

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

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

HB 224 - AS AMENDED BY THE HOUSE

20Mar2013... 0612h

2013 SESSION

13-0305

10/01

HOUSE BILL

**224**

AN ACT

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

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COMMITTEE:

Criminal Justice and Public Safety

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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.

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

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

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

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

HB 224 - AS AMENDED BY THE HOUSE

- 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.
- 3       2 Effective Date. This act shall take effect 60 days after its passage.

HB 224 – FINAL VERSION

20Mar2013... 0612h  
06/06/13 1947s  
26June2013... 2139CofC

2013 SESSION

13-0305  
10/01

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7 *gainful employment, for the performance of uncompensated public service as provided in*  
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15 *to paragraph I in its order, but at any time during the sentence the superintendent deems*  
16 *such a release to be conducive to the person's rehabilitation, the court and the prosecutor*  
17 *shall be notified and, at the request of the prosecutor, a hearing may be scheduled. The*  
18 *decision of the superintendent for release under this paragraph shall stand unless,*  
19 *following the hearing, the court orders otherwise.*

20 *IV. In any case, the defendant shall first serve 14 consecutive days prior to eligibility for*  
21 *home confinement, or for such other purpose as the court or the superintendent may deem*  
22 *conducive to his or her rehabilitation, for such times or intervals of time and under such terms and*  
23 *conditions as the rules and regulations of the correctional facility may allow or as the court may*  
24 *order. Any part of a day spent in the free community, or in home confinement, under such a release*  
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26 *the court. If a person violates the terms and conditions laid down for his or her conduct, custody,*  
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29 2 Effective Date. This act shall take effect 60 days after its passage.



# Amendments

Rep. Ginsburg, Straf. 6  
February 28, 2013  
2013-0612h  
10/03

Amendment to HB 224

Amend the bill by replacing section 1 with the following:

1 Discretionary Sentences; Release for Certain Purposes. Amend RSA 651:19 to read as follows:

651:19 Release for Purpose of Gainful Employment, Rehabilitation, or Home Confinement.

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

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

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

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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.



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13 II. If the *sentencing court recommends a person for release and the* superintendent  
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# Committee Minutes

**SENATE CALENDAR NOTICE**  
**JUDICIARY**

Senator Sharon Carson Chairman  
Senator Bette Lasky V Chairman  
Senator David Boutin  
Senator Sam Cataldo  
Senator Donna Soucy

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: April 17, 2013**

**HEARINGS**

**Tuesday**

**4/30/2013**

JUDICIARY

SH 100

9:00 AM

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

9:00 AM	HB224	relative to the authority of the superintendent of a county correctional facility.
9:20 AM	HB228	relative to insurance fraud.
9:40 AM	HB433	(New Title) relative to procedures for juvenile delinquency petitions filed by a school district or school official.
10:00 AM	HB583	relative to proceedings of medical injury claims screening panels.

**Sponsors:**

**HB224**

Rep. Laura Pantelakos  
Rep. James Belanger

Rep. Stephen Shurtleff

Rep. Robert Fesh

Rep. Gene Charron

**HB228**

Rep. Edward Butler

Rep. John Hunt

Rep. Donald Flanders

**HB433**

Rep. Joseph Pitre

**HB583**

Rep. Lucy Weber

Sen. Bette Lasky

Rep. Janet Wall

Sen. Donna Soucy

# SENATE JUDICIARY COMMITTEE

*Susan Duncan, Senior Legislative Aide*

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

Hearing Date: April 30, 2013

Time Opened: 9:00 a.m.

Time Closed: 9:18 a.m.

**Members of the Committee Present:** Senators Carson, Lasky, Boutin and Cataldo

**Members of the Committee Absent:** Senator Soucy

**Bill 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.

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**Sponsors:** Representatives Pantalakos, Shurtleff, Fesh, Charron and J. Belanger

**Who supports the bill:** Attorney Howard Zibel on behalf of the Judicial Branch; David Dionne, Hillsborough County Dept. of Corrections; Betsy Miller on behalf of the NH Association of Counties; Ronald White, Merrimack County Dept. of Corrections and the NH Association of Counties Corrections Affiliates; Stephen Church, Rockingham County Dept. of Corrections

**Who opposes the bill:** No one

**Summary of testimony presented in support:**

As not a single House sponsor was present, Senator Lasky introduced the bill.

**Stephen Church**

Explained that they have been working on the language of this bill for three years now with the House committee. He said that the bill enables the county corrections superintendents to directly reintegrate their prisoners back into the community when they are working on tighter timeframes (each sentence is 12 months or less). He said that their goal is helping these people reintegrate back into their families and communities – and that their challenge is dealing with the shorter sentences. He explained that they employ things such as electronic



monitoring. He noted that if being released to work was not written into the original court order, then they have no choice but to go back to court for a hearing in order to do the work release. He said that all ten superintendents support this and worked with the House Criminal Justice Committee on the bill.

The bill allows home confinement and electronic monitoring programs to be classifications of prisoners. He said that the bill allows the Superintendents the latitude to accomplish these goals.

**David Dion**

Talked of the problems with the bogged down court dockets and how it takes them two to three months to get a hearing, during which they have lost valuable time. He said that they have no problem with notifying the courts of the work release, but if there is an objection, then they are back into the cycle again of waiting for a court hearing. He said that the bill enables the superintendents to place the prisoners where they see fit in order to help them reintegrate back into the community.

