

Bill as
Introduced

HB 178-FN - AS INTRODUCED

2021 SESSION

21-0340
04/05

HOUSE BILL

178-FN

AN ACT

relative to the parole of prisoners and the procedures of the adult parole board.

SPONSORS:

Rep. Abbas, Rock. 8; Sen. Daniels, Dist 11

COMMITTEE:

Criminal Justice and Public Safety

ANALYSIS

This bill amends various provisions of the adult parole process including the definition of violent crime and recommittal of prisoners who violate parole.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the parole of prisoners and the procedures of the adult parole board.

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

1 1 Involuntary Civil Commitment of Sexually Violent Predators; Notice to County Attorney or
2 Attorney General. Amend RSA 135-E:3, II to read as follows:

3 II. When a person who has committed a sexually violent offense is to be released from total
4 confinement in New Hampshire, the agency with jurisdiction over the person shall give written
5 notice to the person and the county attorney of the county where that person was last convicted of a
6 sexually violent offense, or attorney general if the case was prosecuted by the attorney general. If
7 the person is in custody on an out-of-state or federal sexually violent offense, the agency with
8 jurisdiction shall give written notice to the person and the county attorney of the county where the
9 person plans to reside upon release or, if no residence in this state is planned, the county attorney in
10 the county where the facility from which the person to be released is located or to the attorney
11 general if the person has been convicted of murder. Except as provided in RSA 135-E:4, the written
12 notice shall be given at least 9 months prior to the potential release [~~on parole pursuant to RSA 651-~~
13 ~~A:6, I(e),~~] except that in the case of persons who are totally confined for a period of less than 9
14 months, written notice shall be given as soon as practicable.

15 2 Involuntary Civil Commitment of Sexually Violent Predators; Release From Total
16 Confinement. Amend RSA 135-E:4, I to read as follows:

17 I. In the event that a person who has been convicted of a sexually violent offense is eligible
18 for immediate release [~~on parole pursuant to RSA 651 A:6, I(e), or~~] upon completion of the maximum
19 term of incarceration, the agency with jurisdiction shall provide immediate notice to the county
20 attorney or attorney general of the person's release. The county attorney or attorney general or the
21 agency with jurisdiction may file a petition for an emergency hearing in the superior court
22 requesting that the person subject to immediate release be evaluated by the multidisciplinary team
23 to determine whether the person is a sexually violent predator. The hearing shall be held within 24
24 hours of the filing of the petition, excluding Saturdays, Sundays, and holidays. The person shall not
25 be released from total confinement until after the hearing has been held. At the hearing, the court
26 shall determine whether there is probable cause to believe that the person is a sexually violent
27 predator. If the court finds probable cause, the person shall be held in an appropriate secure facility.

28 3 Parole of Prisoners; Definitions. Amend the introductory paragraph of RSA 651-A:2, VI to
29 read as follows:

30 VI. [~~Nonviolent offense~~] "**Violent crime**" shall include [~~all criminal offenses, except~~] those
31 defined as violent crimes in RSA 651:5, XIII and the following:

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- Page 2 -

1 4 New Paragraph; Parole of Prisoners; Notice of Hearings. Amend RSA 651-A:11 by inserting
2 after paragraph III the following new paragraph:

3 IV. The notice provisions of this section shall not apply to revocation, review, or
4 reconsideration hearings.

5 5 Parole of Prisoners; Effect of Recommitment. Amend RSA 651-A:19 to read as follows:

6 651-A:19 Effect of Recommitment.

7 I. A prisoner who is recommitted shall serve 90 days in prison *and shall meet the criteria*
8 *for parole* before being placed back on parole or the remainder of his or her maximum sentence,
9 whichever is shorter, or may be subject to an extended term of recommitment pursuant to paragraphs
10 III and IV. The time between the return of the parolee to prison after arrest and revocation of parole
11 shall be considered as time served as a portion of the maximum sentence. The 90-day recommitment
12 period may be calculated from the date of the arrest or from the date of the hearing, as ordered by
13 the parole board.

14 II. Prisoners who are recommitted shall be provided access to focused, evidence-based
15 programming aimed at reengaging parolees in their parole plan.

