

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2016

Bill Number: H.744 Name of Bill: An act relating to process for responding to alleged furlough violations

Agency/Dept: DPS/VSP Author of Bill Det. Sgt. Tara Thomas
Review: _____

Date of Bill Review: February 1, 2016 Related Bills and Key Players: Representative Rachelson

Status of Bill: (check one)

Upon Introduction As passed by 1st body As passed by both bodies

Recommended Position:

Support Oppose Remain Neutral Support with modifications identified in # 8 below

Analysis of Bill

- 1. Summary of bill and issue it addresses.** This bill proposes to require that offenders are not immediately lodged for a violation of furlough conditions. If the offender is considered to be a risk to public safety, a probable cause hearing on the violation must be held prior to reincarcerating the offender. An offender who is determined not to pose a risk to public safety would not be reincarcerated. Within seven (7) days of notice of the alleged violation, a hearing must be held to determine whether the furlough will be revoked or continued with modifications or sanctions.
- 2. Is there a need for this bill?** No as it would likely increase crime and pose a risk to the public.
- 3. What are likely to be the fiscal and programmatic implications of this bill for this Department? Fiscally this is programmatic for the Department of Corrections as it creates a higher case load for the P&P Officers as they have to revisit cases, vs. reincarcerating them. Devote more resources in investigative efforts to determine whether a public risk is associated with such violation. Create more overtime, resources in dealing with them a second time vs. violating them and reincarcerating them on the original violation.** I do not see how fiscally this would impact the state, however if passed, programmatic implications of this bill would result in an increase to the implied recidivism, (mindset that there are no consequence in their actions) resulting in an escalated law enforcement response from State, municipal, Department of Corrections and Probation and Parole Officers. The community would be put at a higher risk, as these offenders are already serving a sentence but doing so within the community. Allowing an offender time before placing them on "escape status" affords them the opportunity to have access to resources that would not normally be associated with the current furlough violation policy in place. This would also serve to allow offenders to body pack drugs, contraband and illicit substances into the facility.

4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** If passed, this bill would affect how the Department of Corrections places offenders, ultimately tying their hands, as they already exercise constraint about placing offenders back in jail. Probation and Parole already have administrative hearings for offenders when they are returned to a correctional facility from furlough. There are directives in place that force Probation and Parole to look at the offender's risk, type of behavior and what their response should be based on the numerous factors before they can return someone to the facility. Probation and Parole feels this bill would limit their ability to essentially affect how they deal with offenders who already pose a substantial risk to the public.
5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** Offenders on furlough are already serving a sentence for a crime, just doing so within the community. Crime is driven by the wants and needs of an offender. Often times behavior that initially doesn't pose a risk to the community, later results in victimization. Offenders may utilize techniques such as "grooming" or "scoping", which ultimately escalates into criminal activity. For example, if a sex offender is out on furlough with conditions not to be around a playground and are seen at one, this may not be viewed as a "immediate threat" as specified in Bill H.744, however this could be a phase of "grooming" in which an offender is scoping out the playground. If the offender is not reincarcerated for violating his/her furlough condition to not be near a playground, they could potentially return to the playground and offend, knowing they could be returning to jail after a hearing in two days for the first violation. Another example is if an offender who is serving a furlough sentence for a number of DUI convictions violates his/her furlough for drinking. That alone may not be considered a threat to the public, however not being reincarcerated at the time of the furlough violation allows that offender to then have an opportunity to drive intoxicated, putting the public at risk.
6. **Other Stakeholders:**
 - 6.1 **Who else is likely to support the proposal and why?** The courts of Vermont would likely support this bill as it would not over burden the courts which are faced with an already existing over flow in cases coming through the Judicial system. The furlough offenders themselves would support this bill because it ultimately allows them to reoffend with little to no immediate consequence.
 - 6.2 **Who else is likely to oppose the proposal and why?** Citizens of Vermont as it puts their safety at risk (see #5 for examples given). The Department of Corrections and their Probation and Parole Officers would oppose this as well because it limits their discretion and their ability to effectively screen and monitor offenders' behavior and their risk to society while out on furlough.
7. **Rationale for recommendation:** Although this bill serves as a way to lower the cases going through the State of Vermont Judicial system, it puts the public at risk in doing so. The offenders are already serving a sentence for a crime committed, just doing so within the community, ultimately giving them access to re-offend anyway. Allowing them to reoffend on what may be considered "non-violent" crimes still impacts the citizens of the state and subjecting them to further victimization.
8. **Specific modifications that would be needed to recommend support of this bill:** From the stand point of law enforcement, Department of Corrections and Probation and Parole officers, I do not see how any modifications to this bill would result in a recommended support to pass this bill.

**9. Will this bill create a new board or commission AND/OR add or remove appointees to an existing one?
If so, which one and how many? No**

**Secretary/Commissioner has reviewed this
document**

A handwritten signature in blue ink, appearing to be "K. Mishaan", written over a faint rectangular stamp.

Date: 2/12/16