**Ron White**

He explained the existing statutory language and the need for the structure of a pre-release program. He commented that county jails do not have probation and parole procedures and indicated that in Merrimack County, they re-did their sentencing orders but that there is no statutory language to back it up.

He indicated that the Attorney General came in (to the House Committee) at the last minute to object to this.

Merrimack County already notifies people if they are letting someone out of jail and if they object to the individual being allowed back into the community, then they do not do it. He said that he believes that the statutes already say that they have the ability to do this. He further indicated that they are testing people for their risk level and that they do not put high risk folks back out. They also order drug and alcohol monitoring, electronic monitoring and the inmates must pay to go into appropriate programs.

**Senator Lasky** asked about the two references to ten days in the new Section 3. **Mr. White** responded that he thinks that it is restrictive. **Senator Lasky** asked about notification. **Mr. White** said that they prefer to notify the county attorney's office and then it can go to court. **Senator Cataldo** asked if the current system works. **Mr. White** responded that it does as long as the proper language is in the court order.

**Attorney Lehmann**

Noted that the last sentence says that the "sentencing court shall then approve" – and that this needs to be clarified.

**Summary of testimony presented in opposition:** None

**Fiscal Note:** None

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

# Speakers



# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE  
FOR THE CONSENT CALENDAR

Date: May 28, 2013

THE COMMITTEE ON Judiciary

to which was referred House Bill 224

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

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

**OUGHT TO PASS WITH AMENDMENT**

BY A VOTE OF: 5 - 0

AMENDMENT # 1947s

CONSENT CALENDAR VOTE: 5 - 0

Senator Sharon M. Carson for the Committee

This bill establishes a procedure for the superintendent of a county correctional facility to order a prisoner in their facility who has been incarcerated for a short period of time into a work release program, if appropriate and the prisoner meets all the criteria. The amendment provides the ability for the prosecutor to object and the court to hold a hearing on the matter.

Susan Duncan 271-3076

## New Hampshire General Court - Bill Status System

**Docket of HB224**

Docket Abbreviations

**Bill Title:** relative to the authority of the superintendent of a county correctional facility.*Official Docket of HB224:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/3/2013	H	<b>Introduced</b> 1/3/2013 and Referred to Criminal Justice and Public Safety; <b>HJ 12</b> , PG.187
1/15/2013	H	Public Hearing: 1/22/2013 10:00 AM LOB 204
1/22/2013	H	Subcommittee Work Session: 1/29/2013 9:15 AM LOB 204
2/20/2013	H	Executive Session: 2/28/2013 10:00 AM LOB 204==RECESSED==
2/27/2013	H	Subcommittee Work Session: 3/5/2013 9:00 AM LOB 204
2/28/2013	H	Continued Executive Session: 3/5/2013 10:00 AM LOB 204 ==RECESSED==
3/5/2013	H	Continued Executive Session: 3/7/2013 10:00 AM LOB 204
3/7/2013	H	Committee Report: Ought to Pass with Amendment #0612h for Mar 20 (Vote 16-1; CC); <b>HC 23</b> PG.578
3/7/2013	H	Proposed Committee Amendment <b>#2013-0612h</b> ; <b>HC 23</b> PG.609
3/20/2013	H	Amendment #0612h: AA VV; <b>HJ 27</b> , PG.837-838
3/20/2013	H	<b>Ought to Pass with Amendment</b> #0612h: MA VV; <b>HJ 27</b> , PG.837-838
3/21/2013	S	Introduced and Referred to Judiciary
4/17/2013	S	Hearing: 4/30/13, Room 100, SH, 9:00 a.m.; <b>SC17</b>
5/29/2013	S	Committee Report: Ought to Pass with Amendment <b>#2013-1947s</b> , 6/6/13; Vote 5-0; CC; <b>SC23</b>
6/6/2013	S	Committee Amendment 1947s, AA, VV
6/6/2013	S	<b>Ought to Pass with Amendment</b> 1947s, MA, VV; OT3rdg
6/12/2013	H	House Non-Concurs with Senate AM #1947s and Requests C of C (Rep. Shurtleff): MA VV [Recess of 6/5/13]; <b>HJ49</b> , PG.1650
6/12/2013	H	Speaker Appoints: Reps Cushing, Charron, Grady, and L.Gagne [Recess of 6/5/13]; <b>HJ49</b> , PG.1650
6/12/2013	S	Sen. Carson Moved Accede to House Request for Committee of Conference, MA, VV
6/12/2013	S	President Appoints: Senators Boutin, Carson, Lasky
6/17/2013	H	Committee of Conference Meeting: 6/19/2013 11:00 AM LOB 204
6/19/2013	H	Conferee Change: Rep Shurtleff Replaces Rep Charron; <b>HJ49</b> , PG.1655
6/20/2013	S	Conference Committee Report <b>#2013-2139c</b> ; Senate Amendment, Filed
6/26/2013	S	Conference Committee Report 2139c; Adopted, VV
6/26/2013	H	Conference Committee Report #2139c Adopted, VV
6/26/2013	S	Enrolled
6/26/2013	H	Enrolled
7/25/2013	H	Signed By Governor 07/24/2013; Effective 09/22/2013; Chapter 0277

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)

**ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:**

- AMENDMENT # 1935s                       - AMENDMENT # 0612h  
 - AMENDMENT # 1947s                       - AMENDMENT # \_\_\_\_\_

**ALL AVAILABLE VERSIONS OF THE BILL:**

- 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):

House calendar "blue"

DATE DELIVERED TO SENATE CLERK

7/26/13

BY:

*Susan J. Deane*  
COMMITTEE AIDE



## **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.**