16 III. The parole board may impose an extended term of recommitment for greater than 90 days
17 if:

18 (a) The prisoner has previously been found true for a parole violation on his or her
19 current sentence or another sentence for which he or she was concurrently serving a term of parole;
20 or

21 (b) The prisoner was on parole for a sexual offense as defined in RSA 651-B:1, V or an
22 offense against a child as defined in RSA 651-B:1, VII ~~[and the prisoner has displayed a combination~~
23 ~~of dynamic risk factors, including but not limited to, homelessness, loss of supports, substance abuse,~~
24 ~~or non-compliance with treatment, as determined by the department of corrections sexual offender~~
25 ~~treatment program staff]; or~~

26 (c) The prisoner was on parole for a violent crime as defined in RSA 651:5, XIII *or RSA*
27 *651-A:2, VI*; or

28 (d) The nature of the conduct underlying the parole violation constitutes a criminal act
29 or is otherwise so serious as to warrant an extended period of recommitment; or

30 (e) The conduct underlying the parole violation is related to his or her offense or
31 offending pattern.

32 IV.(a) A prisoner shall be brought before the parole board at any time during the 90-day
33 term of recommitment to determine whether a longer term is warranted if:

34 ~~(1) The prisoner did not meaningfully participate in the evidence-based programming~~
35 ~~during the 90-day recommitment period; or~~

36 ~~(2) the prisoner received one or more major disciplinary violations during the 90-~~
37 ~~day recommitment period.~~

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- Page 3 -

1 (b) The prisoner shall be provided notice of the hearing and the basis of the parole
2 board's consideration of an extended term.

3 V. The imposition of an extended term of recommittal pursuant to paragraph III or IV shall
4 be supported by written findings and a written order.

5 VI. Any prisoner who is subject to an extended term of recommittal shall, upon request, be
6 entitled to a hearing before the parole board after serving 6 months of his or her term of recommittal
7 and every 6 months thereafter.

8 VII. At the revocation hearing, the parole board may impose a term of recommittal for less
9 than 90 days if:

10 (a) The prisoner has not been previously found true for a parole violation on his or her
11 current sentence or another sentence for which he or she was concurrently serving a term of parole;

12 (b) The prisoner was not on parole for a sexual offense as defined in RSA 651-B:1, V or
13 an offense against a child as defined in RSA 651-B:1, VII;

14 (c) The prisoner was not on parole for a violent crime as defined in RSA 651:5, XIII *or*
15 *RSA 651-A:2, VI;*

16 (d) The parole violation is not substantially related to his or her offense or offending
17 pattern; and

18 (e) The parole board determines that a lesser period of recommittal will aid in the
19 rehabilitation of the parolee.

20 VIII. Notwithstanding paragraph I or subparagraphs VII(a) or (d), the parole board may
21 impose a term of recommittal of less than 90 days for a prisoner who enters and successfully
22 completes a residential substance abuse treatment program deemed acceptable by the board.

23 6 Parole of Prisoners; Parole Records. Amend RSA 651-A:20 to read as follows:

24 651-A:20 Parole Records. The adult parole board or its designee shall have access to all parole
25 records of the department. ~~[The board shall review the records of the department for each parolee in~~
26 ~~its custody at least once every 36 months.]~~

27 7 Repeal. The following are repealed:

28 I. RSA 91-A:3, II(f), relative to parole applications being considered in nonpublic session.

29 II. RSA 651-A:6, I(c), relative to parole hearings for prisoners recommitted to prison more
30 than one year prior to the expiration of the maximum term of his or her sentence.

31 8 Effective Date. This act shall take effect upon its passage.

LBA
21-0340
12/11/20

**HB 178-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the parole of prisoners and the procedures of the adult parole board.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill amends various provisions of the adult parole process including the definition of violent crime and re-committal of prisoners who violate parole. The Department of Corrections cannot predict the number of those incarcerated that would be affected by this change of law or if the time of incarceration would be lessened or extended.

It is assumed any fiscal impact would not occur until July 1, 2021.

AGENCIES CONTACTED:

Department of Corrections

CHAPTER 48
HB 178-FN - FINAL VERSION

2021 SESSION

21-0340
04/05

HOUSE BILL **178-FN**

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COMMITTEE: Criminal Justice and Public Safety

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1 48:1 Involuntary Civil Commitment of Sexually Violent Predators; Notice to County Attorney or
2 Attorney General. Amend RSA 135-E:3, II to read as follows:

