title at  
18 the expiration of the person’s minimum or aggregate minimum term of  
19 imprisonment if the person:

20 (A) has acquired no new criminal conviction while incarcerated or on  
21 supervision for the current offense;

1           (B) has no outstanding warrants, detainers, commitments, or pending  
2           charges for a violation of a listed crime pursuant to 13 V.S.A. § 5301;

3           (C) is compliant with the person’s case plan during the period of  
4           incarceration if the person is incarcerated for less than 90 days or is compliant  
5           for the 90 days preceding the completion of the person’s minimum term if the  
6           person is incarcerated for 90 days or more;

7           (D) if the person is supervised in the community, the person is  
8           compliant with the conditions of the person’s supervision during the period of  
9           supervision if the person is supervised for less than 90 days or is compliant for  
10           the 90 days preceding the completion of the person’s minimum term if the  
11           person is supervised for 90 days or more;

12           (E) has no major disciplinary convictions or pending infractions  
13           during the period of incarceration if the person is incarcerated for less than 12  
14           months, or has no major disciplinary convictions or pending infractions during  
15           the preceding 12 months if the person is incarcerated for 12 months or more;

16           (F) has not had parole revoked on the person’s current sentence; and

17           (G) is not serving a sentence for committing a crime specified in 33  
18           V.S.A. § 5204(a).

19           (2) If the inmate is 55 years of age or older but under 65 years of age, is not  
20           screened as low risk by the Department, and has served 10 years but not served the  
21           minimum of the sentence, the inmate shall be eligible for presumptive release in  
22           the following categories:

1 accordance with subsection 502a(e) of this title, unless the inmate has  
2 programming requirements that have not been fulfilled or has received a major  
3 disciplinary conviction within the previous 12 months.

4 (3) If the inmate is 65 years of age or older, is not serving a sentence for  
5 committing a crime specified in 33 V.S.A. § 5204(a), is screened as low risk by  
6 the Department, and has served five years but not served the minimum term of the  
7 sentence, the inmate shall be eligible for presumptive release in accordance with  
8 subsection 502a(e) of this title, unless the inmate has programming requirements  
9 that have not been fulfilled or has received a major disciplinary conviction within  
10 the previous 12 months.

11 Sec. 8. 28 V.S.A. § 502 is amended to read:

12 § 502. PAROLE INTERVIEWS AND REVIEWS

13 (a) The Board shall interview each inmate eligible for parole consideration  
14 under section 501 of this title before ordering the inmate released on parole.  
15 The Board shall consider all pertinent information regarding an inmate in order  
16 to determine the inmate's eligibility for parole. The Board may grant parole  
17 only after an inmate is interviewed in accordance with this section. The Parole  
18 Board may conduct the interview in person, by telephone or videoconference,  
19 or by any other method it deems appropriate.

20 (b) An initial interview of the inmate shall occur at least 30 days prior to  
21 the date when the inmate becomes eligible for parole consideration under  
22 section 501 of this title.

1 (c) An inmate eligible for parole consideration shall, subsequent to the  
2 initial interview provided for above, be reviewed and interviewed thereafter, as  
3 follows:

4 (1) If the inmate is serving a maximum sentence of less than 15 years:

5 (A) the Board shall review the inmate's record once every 12  
6 months;

7 (B) the Board shall conduct an interview of the inmate at the request  
8 of the Department; and

9 (C) upon written request of the inmate, the Board shall conduct an  
10 interview, but not more than once in any two-year period.

11 (2) If the inmate is serving a sentence with a maximum of 15 years up to  
12 a maximum of life:

13 (A) the Board shall review the inmate's record once every two years;

14 (B) the Board shall conduct an interview of the inmate at the request  
15 of the Department; and

16 (C) upon written request of the inmate, the Board may conduct an  
17 interview, but not more than once in any two-year period.

18 (d) The Board in its discretion may hear from attorneys or other persons  
19 with an interest in the case before the Board. A person presenting statements  
20 to the Board may be required to submit the statement in writing.

1 (e) Interviews and reviews shall be conducted in accordance with the rules  
2 and regulations established by the Board, which shall be consistent with this  
3 section.

