

Bill as
Introduced

HB 224 - AS INTRODUCED

2013 SESSION

13-0305

10/01

HOUSE BILL **224**

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

SPONSORS: Rep. Pantelakos, Rock 25; Rep. Shurtleff, Merr 11; Rep. Fesh, Rock 6;
Rep. Charron, Rock 4; Rep. J. Belanger, Hills 27

COMMITTEE: Criminal Justice and Public Safety

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.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Thirteen

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~~] ***to be released*** therefrom for the purpose of obtaining and working at gainful employment, for
7 the performance of uncompensated public service as provided in RSA 651:68-70, under the terms of a
8 day 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 Effective Date. This act shall take effect 60 days after its passage.

Amendments



Amendment to HB 224

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.

5 *I.* A sentencing court may [~~order~~] **recommend** any person who has been committed to a
6 correctional institution other than state prison under a criminal sentence [~~may~~] **to** be released
7 therefrom for the purpose of obtaining and working at gainful employment, for the performance of
8 ~~uncompensated public service as provided in RSA 651:68-70, under the terms of a day reporting~~
9 program, provided the correctional facility has a day reporting program, or to serve the sentence
10 under home confinement, provided the correctional facility has a home confinement program.

11 *II.* If the **court recommends a person for release and the** superintendent determines the
12 person is inappropriate for such release, the court shall be notified and, at the request of the
13 defendant, a hearing may be scheduled.

14 *III.* **If the court does not recommend a person for release pursuant to paragraph I**
15 **but at any time during the sentence the superintendent deems such a release to be**
16 **conducive to the person's rehabilitation, the superintendent may allow the release**
17 **provided that the sentencing court and the prosecutor of the underlying offense have been**
18 **notified of the proposed release, and there has been no objection within 10 days of the**
19 **notice by either the sentencing court or the prosecutor of the underlying offense. If the**
20 **prosecutor of the underlying offense objects to the proposed release, the prosecutor shall**
21 **submit in writing to the sentencing court the reasons for objecting. If the sentencing court**
22 **objects, or receives written notice of the prosecutor's objection, the sentencing court shall,**
23 **within 10 days of receipt of the original notice or the prosecutor's objection, schedule a**
24 **hearing on the proposed release. The sentencing court shall then approve or deny the**
25 **proposed release.**

26 *IV.* In any case, the defendant shall first serve 14 consecutive days prior to eligibility for
27 home confinement, or for such other purpose as the court may deem conducive to his or her
28 rehabilitation, for such times or intervals of time and under such terms and conditions as the rules
29 and regulations of the correctional facility may allow or as the court may order. Any part of a day
30 spent in the free community, or in home confinement, under such a release order shall be counted as
31 a full day toward the serving of the sentence unless otherwise provided by the court. If a person
32 violates the terms and conditions laid down for his or her conduct, custody, and employment, he or



Amendment to HB 224

- Page 2 -

- 1 she shall be returned to the correctional facility. The superintendent may then require that the
 - 2 balance of the person's sentence be spent in actual confinement.
-



2013-0612h

AMENDED ANALYSIS

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

Speakers

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 224

BILL TITLE: relative to the authority of the superintendent of a county correctional facility.

DATE: 1/22/13

LOB ROOM: 204 **Time Public Hearing Called to Order:** 10:05 am

Time Adjourned: 10:55 am
(please circle if present)

Committee Members: Reps. Pantelakos, Cushing, Ginsburg, Berube, Boisvert, Robertson, Grady, Burrige, Harriott-Gathright, Hirsch, O'Hearne, Charron, Fields, Villeneuve, Gagne, Vaillancourt, Warden, Parsons, Fesh and Tasker.

Bill Sponsors: Rep. Pantelakos, Rock 25; Rep. Shurtleff, Merr 11; Rep. Fesh, Rock 6; Rep. Charron, Rock 4; Rep. J. Belanger, Hills 27

TESTIMONY

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

Rep. Laura Pantelakos - Sponsor – introduced the bill

Supt. Daniel P. Ward, Belknap County – supports – presented the reasoning of the bill.

Ann Rice, Assoc. Atty General – Opposes – feels worried about Supt. Making decisions on release. There should be an amendment added to clarify communication between court and Superintendent.

Supt. David Dionne, Hills – supports – provided more information as to why the bill is important. Also explained all the programs they have.

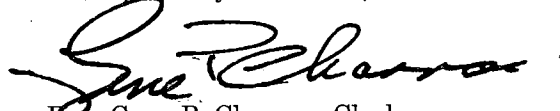
Liz Tentarelli, league of women voters of NH – supports – written testimony

Chris Dormin, Citizen for Criminal Justice Reform – supports

Peter Bearse, Citizen for Criminal Justice Reform – supports

Ian Freeman, inmate - supports

Respectfully submitted,


Rep. Gene P. Charron, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 224

BILL TITLE: relative to the authority of the superintendent of a county correctional facility.