3 II. When a person who has committed a sexually violent offense is to be released from total
4 confinement in New Hampshire, the agency with jurisdiction over the person shall give written
5 notice to the person and the county attorney of the county where that person was last convicted of a
6 sexually violent offense, or attorney general if the case was prosecuted by the attorney general. If
7 the person is in custody on an out-of-state or federal sexually violent offense, the agency with
8 jurisdiction shall give written notice to the person and the county attorney of the county where the
9 person plans to reside upon release or, if no residence in this state is planned, the county attorney in
10 the county where the facility from which the person to be released is located or to the attorney
11 general if the person has been convicted of murder. Except as provided in RSA 135-E:4, the written
12 notice shall be given at least 9 months prior to the potential release [~~on parole pursuant to RSA 651-~~
13 ~~A:6, I(e),~~] except that in the case of persons who are totally confined for a period of less than 9
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15 48:2 Involuntary Civil Commitment of Sexually Violent Predators; Release From Total
16 Confinement. Amend RSA 135-E:4, I to read as follows:

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18 for immediate release [~~on parole pursuant to RSA 651-A:6, I(e), or~~] upon completion of the maximum
19 term of incarceration, the agency with jurisdiction shall provide immediate notice to the county
20 attorney or attorney general of the person's release. The county attorney or attorney general or the
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23 to determine whether the person is a sexually violent predator. The hearing shall be held within 24
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25 be released from total confinement until after the hearing has been held. At the hearing, the court
26 shall determine whether there is probable cause to believe that the person is a sexually violent
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28 48:3 Parole of Prisoners; Definitions. Amend the introductory paragraph of RSA 651-A:2, VI to
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CHAPTER 48
HB 178-FN - FINAL VERSION
- Page 2 -

1 VI. [~~"Nonviolent offense"~~] **"Violent crime"** shall include [~~all criminal offenses, except~~] those
2 defined as violent crimes in RSA 651:5, XIII and the following:

3 48:4 New Paragraph; Parole of Prisoners; Notice of Hearings. Amend RSA 651-A:11 by
4 inserting after paragraph III the following new paragraph:

5 IV. The notice provisions of this section shall not apply to revocation, review, or
6 reconsideration hearings.

7 48:5 Parole of Prisoners; Effect of Recommittal. Amend RSA 651-A:19 to read as follows:
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10 **for parole** before being placed back on parole or the remainder of his or her maximum sentence,
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12 III and IV. The time between the return of the parolee to prison after arrest and revocation of parole
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21 current sentence or another sentence for which he or she was concurrently serving a term of parole;
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24 offense against a child as defined in RSA 651-B:1, VII [~~and the prisoner has displayed a combination~~
25 ~~of dynamic risk factors, including but not limited to, homelessness, loss of supports, substance abuse,~~
26 ~~or non-compliance with treatment, as determined by the department of corrections sexual offender~~
27 ~~treatment program staff]; or~~

28 (c) The prisoner was on parole for a violent crime as defined in RSA 651:5, XIII **or RSA**
29 **651-A:2, VI**; or

30 (d) The nature of the conduct underlying the parole violation constitutes a criminal act
31 or is otherwise so serious as to warrant an extended period of recommittal; or

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33 offending pattern.

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36 (1) ~~The prisoner did not meaningfully participate in the evidence based programming~~
37 ~~during the 90-day recommittal period; or~~

CHAPTER 48
HB 178-FN - FINAL VERSION
- Page 3 -

1 (2)] the prisoner received one or more major disciplinary violations during the 90-
2 day recommittal period.

3 (b) The prisoner shall be provided notice of the hearing and the basis of the parole
4 board's consideration of an extended term.

5 V. The imposition of an extended term of recommittal pursuant to paragraph III or IV shall
6 be supported by written findings and a written order.

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24 completes a residential substance abuse treatment program deemed acceptable by the board.

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27 records of the department. ~~[The board shall review the records of the department for each parolee in~~
28 ~~its custody at least once every 36 months.]~~

29 48:7 Repeal. The following are repealed:

30 I. RSA 91-A:3, II(f), relative to parole applications being considered in nonpublic session.

31 II. RSA 651-A:6, I(c), relative to parole hearings for prisoners recommitted to prison more
32 than one year prior to the expiration of the maximum term of his or her sentence.

33 48:8 Effective Date. This act shall take effect upon its passage.

Approved: May 25, 2021
Effective Date: May 25, 2021

Committee Minutes

**AMENDED
SENATE CALENDAR NOTICE
Judiciary**

Sen Sharon Carson, Chair
Sen Bill Gannon, Vice Chair
Sen Harold French, Member
Sen Rebecca Whitley, Member
Sen Jay Kahn, Member

Date: April 7, 2021.

