

CONFIDENTIAL

LEGISLATIVE BILL REVIEW FORM: 2016

Bill Number: S.206 Name of Bill: An act relating to probation, parole and furlough conditions

Agency/Dept: DPS/VSP Author of Bill Review: Lt. Matthew Amadon

Date of Bill Review: 01-27-2016 Related Bills and Key Players: Sen. Becca Balint

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.** *Describe what the bill is intended to accomplish and why.*

This bill proposes to limit the imposition of conditions of probation, parole, and furlough to restrict otherwise legal behavior of the person under supervision and to prohibit revocation of probation, parole, and furlough for technical violations that are not new crimes.

This bill has two major changes. The first deals with ‘prohibiting revocation of probation, parole, and furlough for technical violations that are not new crimes’. Where the Department of Corrections would have been able to violate or revoke an offender for a ‘violation of probation, parole or furlough’ related to his/her conditions of their probation, parole or furlough, any new violation would have to be a ‘new crime’.

The second major change deals with limiting the imposition of conditions on an offender. This proposed change states; ‘The Court shall not impose a condition prohibiting the offender from engaging in any legal behavior (striking the language: ‘Such Conditions may include prohibiting the use of alcohol, prohibiting having contact with minors, prohibiting or limiting the use of a computer or other electronic device, and permitting a probation officer access to all computers or other digital or electronic media, mail covers, subscription services, and credit card statements) unless the condition is substantially necessary to reduce risk to the safety of a victim or witness’ (changing the language from : ‘necessary to reduce risk to the public safety.’)

2. **Is there a need for this bill?**

At this time, conditions of probation, parole or furlough are set by a Judge. These conditions are meant to assist or guide individuals with their behavior upon release, to ensure there is not a relapse into behavior that caused the individual to violate the law. The conditions that are currently set are generally specific to the offender and his/her behavior (ie: no alcohol as a result of a DUI, no computer access as a

result of Child Pornography possession...) If this bill is changed, such as adding language to restrict conditions, specifically 'shall not impose a condition prohibiting the offender from engaging in any legal behavior unless the condition is substantially related to reduce risk to the safety of a victim or witness', changed from the original language 'safety of the public', the scope of control and the effectiveness of the Department of Corrections will diminish. If passed, any issued conditions of probation, parole or furlough will be severely restricted and violating an individual due to any offense where an offender has violated one of their conditions of probation, parole or furlough will be limited to the situation where an offender has committed a 'new crime'.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

There are likely to be no fiscal implications related to this bill for the Department of Public Safety. The Department of Public Safety does not enforce probation, parole or furlough violations unless directed by the Court or the Department of Corrections. These proposed changes will not change how sworn law enforcement operates directly on a day to day basis, though when violations do occur, the probation violation can be used to hold individuals who are being investigated for other connected or pending serious violations are investigated.

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?

The Department of Corrections will oppose this bill for the fact that it will drastically change what conditions can be set on an offender, which they perceive will effectively aid in guiding the offender's behavior during their probation, parole or furlough status. If these conditions are limited, it will in turn limit the effectiveness of the Department of Corrections to be able to control an offender's behavior within the community.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

Defender General's office, defense attorneys, incarcerated or convicted individuals. Their view is that an individual's 'legal behavior' should not be restricted and the current language allows conditions to be set to protect 'witnesses and victims'.

6.2 Who else is likely to oppose the proposal and why?

Department of Corrections, State's Attorneys (See above)

7. Rationale for recommendation:

In today's political climate, the trend is to lower the number of individuals being incarcerated to reduce the Department of Correction's budget and to give offenders an opportunity re-enter or to live within the community so they can be with their family and stay employed or seek employment. As the number of individuals living within the community during their probation, parole or furlough status will rise, the

Department of Corrections still has to be responsible for the growing population and their behavior while they are on such status. The tighter restrictions on what conditions can be imposed by a Judge on an offender will reduce the effectiveness of the Department of Corrections to control or guide the behavior of an offender. Additionally, the Department of Corrections and law enforcement have to continually work together while investigating crimes and when a crime of a significant or serious nature is being investigated, many times the suspect is an offender is on a probation, parole or furlough status. As part of the investigation, violations of probation, parole or furlough come to light during investigations and can be used to hold individuals while the greater crime is being investigated, prior to any actual charge being presented.

8. **Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

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. Dudley", is written over a faint rectangular stamp.

Date: 2/1/16