DATE: {Type HEARING DATE here} 1.22.13

LOB ROOM: 204 **Time Public Hearing Called to Order:** {Time} 10:05
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Committee Members: Reps. Pantelakos, Cushing, Ginsburg, Berube, Boisvert, Robertson, Grady, Burridge, Harriott-Gathright, Hirsch, O'Hearne, Charron, Fields, Vileneuve, Gagne, Vaillancourt, Warden, Parsons, Fesh and Tasker.

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TESTIMONY

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

Respectfully submitted,

Rep. Gene P. Charron, Clerk

HB-224

10:00 ①

Rep Pantalone introduced the Bill

10:05 2 supports

Supt. Daniel Ward - presented the reasoning of the Bill. Belnap County.

③ opposes

Rep Atty General Anne Rice, Atty General's office. Feels worried is worried about Supt. making decisions on release. There should be an amendment added to Clarify Communication between Court and Superintendent

10:40 4 support

Supt. David Dionne. Provided more info as to ~~what~~ why the Bill is important. Also explained all the programs they have

5 1042 Supports

LIZ TENTARELLI LEAGUE OF WOMEN VOTERS OF N.H. WRITTEN TESTIMONY

⑥ 1050 SUPPORTS

Chris Dornin CITIZENS FOR CRIMINAL JUSTICE REFORM -

7) 1052 SUPPORT

PETER BEARSE CITIZENS FOR CRIMINAL JUSTICE REFORM -

⑧ 10:50 SUPPORT

IAN FREEMAN - INMATE

CLOSE

Sub-Committee Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 224

BILL TITLE: relative to the authority of the superintendent of a county correctional facility.

DATE: January 29, 2013

Subcommittee Members: Reps. Ginsburg, Chair, Vallaincourt, Charron, Harriott-Gathright, Boisvert and Fields

Comments and Recommendations: The committee adjourned sine die and will schedule another meeting at a later date.

Amendments:

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

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

Moved by Rep.

Seconded by Rep.

Vote:

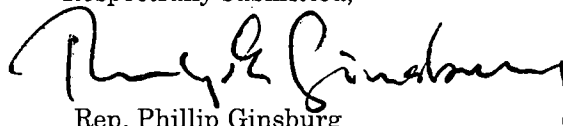
Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,



Rep. Phillip Ginsburg
Subcommittee Chairman

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 224

BILL TITLE: relative to the authority of the superintendent of a county correctional facility.

DATE: 1/29/13: Adjourned sine die

Subcommittee Members: Reps. Ginsburg, Chair, Vallaincourt, Charron, Harriott-Gathright, Boisvert and Fields

Comments and Recommendations:

Amendments:

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

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

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk

Pg

Testimony

Hearing on 2013 HB 224

January 22, 2013

Testimony of Deputy Attorney General Ann Rice

③
file

AG's office is opposed to bill as written

- Recognize there are financial pressures on all county facilities
- In particular, medical costs
- Bill as written gives superintendents too much authority
- Encourage committee to put bill to subcommittee

When court imposes a sentence—whether negotiated or not—it considers a variety of information provided by counsel

- Criminal history
- Nature of the criminal conduct at issue
- Defendant's background
 - Education, history of substance abuse, job history . . .
- Home confinement / work release options are considered
- If those are reasonable options, would be included in sentence

HB 224, as written, would short circuit that process

- Allow superintendents to make decisions on home confinement / work release, but without benefit of full scope of information
- Vast majority of criminal cases resolved by plea – charges are often downgraded
 - Charge of conviction doesn't necessarily reflect full scope of criminal conduct
 - Superintendent will not know that
- Release decisions – particularly re: home confinement – should be fully informed
- Keep the court involved in some fashion
 - Without court involvement, raises concern that financial pressures may override the criminal justice concerns

HB 224, as written, would conflict with rights of crime victims to be informed of release

- RSA 21-M:8-k requires victim notification for any change in status
- Would need to create a process whereby victim would get notice

Urge committee to look at this issue in more detail – set up a subcommittee

January 22, 2013

File

To: House Criminal Justice and Public Safety Committee

From: Liz Tentarelli, co-president League of Women Voters of New Hampshire
(home phone: 763-9296 email: LWV@kenliz.net)
Peg Fargo, vice-president League of Women Voters of New Hampshire
(email: pfargo@hotmail.com)

Re: **HB 224**, relative to the authority of the superintendent of a county house of corrections, permitting a prisoner to be released under alternative sentencing conditions.

The League of Women Voters of New Hampshire has studied the issues faced by women incarcerated in NH for over three years now. We have visited all the women's units in the county houses of corrections and met with the superintendents, staff and inmates. We applaud and support the county superintendents' commitment to rehabilitation and to improving the re-entry process for offenders.

