

# Bill as Introduced

HB 307 - AS INTRODUCED

2011 SESSION

11-0728

04/01 ✓

HOUSE BILL           **307**

AN ACT               relative to the authority of the superintendent of a county correctional facility.

SPONSORS:           Rep. P. Garrity, Hills 14; Rep. D. Sullivan, Hills 8; Rep. Rhodes, Hills 22;  
Rep. Rokas, Hills 12; Rep. Baroody, Hills 13

COMMITTEE:       Criminal Justice and Public Safety

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ANALYSIS

This bill:

I. Permits the superintendent of the county correctional facility to recommend a prisoner for release in order to obtain gainful employment, perform uncompensated public service, or serve the sentence under home confinement.

II. Allows the superintendent of a county correctional facility to approve the transfer of a prisoner from a state prison to a county correctional facility.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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                   relative to the authority of the superintendent of a county correctional facility.

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

1           1 Discretionary Sentences; Release for Certain Purposes. Amend RSA 651:19 to read as follows:  
2           651:19 Release for Purpose of Gainful Employment, Rehabilitation, or Home Confinement. A  
3           sentencing court may ~~[order]~~ **recommend at the time of sentencing, or the superintendent of**  
4           **the county correctional facility may, at any time during the sentence, allow** any person who  
5           has been committed to a correctional institution other than state prison under a criminal sentence  
6           may be released therefrom for the purpose of obtaining and working at gainful employment, for the  
7           performance of uncompensated public service as provided in RSA 651:68-70, under the terms of a day  
8           reporting program, provided the correctional facility has a day reporting program, or to serve the  
9           sentence under home confinement, provided the correctional facility has a home confinement  
10          program. If the **court recommends a person for release and the** superintendent determines the  
11          person is inappropriate for such release, the court shall be notified and, at the request of the  
12          defendant, a hearing may be scheduled. In any case, the defendant shall first serve 14 consecutive  
13          days prior to eligibility for home confinement, or for such other purpose as the court **or the**  
14          **superintendent** may deem conducive to his or her rehabilitation, for such times or intervals of time  
15          and under such terms and conditions as the rules and regulations of the correctional facility may  
16          allow or as the court may order. Any part of a day spent in the free community, or in home  
17          confinement, under such a release order shall be counted as a full day toward the serving of the  
18          sentence unless otherwise provided by the court. If a person violates the terms and conditions laid  
19          down for his or her conduct, custody, and employment, he or she shall be returned to the correctional  
20          facility. The superintendent may then require that the balance of the person's sentence be spent in  
21          actual confinement.

22          2 Temporary Removal of Prisoners; Transfer from State Prisons. Amend RSA 623:2 to read as  
23          follows:

24          623:2 Transfer From State Prisons. Any person confined in a state prison may, upon  
25          recommendation of the commissioner of corrections, be transferred to a county correctional facility if  
26          such transfer is approved by the ~~[county commissioners of the county]~~ **superintendent of the**  
27          **county department of corrections** in which the receiving facility is located.

28          3 Effective Date. This act shall take effect 60 days after its passage.

HB 307 - AS AMENDED BY THE HOUSE

15 Feb 2011... 0188h

2011 SESSION

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Rep. Rokas, Hills 12; Rep. Baroody, Hills 13

COMMITTEE: Criminal Justice and Public Safety

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AMENDED ANALYSIS

This bill permits the superintendent of the county correctional facility to recommend a prisoner for release in order to obtain gainful employment, perform uncompensated public service, or serve the sentence under home confinement.

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14          ***superintendent*** may deem conducive to his or her rehabilitation, for such times or intervals of time  
15          and under such terms and conditions as the rules and regulations of the correctional facility may  
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17          confinement, under such a release order shall be counted as a full day toward the serving of the  
18          sentence unless otherwise provided by the court. If a person violates the terms and conditions laid  
19          down for his or her conduct, custody, and employment, he or she shall be returned to the correctional  
20          facility. The superintendent may then require that the balance of the person's sentence be spent in  
21          actual confinement.  
22          2 Effective Date. This act shall take effect 60 days after its passage.

# Amendments

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Sen. Houde, Dist. 5  
April 4, 2011  
2011-1334s  
04/05

Amendment to HB 307



1 Amend the bill by replacing section 1 with the following:

2  
3 1 Discretionary Sentences; Release for Certain Purposes. Amend RSA 651:19 to read as follows:  
4 651:19 Release for Purpose of Gainful Employment, Rehabilitation, or Home Confinement. A  
5 sentencing court may ~~order~~ *recommend, or the superintendent of the county correctional*  
6 *facility may allow*, any person who has been committed to a correctional institution other than  
7 state prison under a criminal sentence ~~may~~ *to* be released therefrom for the purpose of obtaining  
8 and working at gainful employment, for the performance of uncompensated public service as  
9 provided in RSA 651:68-70, under the terms of a day reporting program, provided the correctional  
10 facility has a day reporting program, or to serve the sentence under home confinement, provided the  
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15 other purpose as the court *or the superintendent* may deem conducive to his or her rehabilitation,  
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20 and conditions laid down for his or her conduct, custody, and employment, he or she shall be  
21 returned to the correctional facility. The superintendent may then require that the balance of the  
22 person's sentence be spent in actual confinement.