HEARINGS

Tuesday	04/13/2021		
(Day)	(Date)		
Judiciary	REMOTE 000		1:00 p.m.
(Name of Committee)	(Place)		(Time)
1:00 p.m.	HB 108-FN-LOCAL	relative to minutes and decisions in nonpublic sessions under the right-to-know law.	
1:15 p.m.	HB 178-FN	relative to the parole of prisoners and the procedures of the adult parole board.	
1:30 p.m.	HB 239-FN	relative to prosecutions for certain assaults against minors.	
1:45 p.m.	HB 270-FN	relative to post-conviction DNA testing.	
2:00 p.m.	HB 296-FN	establishing the crime of unsolicited disclosure of an intimate image.	
2:15 p.m.	HB 615-FN	reducing the penalty for certain first offense drug possession charges.	

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/91749966342>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: US: +13017158592,,91749966342# or +13126266799,,91749966342#
4. Webinar ID: 917 4996 6342
5. To view/listen to this hearing on YouTube, use this link:
<https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:
<http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 108-FN-LOCAL

Rep. Ulery

HB 178-FN

Rep. Abbas

HB 239-FN

Rep. Abramson

HB 270-FN

Rep. Conley

HB 296-FN

Rep. Nutting-Wong

HB 615-FN

Rep. Seaworth

Rep. Roy

Rep. Spillane

Sen. Daniels

Rep. Ankarberg

Rep. Schapiro

Rep. Frost

Rep. Verville

Sen. Reagan

Rep. McGuire

Rep. Moran

Rep. Potucek

Rep. T. Lemas

Rep. Cushing

Rep. Conley

Jennifer Horgan 271-7875

Sharon M Carson
Chairman

Senate Judiciary Committee

Jennifer Horgan 271-7875

HB 178-FN, relative to the parole of prisoners and the procedures of the adult parole board.

Hearing Date: April 13, 2021

Time Opened: 1:26 p.m.

Time Closed: 1:39 p.m.

Members of the Committee Present: Senators Carson, Gannon, French, Whitley and Kahn

Members of the Committee Absent : None

Bill Analysis: This bill amends various provisions of the adult parole process including the definition of violent crime and recommittal of prisoners who violate parole.

Sponsors:

Rep. Abbas

Sen. Daniels

Who supports the bill: Rep. Abbas; Senator Gary Daniels; Honorable Donna Sytek, NH Adult Parole Board; Commissioner Helen Hanks, NHDOC; Roger Phillips; Jennifer Sargent, NH Adult Parole Board; Horace Henriques, NH Adult Parole Board; Joe Francis, NH Adult Parole Board

Who opposes the bill: No one

Summary of testimony presented in support:

Honorable Donna Sytek (Adult Parole Board) (provided written testimony)

- The Adult Parole Board requested this bill in response to the observations in the performance audit conducted last year and also to update some sections of RSA 651-A to improve efficiency, assure public safety, and reflect actual practice.
- Sections 1 and 2 are housekeeping provisions to eliminate a cross reference to a statute being repealed in this bill.
- Section 3 adds a definition of "violent crime".
- The current chapter defines "nonviolent crime" stating it is everything except certain listed offenses.
- There is no reference at all to nonviolent crime in the chapter, which is a call back to SB 500 (2010), which originally required release of anyone convicted of a nonviolent crime after serving 120% of their minimum.