In our research we have learned that alternative sentencing can be more effective than extended incarceration for non-violent female offenders, particularly those who are first time offenders. In 2010, the National Women's Law Center of Washington DC issued a report stating that 67% of women incarcerated in state prisons are mothers of children under 18. New Hampshire does not provide those statistics for women incarcerated at the state level nor at the county level, but in our visits with inmates, discussion of their children was a focus in many of our conversations. A high percentage are also single mothers. Maintaining that family bond should be a high priority for our justice system. Children with incarcerated parents are five times more likely to become involved in the justice system at an early age. Home confinement of pregnant offenders is also a better situation than prolonged incarceration. The health of the mother and baby and the bond they form in the home setting are things we should support, whenever possible.

We believe the superintendents, with the advice of their staff, who get to know the offenders very quickly, are competent to determine who should be released under the kinds of alternative programs described in this legislation. With this legislation in place, it enables counties to continue to develop, implement and support alternatives to incarceration.

Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 224

BILL TITLE: relative to the authority of the superintendent of a county correctional facility.

DATE: March 7, 2013

LOB ROOM: 204

Amendments:

Sponsor: Rep. Ginsburg OLS Document #: 2013 0612h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP (amendment 0612h), OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Vaillancourt

Seconded by Rep. Harriott-Gathright

Vote: 10-7 (Please attach record of roll call vote.)

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

Moved by Rep. Vaillancourt

Seconded by Rep. Harriott-Gathright

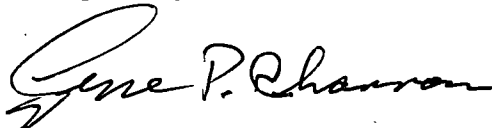
Vote: 16-1 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep. Gene P. Charron, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 224

BILL TITLE: relative to the authority of the superintendent of a county correctional facility.

DATE: {Type DATE} 3.7.12

LOB ROOM: 204

Amendments:

Sponsor: Rep. GINZBERG OLS Document #: 2013-0612h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep.

Seconded by Rep.

Vote: 10-7 (Please attach record of roll call vote.)

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

Moved by Rep. Vallonecourt -

Seconded by Rep. ARRIST -

Vote: 16-1 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: {Type VOTE}

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Gene P. Charron, Clerk

16-1
Consent



2013 SESSION

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB 224 Title: _____

PH Date: ____/____/____ Exec Session Date: 3, 7, 12

Motion: Amendment OTD Amendment #: 2013-0612h

MEMBER	YEAS	NAYS
Pantelakos, Laura C, Chairman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Cushing, Robert R, V Chairman		<input checked="" type="checkbox"/>
Berube, Roger R		<input checked="" type="checkbox"/>
Robertson, Timothy N	<input checked="" type="checkbox"/>	
Burrige, Delmar D	<input checked="" type="checkbox"/>	
Ginsburg, Philip E	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Boisvert, Ronald R		<input checked="" type="checkbox"/>
Grady, Brenda E	<input checked="" type="checkbox"/>	
Harriott-Gathright, Linda	<input checked="" type="checkbox"/>	
Hirsch, Geoffrey D	<input checked="" type="checkbox"/>	
O'Hearne, Andrew S	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Charron, Gene P, Clerk		<input checked="" type="checkbox"/>
Fields, Dennis H		<input checked="" type="checkbox"/>
Fesh, Robert M		<input checked="" type="checkbox"/>
Villeneuve, Moe	<input checked="" type="checkbox"/>	
Gagne, Larry G	<input checked="" type="checkbox"/>	
Parsons, Robbie L	<input checked="" type="checkbox"/>	
Tasker, Kyle J	<input checked="" type="checkbox"/>	
Warden, Mark	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Vaillancourt, Steve	<input checked="" type="checkbox"/>	
TOTAL VOTE:		

10 - 7



2013 SESSION

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB 234 Title: _____

PH Date: / / Exec Session Date: 3, 7, 12

Motion: OTP/A Amendment #: 2013-06124

<u>MEMBER</u>	<u>YEAS</u>	<u>NAYS</u>
Pantelakos, Laura C, Chairman		✓
Cushing, Robert R, V Chairman	✓	
Berube, Roger R	✓	
Robertson, Timothy N	✓	
Burridge, Delmar D	✓	
Ginsburg, Philip E		—
Boisvert, Ronald R	✓	
Grady, Brenda E	✓	
Harriott-Gathright, Linda	✓	
Hirsch, Geoffrey D	✓	
O'Hearne, Andrew S		—
Charron, Gene P, Clerk	✓	
Fields, Dennis H	✓	
Fesh, Robert M	✓	
Villeneuve, Moe	✓	
Gagne, Larry G	✓	
Parsons, Robbie L	✓	
Tasker, Kyle J	✓	
Warden, Mark		—
Vaillancourt, Steve	✓	
TOTAL VOTE:		