# Committee Minutes



**SENATE CALENDAR NOTICE  
JUDICIARY**

Senator Matthew Houde Chairman  
 Senator Sharon Carson V Chairman  
 Senator Fenton Groen  
 Senator Jim Luther

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

**Date: March 17, 2011**

**HEARINGS**

**Thursday 3/24/2011**

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<b>JUDICIARY</b>	<b>LOB 101</b>	<b>1:15 PM</b>
(Name of Committee)	(Place)	(Time)

**EXECUTIVE SESSION MAY FOLLOW**

1:15 PM	HB79	relative to certification of dogs for law enforcement work.
1:30 PM	HB535	relative to the committee to study parole boards and parole board procedures.
1:45 PM	HB307 ✓	relative to the authority of the superintendent of a county correctional facility.

**Sponsors:**

<b>HB79</b>	Rep. John Tholl	Rep. Gene Charron
Rep. David Welch		
<b>HB535</b>	Rep. David Welch	Rep. Gene Charron
Rep. Laura Pantelakos		
<b>HB307</b>	Rep. Daniel Sullivan	Rep. Brian Rhodes
Rep. Patrick Garrity		Rep. Ted Rokas
Rep. Benjamin Baroody		

# Judiciary Committee

## Hearing Report

**TO:** Members of the Senate

**FROM:** Susan Duncan, Senior Legislative Aide

**RE:** Hearing report on HB 307 – relative to the authority of the superintendent of a county correctional facility.

**HEARING DATE:** March 24, 2011

**MEMBERS OF THE COMMITTEE PRESENT:** Senators Houde, Carson, Luther and Groen

**MEMBERS OF THE COMMITTEE ABSENT:** No one

**Sponsor(s):** Representatives P. Garrity, D. Sullivan, Rhodes, Rokas and Baroody

**What the bill does:** This bill permits the superintendent of the county correctional facility to recommend a prisoner for release in order to obtain gainful employment, perform uncompensated public service, or serve the sentence under home confinement.

**Who supports the bill:** Representative Patrick Garrity; Representative Ben Baroody; Representative Dan Sullivan; Representative Brian D. Rokas; Superintendent Stephen Church, Rockingham County Dept. of Corrections

**Who opposes the bill:** No one

**Summary of testimony received:**

- **Senator Houde** opened the hearing at 1:45 p.m.
- **Representative Garrity** explained that he filed this legislation after meeting with the Hillsborough County Corrections Superintendent. He apologized that his Superintendent could not be present today. He said that this legislation would allow the Superintendents to do their jobs more efficiently.
- He noted that this has nothing to do with SB 500 – and is not about sexual or violent offenders – but deals with county correctional facilities where the inmates have been sentenced for misdemeanors or less.
- He said that this is already in place in Hillsborough County where the inmates can be released to home confinement.

- He said that some of the inmates have jobs and that they can be released to do their jobs for the day. He said that the county facilities receive 25% of their inmate's wages to pay for room and board. He said that the inmates come back each night.
- He noted that the reason this is needed is because of the backlog in the courts. He said that enabling this will prevent a 5, 6, or 7 week backlog in waiting for the courts to approve the inmate going out to work. He said that the inmate could very well lose the job while waiting to get the court's approval in a hearing. He noted that this legislation merely allows the Superintendents to do their jobs.
- **Superintendent Stephen Church** appeared in support. He explained that this merely cleans up the statutory language and speaks to what they have been working with due to the court delays. He reminded members that the county correctional facilities only have inmates who are sentenced to 12 months or less.
- He noted that unlike a decade ago, now they want to work with their inmates on their issues, whether it is substance abuse, lack of education, family issues, employment, etc. He said that they work toward a work-release setting and allows them to see if the offender fits into the mold. It also allows them to work on reducing recidivism rates. He said that they evaluate the whole person, not just the crime they have been convicted of.
- He also noted that there is not a public safety issue here but that there are ripple effects among the family members, the fines owed and they figure out how to work with the inmate while they are still incarcerated.
- He explained that during their evaluation period, they reach out to the prosecution, defense and judicial branch to make sure that everyone is on board with the recommendations. He said that it allows them to take sentenced offenders and help them out.
- **Senator Carson** asked if the determination factor would include the crime for which they were convicted. Supt. Church responded that they do a risk assessment on every inmate and look for domestic violence offenses, and if they score very high, then this person would not fit. He said that there is a threshold and high end crimes would not fit.
- **Senator Carson** asked about 17 or 18 year olds who may not have completed their high school education. Supt. Church responded that they do work with the schools and try to help the inmates receive their GED, look at whether the inmate has an IEP, etc. He said that they often tie their release to obtaining their GED, etc.
- **Senator Luther** asked about the numbers in his facility. Supt. Church responded that he has 300, 2/3 of which are pre-trial. He said that with electronic monitoring, right now they are responsible for 375 individuals.