- Because that provision was repealed, the chapter no longer mentions nonviolent crimes, but it does have specific provisions for violent crimes, so it makes sense to define “violent crimes.”
- Violent crimes under RSA 651-A:5, XIII includes crimes from capital murder, first degree assault, child sexual abuse images, etc.
- This bill adds to the definition of “violent crimes”, violation of protective orders, second degree assault, felony reckless conduct, criminal threatening involving the use of a deadly weapon, stalking, burglary, tampering with witnesses and informants, and felonious use of firearms.
- Section 4 clarifies the notice requirement.
- Currently, when an individual comes up for parole, the Board notifies the county attorney, the police chief, and the victim.
- The audit conducted pointed out that this is not done for other public hearings, like parole revocation hearings, reconsideration hearings or review hearings.
- Since the latter types of hearings can result in extending the period of incarceration for someone already approved for parole at a duly noticed hearing, there is no need to notify the same people again.
- The bill makes clear that the 15-30 day notice requirement applies only to parole release hearings.
- Under Right-to-Know law the Board provides notice of all hearings to the public.
- Section 5 makes changes affecting the length of recommitment.
- When the Board approves parole for an individual, certain conditions are specified. If the individual does not abide by those conditions, their parole officer files a violation and the Board has a hearing to determine if they should be recommitted to prison and for how long.
- The standard setback/recommitment period is 90 days, and the current law states they must be released after those 90 days regardless of whether they have met the criteria for parole.
- This bill requires an individual in a recommitment meet the same criteria for parole as all other individuals.
- On page 2, line 21 it eliminates a reference to dynamic risk factors for sex offenders who violate parole.
- The Board believes that regardless of the nature of the infraction, whether it is a dynamic risk factor, like stopping going to treatment, or not abiding by other conditions, if someone is a sex offender the Board will be able to give more than an 90 day sanction.
- Page 2, line 26 it adds the crimes added earlier in the bill to the list of “violent crimes “
- Page 2, line 34 eliminates references to “the focused, evidenced-based programming aimed at reengaging parolees in their parole plan”
- As envisioned in SB 500, all parole violators would get a 90-day recommitment and be housed in a separate unit where they would participate in a specific program that would encourage adherence to their parole conditions.

- This separate program never happened.
- Everyone's treatment needs are different, and therefore they are currently plugged into the program that is appropriate for their needs.
- Section 6 removes the requirement that the Board review every parole file every three years.
- Does not think this has ever been done by the Board, as it is already done by the Chief PPO of the district offices.
- Section 7 repeals two sections.
- Right now, the Administrative Rules of the Board requires the Board to provide an audio copy of all parole hearings, but the Right-to-Know law requires parole hearings be nonpublic.
- Determined that if everyone can get a copy of the hearing, why can't it be public.
- Opened the parole hearings up to the public.
- This bill eliminates that conflict between the rules.
- Page 3, line 29 eliminates the requirement to hold a parole hearing for an inmate nine months before his maximum sentence.
- Currently, if someone's behavior is so awful that they haven't completed their programs or have a place to go, but it is nine months to their maximum the Board must hold a hearing.
- This bill repeals that requirement for a hearing but does not take away an inmate's rights to have a hearing at any time during those nine months once they have an approved housing situation and set up their treatment.
- This bill will enhance efficiently, conform with the recommendations of the audit and enhance public safety.

Summary of testimony presented in opposition:

None

jch

Date Hearing Report completed: April 14, 2021

Speakers

Senate Remote Testify

Judiciary Committee Testify List for Bill HB178 on 2021-04-13

Support: 8 Oppose: 0 Neutral: 0 Total to Testify: 2

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Sytek, Donna	Donna.P.Sytek@affiliate.doc.nh.gov	603.893.8889	A Member of the Public	NH Adult Parole Board	Support	Yes	4/12/2021 10:21 AM
Abbas, Daryl	daryl.abbas@leg.state.nh.us	560. - .1929	An Elected Official	Rockingham County: District 8	Support	Yes	4/13/2021 10:55 AM
Hanks, Helen	helen.e.hanks@doc.nh.gov	16032715603	State Agency Staff	NHDOC	Support	No	4/13/2021 1:32 PM
Daniels, Senator Gary	Gary.Daniels@leg.state.nh.us	603-271-4980	An Elected Official	SD 11	Support	No	4/8/2021 7:56 AM
Phillips, Roger	roger@phillipslawoffice.com	603 225-2767	A Member of the Public	Myself & current member of Parole board	Support	No	4/12/2021 12:07 PM
Sargent, Jennifer	jennifer.sargent@doc.nh.gov	603.520.5305	State Agency Staff	NH Adult Parole Board	Support	No	4/12/2021 10:49 AM
Henriques, Horace	hfhenriques3@gmail.com	Not Given	A Member of the Public	NH Adult Parole Board	Support	No	4/12/2021 3:48 PM
Francis, Joe	Not Given	Not Given	A Member of the Public	NH Adult Parole Board	Support	No	4/12/2021 12:28 PM

Testimony



State of New Hampshire

ADULT PAROLE BOARD

Christopher T. Sununu
Governor

NH State Prison
P.O. Box 14
Concord, NH 03302
(603) 271-2569 Fax (603) 271-6179

Jennifer Sargent
Chairman

Remarks by Donna Sytek on HB 178

relative to the parole of prisoners and the procedures of the adult parole board
April 13, 2021

Madam Chairman and members of the committee:

I am Donna Sytek, serving my tenth year as a member of the Adult Parole Board. We have requested this legislation in response to the observations in the performance audit conducted last year and also to update some sections of RSA 651-A to improve efficiency, assure public safety, and reflect actual practice. The Criminal Justice committee passed all the provisions of this bill on a 20-0 vote last year (and again this year) and the House adopted it on the Consent Calendar the last day before the session ended because of COVID. It was never taken up by the Senate, so we're back.