4 (f) The Board ~~may~~, when formulating the conditions of a parole, shall take  
5 into consideration the emotional needs of the victim of an offender's crime  
6 plus the needs of the victim's family.

7 Sec. 9. 28 V.S.A. § 502a is amended to read:

8 § 502a. RELEASE ON PAROLE

9 (a) No inmate serving a sentence with a minimum term shall be released on  
10 parole until the inmate has served the minimum term of the sentence, less any  
11 reductions for good behavior.

12 (b) An inmate who is not eligible for presumptive parole pursuant to  
13 subsection 501(b) of this title shall be released on parole by the written order  
14 of the Parole Board if the Board determines:

15 (1) the inmate is eligible for parole;

16 (2) there is a reasonable probability that the inmate can be released  
17 without detriment to the community or to the inmate; and

18 (3) the inmate is willing and capable of fulfilling the obligations of a  
19 law-abiding citizen.

20 (c) A parole under subsection (b) or (e) of this section shall be ordered only  
21 for the best interests of the community and of the inmate, and shall not be

1 regarded as an award of clemency, a reduction of sentence, or a conditional  
2 pardon.

3 (d) Notwithstanding subsection (a) or (e) of this section, or any other  
4 provision of law to the contrary, any inmate who is serving a sentence,  
5 including an inmate who has not yet served the minimum term of the sentence,  
6 who is diagnosed as having a terminal or serious medical condition so as to  
7 render the inmate unlikely to be physically capable of presenting a danger to  
8 society, may be released on medical parole to a hospital, hospice, other  
9 licensed inpatient facility, or suitable housing accommodation as specified by  
10 the Parole Board. Provided the inmate has authorized the release of his or her  
11 personal health information, the Department shall promptly notify the Parole  
12 Board upon receipt of medical information of an inmate's diagnosis of a  
13 terminal or serious medical condition. As used in this subsection, a "serious  
14 medical condition" does not mean a condition caused by noncompliance with a  
15 medical treatment plan.

16 (e)(1) The Department shall refer to the Parole Board an inmate eligible for  
17 presumptive parole under subsection 501(b) of this title unless the Department  
18 determines:

19 (A) there is a reasonable probability that the inmate cannot be  
20 released without detriment to the community or to the inmate; or



1 ~~sentence. While on conditional reentry status, the offender shall be required to~~  
2 ~~participate in programs and activities that hold the offender accountable to~~  
3 ~~victims and the community pursuant to section 2a of this title.~~

4 (b) An offender granted a temporary furlough pursuant to this section may  
5 be accompanied by an employee of the Department, in the discretion of the  
6 Commissioner, during the period of the offender's furlough. The Department  
7 may use electronic monitoring equipment such as global position monitoring,  
8 automated voice recognition telephone equipment, and transdermal alcohol  
9 monitoring equipment to enable more effective or efficient supervision of  
10 individuals placed on furlough.

11 (c) The extension of the limits of the place of confinement authorized by  
12 this section shall in no way be interpreted as a probation or parole of the  
13 offender, but shall constitute solely a permitted extension of the limits of the  
14 place of confinement for offenders committed to the custody of the  
15 Commissioner.

16 (d) When any enforcement officer, as defined in 23 V.S.A. § 4, employee  
17 of the Department, or correctional officer responsible for supervising an  
18 offender believes the offender is in violation of any verbal or written condition  
19 of the temporary furlough, the officer or employee may immediately lodge the  
20 offender at a correctional facility or orally or in writing deputize any law  
21 enforcement officer or agency to arrest and lodge the offender at such a

1 facility. The officer or employee shall subsequently document the reason for  
2 taking such action.

3 (e) ~~The Commissioner may place on medical furlough any offender who is~~  
4 ~~servicing a sentence, including an offender who has not yet served the minimum~~  
5 ~~term of the sentence, who is diagnosed with a terminal or serious medical~~  
6 ~~condition so as to render the offender unlikely to be physically capable of~~  
7 ~~presenting a danger to society. The Commissioner shall develop a policy~~  
8 ~~regarding the application for, standards for eligibility of, and supervision of~~  
9 ~~persons on medical furlough. The offender may be released to a hospital,~~  
10 ~~hospice, other licensed inpatient facility, or other housing accommodation~~  
11 ~~deemed suitable by the Commissioner. As used in this subsection, a “serious~~  
12 ~~medical condition” does not mean a condition caused by noncompliance with a~~  
13 ~~medical treatment plan. [Repealed.]~~

14 (f) ~~While appropriate community housing is an important consideration in~~  
15 ~~release of offenders, the Department shall not use lack of housing as the sole~~  
16 ~~factor in denying furlough to offenders who have served at least their~~  
17 ~~minimum sentence for a nonviolent misdemeanor or nonviolent felony~~  
18 ~~provided that public safety and the best interests of the offender will be served~~  
19 ~~by reentering the community on furlough. The Department shall adopt rules to~~  
20 ~~implement this subsection. [Repealed].~~

1           (g) ~~Subsections (b)-(f)~~ Subsection (b) of this section shall also apply to  
2 sections 808a and 808c of this title.

3           Sec. 11. 28 V.S.A. § 808a is amended to read:

4           § 808a. TREATMENT FURLOUGH

5           (a) An offender may be sentenced to serve a term of imprisonment, but  
6 placed by a court on treatment furlough to participate in such programs  
7 administered by the Department in the community that reduce the offender's  
8 risk to reoffend or that provide reparation to the community in the form of  
9 supervised work activities.

10           (b) Provided the approval of the sentencing judge is first obtained, the  
11 Department may place on treatment furlough an offender who has not yet  
12 served the minimum term of the sentence, who, in the Department's  
13 determination, needs residential treatment services not available in a  
14 correctional facility. The services may include treatment for substance abuse  
15 or personal violence or any other condition that the Department has determined  
16 should be addressed in order to reduce the offender's risk to reoffend or cause  
17 harm to himself or herself or to others in the facility. The offender shall be  
18 released only to a hospital or residential treatment facility that provides  
19 services to the general population. The State's share of the cost of placement  
20 in such a facility, net of any private or federal participation, shall be paid  
21 pursuant to memoranda of agreement between and within State agencies

1 reflective of their shared responsibilities to maximize the efficient and  
2 effective use of State resources. In the event that a memorandum of agreement  
3 cannot be reached, the Secretary of Administration shall make a final  
4 determination as to the manner in which costs will be allocated.

5 ~~(c)(1) Except as provided in subdivision (2) of this subsection, the~~  
6 ~~Department, in its own discretion, may place on treatment furlough an offender~~  
7 ~~who has not yet served the minimum term of his or her sentence for an eligible~~  
8 ~~misdemeanor as defined in section 808d of this title if the Department has~~  
9 ~~made a determination based upon a risk assessment that the offender poses a~~  
10 ~~low risk to public safety or victim safety and that employing an alternative to~~  
11 ~~incarceration to hold the offender accountable is likely to reduce the risk of~~  
12 ~~recidivism.~~

13 ~~(2) Driving under the influence of alcohol or drugs, second offense, as~~  
14 ~~defined in 23 V.S.A. §§ 1201 and 1210(c) and boating under the influence of~~  
15 ~~alcohol or drugs, second offense, as defined in 23 V.S.A. § 3323 shall be~~  
16 ~~considered eligible misdemeanors for the sole purpose of subdivision (1) of~~  
17 ~~this subsection. [Repealed.]~~

18 Sec. 12. 28 V.S.A. § 723 is amended to read:

19 § 723. ~~CONDITIONAL REENTRY~~ COMMUNITY SUPERVISION

20 FURLOUGH

1       (a) ~~When a sentenced offender has served the minimum term of the total~~  
2 ~~effective sentence, the~~ The Department may release ~~the offender~~ from a  
3 correctional facility ~~under section 808 of this title for the offender to~~  
4 participate in a reentry program while serving the remaining sentence in the  
5 community a person who:

6           (1) has served the minimum term of the person’s total effective  
7 sentence;

8           (2) is ineligible for presumptive parole pursuant to section 501 of this  
9 title or has been returned or revoked to prison for a violation of conditions of  
10 parole, furlough, or probation; and

11           (3) agrees to comply with such conditions of supervision the  
12 Department, in its sole discretion, deems appropriate for that person’s  
13 furlough.

14       (b) The offender’s continued supervision in the community is conditioned  
15 on the offender’s commitment to and satisfactory progress in his or her reentry  
16 program and on the offender’s compliance with any terms and conditions  
17 identified by the Department.

18       (c) Prior to release under this section, the Department shall screen and, if  
19 appropriate, assess each felony drug and property offender for substance abuse  
20 treatment needs using an assessment tool designed to assess the suitability of a  
21 broad range of treatment services, and it shall use the results of this assessment

1 in preparing a reentry plan. The Department shall attempt to identify all  
2 necessary services in the reentry plan and work with the offender to make  
3 connections to necessary services prior to release so that the offender can begin  
4 receiving services immediately upon release.

5 Sec. 13. 28 V.S.A. § 724 is amended to read:

6 § 724. TERMS AND CONDITIONS OF ~~CONDITIONAL REENTRY~~  
7 COMMUNITY SUPERVISION FURLOUGH

8 The Department shall identify in the terms and conditions of ~~conditional~~  
9 ~~reentry~~ community supervision furlough those programs necessary to reduce  
10 the offender's risk of reoffense and to promote the offender's accountability  
11 for progress in the reintegration process. The Department and one member of  
12 the Parole Board shall make all determinations of violations of conditions of  
13 community supervision furlough pursuant to this subchapter and any resulting  
14 alternative sentence or termination of supervised community release status.

15 Sec. 14. 28 V.S.A. § 725 is amended to read:

16 § 725. PAROLE HEARING FOR OFFENDERS ON ~~CONDITIONAL~~  
17 ~~REENTRY~~ COMMUNITY SUPERVISION FURLOUGH

18 (a) The Department shall submit to the Parole Board a recommendation  
19 relative to whether the offender should be released to presumptive parole  
20 pursuant to section ~~502a~~ 501 of this title when:

1 (1) an offender sentenced solely for the commission of one or more  
2 unlisted crimes has, in the sole discretion of the Department, successfully  
3 completed 90 days of community supervision furlough ~~in a conditional reentry~~  
4 ~~program~~; or

5 (2) an offender sentenced for the commission of at least one or more  
6 listed crimes has, in the sole discretion of the Department, successfully  
7 completed 180 days of community supervision furlough ~~in a conditional~~  
8 ~~reentry program~~.

9 (b) The Department shall set conditions to be reviewed by the Parole Board  
10 for any offender eligible for presumptive parole pursuant to this section. The  
11 Parole Board shall review the conditions within:

12 (1) 90 days of the beginning of the term of parole for an offender whose  
13 parole term is set at 6 months or more; or

14 (2) 10 days of the beginning of the term of parole for an offender whose  
15 parole term is set at less than 6 months.

16 Sec. 15. 28 V.S.A. § 818 is amended to read:

17 § 818. EARNED GOOD TIME; REDUCTION OF TERM

18 (a) On or before July 1, 2020, the Department of Corrections shall file a  
19 proposed rule pursuant to 3 V.S.A. chapter 25 implementing an earned good  
20 time program. The Commissioner shall adopt these amendments as an  
21 emergency rule and concurrently propose them as a permanent rule. The

1 emergency rule shall be deemed to meet the standard for the adoption of  
2 emergency rules pursuant to 3 V.S.A. § 844(a).

3 (b) The earned good time program implemented pursuant to this section  
4 shall comply with the following standards:

5 (1) The program shall be available for all sentenced offenders, including  
6 furloughed offenders, provided that the program shall not be available to  
7 offenders on probation or parole, to offenders eligible for a reduction of term  
8 pursuant to section 811 of this title, or to offenders sentenced to life without  
9 parole.

