

Bill as Introduced

HB 552 - AS INTRODUCED

2011 SESSION

11-0104
04/09

HOUSE BILL **552**

AN ACT establishing a committee to study repealing the revisions to the law implemented by SB 500-FN of the 2010 legislative session.

SPONSORS: Rep. Pepino, Hills 11; Rep. Marshall Quandt, Rock 13; Rep. K. Souza, Hills 11; Rep. Infantine, Hills 13; Sen. Boutin, Dist 16; Sen. Gallus, Dist 1

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill establishes a committee to study repealing the revisions to the law implemented by SB 500-FN of the 2010 legislative session.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT establishing a committee to study repealing the revisions to the law implemented by SB 500-FN of the 2010 legislative session.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 1 Committee Established. There is established a committee to study repealing the revisions to
2 the law implemented by SB 500-FN of the 2010 legislative session.
- 3 2 Membership and Compensation.
- 4 I. The members of the committee shall be as follows:
- 5 (a) Three members of the house of representatives, appointed by the speaker of the
6 house of representatives.
- 7 (b) Three members of the senate, appointed by the president of the senate.
- 8 II. Members of the committee shall receive mileage at the legislative rate when attending to
9 the duties of the committee.
- 10 3 Duties. The committee shall study repealing the revisions to the law implemented by SB 500-
11 FN of the 2010 legislative session and shall make recommendations for changes to the law
12 necessitated by the repeal of such provisions.
- 13 4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from
14 among the members. The first meeting of the committee shall be called by the first-named house
15 member. The first meeting of the committee shall be held within 10 days of the effective date of this
16 section. Four members of the committee shall constitute a quorum.
- 17 5 Report. The committee shall report its findings and any recommendations for proposed
18 legislation to the speaker of the house of representatives, the president of the senate, the house
19 clerk, the senate clerk, the governor, and the state library no later than 90 days from the effective
20 date of this act.
- 21 6 Effective Date. This act shall take effect upon its passage.

Speakers

Fill In ONLY if SPEAKING on Bill

Bill # 40552 Date 3/1/11

Committee C5

- I support the bill
- I oppose the bill
- I have written testimony
- (Number of copies) _____

Time needed to speak 5 mins

Name JOHN BEKERT

Address STAFFORD NH

Phone 271-2569

Representing PALMER BOARD

Fill In ONLY if SPEAKING on Bill

Bill # H 8552 Date 3/1/2011

Committee Criminal Justice

- I support the bill
- I oppose the bill
- I have written testimony
- (Number of copies) _____

Time needed to speak 0

Name Rep Lee QUANT

Address Exeter

Phone 772-3417

Representing Rock 13

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 552

BILL TITLE: establishing a committee to study repealing the revisions to the law implemented by SB 500-FN of the 2010 legislative session.

DATE: March 1, 2011

LOB ROOM: 204 **Time Public Hearing Called to Order:** 2:35 p.m.

Time Adjourned: 3:00 p.m.

(please circle if present)

Committee Members: Reps. Swinford, Cagno, Welch, Fields, Eosh, Charron, Villeneuve, Antosz, Greazzo, Kreis, Parsons, Tasker, Warden, Pantelakos, Berube, Shurtleff and Ginsburg

Bill Sponsors: Rep. Pepino, Hills 11; Rep. Marshall Quandt, Rock 13; Rep. K. Souza, Hills 11; Rep. Infantine, Hills 13; Sen. Boutin, Dist 16; Sen. Gallus, Dist 1


TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Leo Pepino - Sponsor - Supports. Wants to group to put all of the bills together.

Chris Dorman, Citizens for Criminal Justice reform - Opposes.

Respectfully Submitted:


Rep. Gene P. Charron, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

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TESTIMONY

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HB-552

D. 2:40
support-

Rep Leo Repino sponsor wants
to group to put all of the bills together.

2:2:50
~~*~~
opposes

Chris Wornon Citizens for Criminal
Justice reform. ~~in support~~

2:55

Closed - 3:00 PM.

Testimony

AN EXPERT ON PAROLE ASKS YOU TO DEFEND SB 500

Dear lawmaker:

I am writing you not to gut or repeal the new law, SB 500. It's a bad idea. Here's why: I spent eight years in the New Hampshire State Prison. I have been on parole for 2 ½ years now. Reentry into the community has been hard, but I had a wife and supportive friends and family on the outside to help in the process. The prisoners who most need SB 500 are those who have lost everyone and everything while incarcerated. Frequently these men and women burned their bridges by the crime they committed. Often they were running with the wrong crowd or dealing with addiction or mental illness prior to their incarceration. Their release back into the community is fraught with danger. Without the supervision and guidance of a parole officer, their chance of succeeding is slim. Repealing SB500 to appear "tough on crime" is short-sighted and contrary to the best interests of the State of New Hampshire.