I will walk you through each section of the bill so you will understand the reasons for the requested changes.

Sections 1 and 2 are housekeeping provisions. (page 1, lines 12 and 18)

RSA 651-A:6, I(c) is being repealed in Section 7 of the bill, so we are eliminating reference to it in RSA 135-E.

Section 3 adds a definition of "violent crime" (page 1, line 30)

The current definition section of the parole chapter defines "nonviolent crime" as any crime except those defined in RSA 651:5, XIII and those listed below. This is a remnant of SB 500 from 2010 which originally required release of anyone convicted of a nonviolent crime after serving 120% of their minimum. Because that provision was repealed, the chapter no longer mentions nonviolent crimes, but it does have specific provisions for violent crimes, so it makes sense to define "violent crimes."

Violent crimes under RSA 651-A:5, XIII include:

- (a) Capital murder, first or second degree murder, manslaughter, or class A felony negligent homicide under RSA 630;
- (b) First degree assault under RSA 631:1;
- (c) Aggravated felonious sexual assault or felonious sexual assault under RSA 632-A;
- (d) Kidnapping or criminal restraint under RSA 633;
- (e) Class A felony arson under RSA 634:1;
- (f) Robbery under RSA 636;
- (g) Incest under RSA 639:2, III or endangering the welfare of a child by solicitation under RSA 639:3, III; or
- (h) Any felonious offense involving child sexual abuse images under RSA 649-A.

The bill would include the following in the definition of violent crimes:

- (a) RSA 173-B:9, violation of protective order.
- (b) RSA 631:2, second degree assault.
- (c) RSA 631:3, felony reckless conduct.
- (d) RSA 631:4, criminal threatening involving the use of a deadly weapon.
- (e) RSA 633:3-a, stalking.
- (f) RSA 635:1, burglary.
- (g) RSA 641:5, tampering with witnesses and informants.
- (h) RSA 650-A:1, felonious use of firearms.

Section 4 clarifies that the 15-30 day notice requirement applies only to parole hearings (page 2, line 1)

Between 15 and 30 days prior to a parole hearing the board provides notice to the inmate, the public, the county attorney, the police chief, and the victim so they can be alerted to any public safety concerns. The audit observed that the statute did not distinguish between parole release, revocation, reconsideration, and review hearings. Since the latter types of hearings can result in extending the period of incarceration for someone already approved for parole at a duly noticed hearing, there is no need to notify the same people again. The bill makes clear that the 15-30 day notice requirement applies only to parole release hearings. The board does currently post notice of all types of hearings on the DOC website in compliance with RSA 91-A.

Section 5 makes several changes affecting the length of recommittal for parole violations.

- **Require that parole violators sentenced to a 90 day sanction meet criteria for parole before being released (page 2, line 7)**

Currently the law requires parole violators who complete the standard 90-day sanction to be released even if they have no housing or treatment plan or have not completed recommended programs. The bill would make clear that parole violators, like every other person released on parole, must meet the criteria spelled out in our rules. (See Par 301.03 on the last page.)

- **Eliminate reference to dynamic risk factors for sex offenders who violate parole (page 2, line 21)**

The board believes that public safety is better served if we have the option of a longer sanction when a sex offender violates any condition of his parole, not just when there is a change in dynamic risk factors. Sex offenders who violate parole are evaluated for their treatment needs upon recommittal.

- **Correct an error in the list of violent crimes (page 2, line 26 and page 3, line 14)**

In previous legislation, reference to the crimes listed here was inadvertently omitted.

- **Eliminate references to “the focused, evidenced-based programming aimed at reengaging parolees in their parole plan” (page 2, line 34)**

As envisioned in SB 500 eleven years ago, all parole violators would get a 90-day recommittal and be housed in a separate unit where they would participate in a specific program that would encourage adherence to their parole conditions. This never happened both for budgetary reasons and, more importantly, because every parole violator’s program and treatment needs are different. