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| STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS | Term Probation Midpoint Review | | Page 1 of 3 |
| CHAPTER: SECURITY AND SUPERVISION | #428.01 | Supersedes: #428.01, dated 7/1/2021 | |
| Local Procedure(s) Required: No Applicability: All field staff Security Level: "B" – Anyone may have access to this document. | | | |
| Approved: | | | |
| <u>SIGNED</u> Nicholas J. Deml, Commissioner | <u>05/31/2022</u> Date Signed | <u>05/31/2022</u> Date Effective | |

PURPOSE

This policy defines the Vermont Department of Corrections' (DOC) role in reviewing all term probation cases at their midpoint and delineates the criteria under which the DOC shall submit a discharge to the court for probationers with a specified term. This policy only concerns midpoint reviews and does not relate to other terms of probation supervision. Specifically, this policy does not address deferred probation.

AUTHORITY

28 V.S.A. § 252(b) and (d).

POLICY

The DOC's policy is to review all term probation cases during the month before the term's midpoint to assess the probationer's progress towards meeting standard and special probation conditions. This process is referred to as the "midpoint review."

GENERAL PROCEDURES

A. Midpoint Review

1. The Probation and Parole Officer (PPO) shall enter the probation expiration date into the Offender Management System (OMS) during the intake process for non-exclusionary term probation cases.

2. The PPO shall confirm that the probationer's charge is not a disqualifying offense enumerated in the appendix of this policy.
3. The PPO shall document whether the probationer's charge is a disqualifying offense in OMS.

B. Criteria for Discharge at Midpoint

1. The PPO shall submit to the court a motion to discharge the probationer at the end of the month prior to the midpoint, or any time afterward, when the following criteria are met:
 - a. The probationer:
 - i. Is not pending a criminal charge or violation of probation complaint; or
 - ii. Is pending a criminal charge or violation of probation complaint and the PPO determines that the probationer's discharge has minimal to no impact on the safety of the public or victim(s). If the PPO proceeds with a motion to discharge the probationer, they shall document the pending charges or probation violation in the motion to the court.
 - b. The court found that the probationer did not violate their conditions of probation in the six months prior to the review;
 - c. The probationer is not serving a sentence for committing a crime specified in 13 V.S.A chapter 19, subchapter six and seven (domestic assault and stalking respectively); 13 V.S.A. chapter 72, subchapter one (sexual assault); or 13 V.S.A. § 2602 (lewd or lascivious conduct with child); and
 - d. The probationer completed all required rehabilitative, or risk reduction services, which have a set duration that is knowable at the time of sentencing. For example, safe driving courses, or batterer intervention programming have a predetermined set number of classes that the probationer must attend.
2. When the midpoint review is complete, the PPO shall document in OMS:
 - a. Their midpoint review discharge determination; and
 - b. The court's midpoint review determination, if submitted for the court's review.

C. Scope

1. The PPO shall file any violations of probation conditions in accordance with this policy.
2. If the probationer is not compliant and continues to pose a safety risk to the public or victim(s), the PPO shall file a violation prior to the midpoint review.
3. If the probationer's discharge would pose a foreseeable risk to the safety of the public or victim(s), the PPO shall notify the State's Attorney of their concern.

D. Victim Notification

1. The victim advocates in the State's Attorney's Office shall make a reasonable effort to notify any victims of a probationer's term.
2. The PPO shall notify the DOC Victim Services Staff, if assigned, of the filed midpoint review, and potential probation expiration, in accordance with the policy on victim/survivor services and support.

Appendix

Crimes Excluded from Midpoint Review Mandate

Domestic assault (13 V.S.A. § 1042)
First degree aggravated domestic assault (13 V.S.A. § 1043)
Second degree aggravated domestic assault (13 V.S.A. § 1044)
Domestic assault – Offense committed within the presence of a child (13 V.S.A. § 1047)
Stalking (13 V.S.A. § 1062)
Aggravated stalking (13 V.S.A. § 1063)
Sexual assault (13 V.S.A. § 3252)
Aggravated sexual assault (13 V.S.A. § 3253)
Aggravated sexual assault of a child (13 V.S.A. § 3253a)
Sexual exploitation of an inmate (13 V.S.A. § 3257)
Sexual exploitation of a minor (13 V.S.A. § 3258)
Sexual exploitation of a person in the custody of a law enforcement officer (13 V.S.A. § 3259)
Lewd or lascivious conduct with child (13 V.S.A. § 2602)