Let me tell you a true story. I met a man in prison. I will not tell you his name because he could be easily located through the sex offender registry. He was in his 50's at the time. He had been convicted of incest. One of the requirements for his parole was the successful completion of the prison's sex offender program. But, he has Asperger's Syndrome. He keeps to himself, will not make eye contact, and finds interpersonal communication difficult. He flunked out of the sex offender program and was denied parole. The problem was; he didn't know how long he had to serve. One day, after more than 15 years in prison, he was called to the unit counselor's office and told that he was maxing out in one week. It was January. He had no one on the outside. He had no skills. He had no plans. He had no place to stay. The local homeless shelter would not take him because he was a sex offender. I heard through the grapevine that the unit counselor drove him to a boarding house and paid his first weeks rent.

Is this really how the State of New Hampshire wants to handle such cases? Is this wise, or even safe? SB 500 assures that people like this will get released into the community gradually under supervision and will be helped to find appropriate housing and employment. Everyone benefits. Please, whoever you vote for in November, tell them you want to keep SB 500.

Sincerely,



Philip Horner

John F. Eckert
Executive Assistant
NH Adult Parole Board
PO Box 14
Concord, NH 03302
(603) 271-2569
jeckert@nhdoc.state.nh.us

Thank you for this opportunity to voice the parole board's concerns about the impact of Senate Bill 500.

First I'd like to address some misconceptions about SB 500. It has been called an early release bill. In fact, it is not. All prisoners, regardless of their crime, must serve their full minimum sentence. Truth is sentencing is not affected, and there is no early release.

Non violent offenders who serve 120% of their minimum sentences are released. The parole board does not object to this provision.

The next provision states that all offenders must be released when they have nine months remaining on their maximum sentence. This is one provision of the bill that received very sensational and almost hysterical media coverage when SB 500 took effect last October.

On the surface it is easy to understand why. The parole board historically has paroled nearly 75% of the offenders who come before it. Inmates that are not paroled either are the worst behaved, or those who have refused to participate in treatment programs. Many of this group are sex offenders. The immediate response of most people is that they should not be "rewarded" with parole, but should instead serve every day of their prison sentence. Now, I ask you, is this in the best interest of public safety? We think it is not.

The board supports this provision of the law, and here are the reasons why:

First, recidivism studies conducted over the past 25 years show that inmates who max out and leave prison without supervision have a higher recidivism rate than prisoners who leave with supervision.

Second, releasing these people with supervision, even if only for nine months, clearly is in the best interest of public safety. Think about what happens when offenders leave without parole:

- They can drink or do drugs.
- They can live wherever they wish, and with whomever they wish.

- They do not participate in counseling
- They can go wherever they wish, and do whatever they wish.

Under strict parole supervision – which the department of corrections provides for these people, they can do none of these things. A parole officer meets with these offenders up to five times each week. They have a curfew. They must participate in treatment as ordered by the board. They must work. They must pay restitution to their victims. In short, we are in charge of what they can and cannot do.

Last week Sandra Matheson, the director of Victim Witness Services for the Attorney General's office testified before the senate about a similar bill. According to Ms. Matheson, victims actually support these mandated releases. Even though most victims of violent crimes would prefer to have these people stay in prison forever, given the choice they almost always prefer release with supervision to release with no supervision.

Again, we support retention of this provision of SB 500; however, we do have one request

Clearly, the intent of this law is to have offenders spend the last nine months of their sentence under community supervision. As interpreted by the prison staff and the Attorney General's office, this law requires that we also parole offenders to their consecutive sentences nine months before the end of the sentence they are serving. We believe that this was not the intent of the legislature, and request that the statute be amended to exclude offenders who have a consecutive sentence to serve.

For the parole board, the most objectionable provision of SB 500 is the 90 day sanction for all parole violators. There are two reasons for this:

First, the law takes a "one size fits all" approach. When dealing with this population, one size never fits all.

Second, this law sends the wrong message to the offender population. This message is, essentially, "whatever you do really does not matter, as we are going to punish you only for 90 days."

A core principle of discretionary parole is deterrence. Inmates who earn the privilege of parole are released with the understanding that if they do not comply with the terms of their release they face return to prison for up to the remainder of their sentences. SB 500 eliminated the deterrent value of parole. A parolee who violates his or her conditions is returned to prison 90 days, regardless of the seriousness of the violation. I have worked with parole violators and prisoners nearly 18 years and can assure you that for many of these people the threat of 90 days in prison is no threat at all. As they often tell me, "I can do that much time standing on my head." In addition, consider the

supervision problems that this bill will create for our parole officers. Parolees under our supervision will know that whatever they do, they face only 90 days behind bars. This is not a deterrent for people who have spent much of their adult lives incarcerated. Moreover, it will destroy whatever remaining respect that these offenders might have for the parole process.