10 (2) Offenders shall earn a reduction of ~~five~~ seven days in the minimum  
11 and maximum sentence for each month during which the offender:

12 (A) is not adjudicated of a major disciplinary rule violation; and

13 (B) is not reincarcerated from the community for a violation of  
14 release conditions, provided that an offender who loses a residence for a reason  
15 other than fault on the part of the offender shall not be deemed reincarcerated  
16 under this subdivision; ~~and,~~

17 ~~(C) complies with a merit-based system designed to incentivize~~  
18 ~~offenders to meet milestones identified by the Department that prepare~~  
19 ~~offenders for reentry, if the offender has received a sentence of greater than~~  
20 ~~one year.~~

1 (3) An offender who receives post-adjudication treatment in a residential  
2 setting for a substance use disorder shall earn a reduction of one day in the  
3 minimum and maximum sentence for each day that the offender receives the  
4 inpatient treatment. While a person is in residential substance abuse treatment,  
5 he or she shall not be eligible for good time except as provided in this  
6 subsection.

7 (4) The Department shall provide timely notice ~~no~~ not less frequently  
8 than every 90 days to the offender and to any victim of record any time the  
9 offender receives a reduction in his or her term of supervision pursuant to this  
10 section, and the Department shall maintain a system that documents and  
11 records all such reductions in each offender's permanent record.

12 (5) The program shall become effective upon the Department's adoption  
13 of final proposed rules pursuant to 3 V.S.A. § 843.

14 Sec. 16. 28 V.S.A. § 808c is amended to read:

15 § 808c. REINTEGRATION FURLOUGH

16 \* \* \*

17 (g) While on reintegration furlough status, an offender shall be required to  
18 participate in programs and activities that hold the offender accountable to  
19 victims and the community pursuant to section 2a of this title.

20 Sec. 17. 28 V.S.A. § 808d is amended to read:

21 § 808d. DEFINITION; ELIGIBLE MISDEMEANOR; ~~FURLOUGH AT~~



1           (A) analyze sentencing patterns across the State to identify where the  
2           use and length of incarceration may result in or exacerbate racial disparities;  
3           and

4           (B) work with the Executive Director of Racial Equity and the Racial  
5           Equity Advisory Panel in identifying the types of offenses for which there are  
6           racial and geographic disparities in sentencing and propose standardized  
7           sentencing guidance for those offenses.

8           (2) On or before December 1, 2020, the Commission shall report to the  
9           Joint Legislative Justice Oversight Committee with the results of its work  
10           pursuant to this section.

11           (b) During the 2020 legislative interim, the Chief Superior Judge, the  
12           Attorney General, the Defender General, the Department of Corrections, and  
13           the Executive Director of the Department of State’s Attorneys and Sheriffs  
14           shall identify existing data that explores the relationships between  
15           demographic factors and sentencing outcomes and determine whether and  
16           where current data systems and collections are insufficient for additional  
17           analyses and what staffing or resources are needed to support more robust  
18           reporting. Relevant data shall include plea agreements, sentence types and  
19           length, criminal history, offense severity, and any other metric that may further  
20           identify differences in how people are charged and sentenced by county, race,  
21           and gender. Each stakeholder identified in this subsection shall report their

1 findings to the Joint Legislative Justice Oversight Committee on or before  
2 October 1, 2020.

3 Sec. 20. JUSTICE REINVESTMENT II APPROPRIATION

4 (a) In FY20, \$2,000,000 is appropriated from the General Fund to the  
5 Agency of Human Services to fund Justice Reinvestment II investments that  
6 include workforce development, housing, community supports, and reentry  
7 programming for offenders transitioning back into the community.

8 (b) The General Assembly intends that this appropriation of onetime funds  
9 is to immediately invest funds to reduce recidivism and increase public safety,  
10 and for savings achieved in and FY21 as a result of the legislative action taken  
11 in this act to be used to fund these investments in FY22 and in the future.

12 Sec. 21. REPEAL

13 28 V.S.A. § 808b (home confinement furlough) is repealed on July 1, 2020.

14 \* \* \* Effective Dates \* \* \*

15 Sec. 22. EFFECTIVE DATES

16 This act shall take effect on January 1, 2021, except that Sec. 15 shall take  
17 effect on passage.