- **Senator Luther** asked further about individuals. Supt. Church clarified that there are 11 offenders right now in work release programs. If this passes, this could probably rise to 25% of their population. He noted again that not all offenders would fit this mode. He said that probably 50% of their offenders would be reviewed to see whether they would participate or not.
- **Senator Luther**, referring again to the streamlined process, commented about the ability to make the decision in house. Supt. Church responded that they would be able to reduce the number of sentenced offenders who are actually behind the walls. He said that some offenders may not progress beyond work release, but others may make it to electronic monitoring status.
- **Senator Groen** asked how much of this is enabled through county administrative rules versus state statute. Supt. Church responded that this varies from county to county. He said that Hillsborough, Merrimack and Strafford Counties' rules almost mirror each other. He was not sure about some of the smaller counties. For instance, he said that they use GPS monitoring for those appropriate inmates. He said that he can log onto the computer and see where every one of them is at any moment. He said that if he has an inmate who shoplifted at WalMart, he can block out these locations so that the inmate cannot go there. He said that he can also contact the inmate through the monitor. He acknowledged that the abilities of each county does vary.
- **Senator Carson** asked if these inmates must post bail in order to participate. Supt. Church responded "no," that this is a sentencing requirement and they must check in. He said that if an inmate violates the terms, then he can bring them right back. They remain as sentenced offenders.
- **Senator Carson** asked who approves the assessment testing. Supt. Church responded that each superintendent approves it for their county.
- **Senator Houde** asked if the sponsor would be receptive to a friendly amendment to just clarify some of the language in the legislation. Representative Garrity responded that they would be fine with this.
- **Senator Luther**, in noting the 12 month window, asked what happens if an inmate gets in trouble. Supt. Church responded that if an inmate commits a new crime, they would still be brought back into the house of corrections. The new crime would then be investigated and prosecuted as a separate offense from their current sentence.
- **Senator Houde** closed the hearing at 2:11 p.m.

**Funding:** Not applicable.

**Future Action:** The Committee took the bill under advisement.

Senator Carson offered to work with Senator Houde on an amendment for consideration by the full committee.

sfd

[file: HB 0307 report]  
Date: March 24, 2011

# Speakers



# Committee Report



STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: May 9, 2011

THE COMMITTEE ON Judiciary

to which was referred House Bill 307

AN ACT

relative to the authority of the superintendent of a county  
correctional facility.

Having considered the same, the committee recommends that the Bill:

**IS INEXPEDIENT TO LEGISLATE**

BY A VOTE OF: 4 - 0

AMENDMENT # s

Senator Fenton Groen  
For the Committee

Danielle Barker 271-3091

## New Hampshire General Court - Bill Status System

**Docket of HB307**

Docket Abbreviations

**Bill Title:** relative to the authority of the superintendent of a county correctional facility.*Official Docket of HB307:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/20/2011	H	Introduced 1/6/2011 and Referred to Criminal Justice and Public Safety; <b>HJ 11</b> , PG. 181
2/1/2011	H	Public Hearing: 2/8/2011 10:00 AM LOB 204 ==Executive Session to Follow==
2/8/2011	H	Committee Report: Ought to Pass with Amendment #0188h for Feb 15 (Vote 14-0; CC); <b>HC 13</b> , PG.231
2/8/2011	H	Proposed Committee Amendment <b>#2011-0188h</b> ; <b>HC 13</b> , PG.258
2/15/2011	H	Amendment #0188h Adopted, VV; <b>HJ 17</b> , PG.359
2/15/2011	H	Ought to Pass with Amendment #0188h: MA VV; <b>HJ 17</b> , PG.359
3/16/2011	S	Introduced and Referred to Judiciary
3/17/2011	S	Hearing: 3/24/11, Room 101, LOB, 1:45 p.m.; <b>SC16</b>
5/11/2011	S	Committee Report: Inexpedient to Legislate, 5/18/11; <b>SC24</b>
5/18/2011	S	Inexpedient to Legislate, MA, VV === BILL KILLED ===; <b>SJ 17</b> , Pg.353

NH House

NH Senate

# Other Referrals

# COMMITTEE REPORT FILE INVENTORY

\_\_\_\_\_ ORIGINAL REFERRAL                      \_\_\_\_\_ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- \_\_\_\_\_ PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING

SIGN-UP SHEET(S) (2) *Ø*

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

<input checked="" type="checkbox"/> - AMENDMENT # <u>1334s</u>	_____ - AMENDMENT # _____
_____ - AMENDMENT # _____	_____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

<input checked="" type="checkbox"/> AS INTRODUCED	_____ AS AMENDED BY THE HOUSE
_____ FINAL VERSION	_____ AS AMENDED BY THE SENATE

\_\_\_\_\_ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): *Ø*

DATE DELIVERED TO SENATE CLERK  
7/21/11

By: *Susan A. Hansen*  
COMMITTEE AIDE