There are other matters to consider as well. For example, take the case of a paroled sex offender who is found with pornography, or is on the internet, or is cultivating a relationship with a child. Today, when this person is returned for such a violation of parole he will normally not be considered for release until completion of at least six months of intensive therapy. Now, the person is released without any treatment. Clearly, this is not in the interest of public safety.

I also must address some misconceptions that exist regarding parole violations. I have heard members of the legislature suggest that we return parolees to prison for taking one drink or using drugs one time. Since October 1st of 2010, over half – 54% - of the parolees revoked returned to prison after being arrested and charged with new crimes. Some of these crimes are misdemeanors, but some are felonies.

One of the main selling points of SB 500 was that the department will provide “focused, evidence based treatment” to parole violators. Last year I asked the House committee how we will motivate them to participate in treatment. If parole violators must be released after not more than 90 days, what incentive will they have to participate in any treatment? Even if they refuse treatment, they will be released. Before SB 500 became law, the parole board could order inmates to remain in custody until they received whatever treatment they need to reduce their risk.

Today, this is no longer the case. According to the treatment specialists in our Berlin prison, this is exactly what has happened. Most inmates who need the drug/alcohol treatment are refusing to take it. The staff has asked if there is anything the board can do to require these inmates to participate. Of course, the answer is, there is nothing we can do.

The board’s position is simple: we need the discretion to deal with each parole violator on an individual basis. Our decision should be based on the specific details of each case, and not on a cookie cutter approach that treats everyone the same

A final concern of SB 500 is the **provision that places certain parolees under administrative or inactive supervision**. After 18 months of supervision, if a parolee is assessed and deemed low risk, he or she shall be placed on administrative (inactive) supervision. This includes sex offenders, and it should not. Sex offenders, unlike most other offenders, tend to think before they act. Their crimes require a lot of thought and planning, and deception. So, they typically behave well while under supervision, and most likely will score fairly low. It is a critical error to take most sex offenders off of active supervision. Any competent sex offender therapist will tell you that sex offenders are deterred by the thought of a parole officer walking into their residence at any time. Take them off of supervision, and this deterrent goes away. Therefore, we ask that you exempt sex offenders from being placed on administrative supervision. The only exception could be the so-called statutory rape cases, such as an 18-year-old who has sex with someone under 16.

Thank you for allowing me to express the parole board's thoughts on this bill. I will be glad to answer any questions that you have.

CITIZENS FOR CRIMINAL JUSTICE REFORM

Testimony for a new law giving inmates at least nine months on parole

February 24, 2011

Please uphold the best criminal law New Hampshire has enacted in the 40 years I have lived here, SB 500. It gives all prisoners, even violent felons and convicted sex offenders, especially that group, at least nine months of halfway housing and supervised parole in lieu of maxing out behind razor wire. If you foolishly make those people max out, you will violate your pledge to protect taxpayers. You will also break your promise to help prevent crime.

It would be folly to deny this support to the very people seen as the most dangerous or the most offensive. Holding them in prison that last nine months may sound tough on crime in sound bytes, but it undermines the public safety you are sworn to protect.

SB 500 won large, bipartisan majorities last year in both House and Senate committees and in both floor debates after a year-long, richly data-driven study supported by the Pew Charitable Trusts, New Hampshire Charitable Foundation, the US Justice Department and the National Association of the States. None of the funding came from our state government. A blue-ribbon policy commission led by the attorney general, the chief justice of the Supreme Court, the Chief Justice of the Superior Courts and the Chief Justice of the District Courts closely tracked and unanimously accepted the findings of that research, which became SB 500.

Other members of the task force included the Senate president, the House speaker, the Governor's Office, other ranking Republican and Democratic lawmakers, the commissioners of Health and Human Services and Corrections, county jail officials and other experts. Few laws in state history have been so well planned.

All the key stakeholders had a chance to give input, including victim advocates, police, prosecutors, defense attorneys, the Parole Department, and the Parole Board. The latter had little to say about the issue at the time.

The old way of dealing with inmates was to give them a revolving door out from prison and back inside. Most of the prisoners who served their maximum sentences left prison without a parole officer, without money, without housing, without jobs, and without a spouse or family because they had been gone so long. Unready to return, many of these

ex-prisoners did new crimes in the first nine months out. That's the greatest danger period. Nobody knew where they were or cared.

Under the old system, mandatory supervision was not required for all ex-offenders. 225 people were released in the final year before SB 500 without community supervision. From a public safety perspective, that was unacceptable.

The state legislature, in approving SB 500, created a system to keep ex-offenders under strict monitoring during the time they are most likely to commit new crimes. People can be directed to treatment and reentry interventions designed to help stop the cycle of reoffending. The state has won federal start-up money to help pay for these services until it could divert a steady stream of savings from prison cost reductions into badly needed community programs. Before SB 500 there were none. That wasn't safe either.

Our newly incorporated non-profit agency, Citizens for Criminal Justice Reform, hopes to educate the public on vital issues like this. We will also alert, mobilize and empower some of the estimated 40,000 current and former prisoners, parolees, probationers and their loved ones. These reforms are too important to fall victim to the election-year scare tactics that brought some of you to office. We are counting on you to fulfill your promise to protect the community. Please support this important new law that will lower recidivism in New Hampshire and make our state a safer place to live.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chris Dornin".

Chris Dornin, Chairman of Citizens for Criminal Justice Reform

Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 552

BILL TITLE: establishing a committee to study repealing the revisions to the law implemented by SB 500-FN of the 2010 legislative session.

DATE: March 9, 2011

LOB ROOM: 204

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Laura C. Pantelakos

Seconded by Rep. Robbie L. Parsons

Vote: 15-1 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 16-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Gene Charron, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 552

BILL TITLE: establishing a committee to study repealing the revisions to the law implemented by SB 500-FN of the 2010 legislative session.

DATE: 5-9-2011

LOB ROOM: 204

Amendments:

Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL Interim Study (Please circle one.)

Moved by Rep. *Panatchas*
Seconded by Rep. *Parsons.*

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.
Seconded by Rep.
Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Gene Charron, Clerk

Gene F. Charron

Consent

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB 552 Title: Establishing a Committee to study repealing the revisions to the law implemented by SB500-FN of the 2010 legislative session.
 PH Date: 03 / 01 / 11 Exec Session Date: 3 / 9 / 2011

Motion: ITL Amendment #: _____

MEMBER	YEAS	NAYS
Swinford, Elaine B, Chairman	✓	
Gagne, Larry G, V Chairman		✓
Welch, David A	✓	
Fields, Dennis H	✓	
Fesh, Robert M	✓	
Charron, Gene P	✓	
Villeneuve, Moe	✓	
Antosz, Jason P	✓	
Greazzo, Phil J	✓	
Kreis, Kenneth	✓	
Parsons, Robbie L	✓	
Tasker, Kyle J	✓	
Warden, Mark	✓	
Pantelakos, Laura C	✓	
Berube, Roger R	—	—
Shurtleff, Stephen J	✓	
Ginsburg, Philip E	✓	
	15	1

Committee Report

CONSENT CALENDAR

March 15, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY to which was referred HB552,

AN ACT establishing a committee to study repealing the revisions to the law implemented by SB 500-FN of the 2010 legislative session. Having considered the same, report the same with the following Resolution:

RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Laura C Pantelakos

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	CRIMINAL JUSTICE AND PUBLIC SAFETY
Bill Number:	HB552
Title:	establishing a committee to study repealing the revisions to the law implemented by SB 500-FN of the 2010 legislative session.
Date:	March 9, 2011
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill would establish a committee to study repealing the provisions of SB 500 which was enacted last session. The committee believes that this study is unnecessary because separate legislation exists this session which specifically addresses the perceived deficiencies of SB 500 and which can be used as vehicles to amend the law. Therefore, further study is not needed at this time and the committee recommends inexpedient to legislate.

Vote 15-1.

Rep. Laura C Pantelakos
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB552, establishing a committee to study repealing the revisions to the law implemented by SB 500-FN of the 2010 legislative session. **INEXPEDIENT TO LEGISLATE.**

Rep. Laura C Pantelakos for **CRIMINAL JUSTICE AND PUBLIC SAFETY**. This bill would establish a committee to study repealing the provisions of SB 500 which was enacted last session. The committee believes that this study is unnecessary because separate legislation exists this session which specifically addresses the perceived deficiencies of SB 500 and which can be used as vehicles to amend the law. Therefore, further study is not needed at this time and the committee recommends inexpedient to legislate. **Vote 15-1.**

Original: House Clerk
Cc: Committee Bill File

HB 552 establishing a committee to study repealing the revisions to the law implemented by SB 500-FN of the 2010 legislative session.

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**Rep. Laura C. Pantelakos
For the Committee
15-1 ITL CC**

Rep. Elaine Swartz

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Rep. Anna Pantelakos