16 1

Committee Report

CONSENT CALENDAR

March 7, 2013

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY to which was referred HB 224,

AN ACT relative to the authority of the superintendent of a county correctional facility. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Steve Vaillancourt

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	CRIMINAL JUSTICE AND PUBLIC SAFETY
Bill Number:	HB224
Title:	relative to the authority of the superintendent of a county correctional facility.
Date:	March 7, 2013
Consent Calendar:	YES
Recommendation:	OUGHT TO PASS WITH AMENDMENT

STATEMENT OF INTENT

This bill will allow superintendents of county correctional facilities to do legally something that some of them may be doing already, release a prisoner after serving at least 14 days (except at the state prison) for the purpose of obtaining and working at gainful employment. The committee was unanimous in support of the idea behind the bill, but disagreement was focused on an amendment which represents an attempt to make sure that the prosecutors and judges involved in the original sentencing are informed. The majority of the committee, conscious of the separation of powers between the judicial branch (courts) and administrative branch (corrections facilities) thought it wise to add a provision that before a prisoner is released, the prosecutor and judge be informed with a ten day window to state an objection. If an objection is raised, the prisoner would be granted a hearing which could lead to release but at the discretion of the sentencing court. The committee, aware that this might slightly delay the release, thought it appropriate, especially after hearing from one county corrections official that disagreements have occurred in as many as four of five planned releases.

Vote 16-1.

Rep. Steve Vaillancourt
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB 224, relative to the authority of the superintendent of a county correctional facility. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Steve Vaillancourt for CRIMINAL JUSTICE AND PUBLIC SAFETY. This bill will allow superintendents of county correctional facilities to do legally something that some of them may be doing already, release a prisoner after serving at least 14 days (except at the state prison) for the purpose of obtaining and working at gainful employment. The committee was unanimous in support of the idea behind the bill, but disagreement was focused on an amendment which represents an attempt to make sure that the prosecutors and judges involved in the original sentencing are informed. The majority of the committee, conscious of the separation of powers between the judicial branch (courts) and administrative branch (corrections facilities) thought it wise to add a provision that before a prisoner is released, the prosecutor and judge be informed with a ten day window to state an objection. If an objection is raised, the prisoner would be granted a hearing which could lead to release but at the discretion of the sentencing court. The committee aware that this might slightly delay the release, thought it appropriate, especially after hearing from one county corrections official that disagreements have occurred in as many as four of five planned releases.

Vote 16-1.

Original: House Clerk

Cc: Committee Bill File

CONSENT CALENDAR

CRIMINAL JUSTICE AND PUBLIC SAFETY

MAJORITY REPORT

HB 224, relative to the authority of the superintendent of a county correctional facility.

RECOMMENDATION: OUGHT TO PASS WITH AMENDMENT

VOTE: 16-1

This bill will allow superintendents of county correctional facilities to do legally something that some of them may be doing already, release a prisoner after serving at least 14 days (except at the state prison) for the purpose of obtaining and working at gainful employment. The committee was unanimous in support of the idea behind the bill, but disagreement was focused on an amendment which represents an attempt to make sure that the prosecutors and judges involved in the original sentencing are informed. The majority of the committee, conscious of the separation of powers between the judicial branch (courts) and administrative branch (corrections facilities) thought it wise to add a provision that before a prisoner is released, the prosecutor and judge be informed with a ten day window to state an objection. If an objection is raised, the prisoner would be granted a hearing which could lead to release but at the discretion of the sentencing court. The committee, aware that this might slightly delay the release, thought it appropriate, especially after hearing from one county corrections official that disagreements have occurred in as many as four of five planned releases.

Rep. Steve Vaillancourt

Rep. Louie Pantelakas

blurb for House Bill 224
Ought to pass as Amended
Consent Calendar
Vote 17-1

To do

Rep. Steve Vaillancourt for Criminal Justice: This bill will allow superintendents of county correctional facilities to legally do something that some of them may be doing already, release a prisoner after serving at least 14 days (except at the state prison) for the purpose of obtaining and working at gainful employment. The committee was unanimous in support of the idea behind the bill, but disagreement was focused on an amendment which represents an attempt to make sure that the prosecutors and judges involved in the original sentencing are informed. The majority of the committee, conscious of the separation of powers between the judicial branch (courts) and administrative branch (corrections facilities) thought it wise to add a provision that before a prisoner is released, the prosecutor and judge be informed with a ten day window to state an objection. If an objection is raised, the prisoner would be granted a hearing which could lead to release but at the discretion of the sentencing court. The committee, aware that this might slightly delay the release, thought it appropriate, especially after hearing from one county corrections official that disagreements have occurred in as many as four of five planned releases.
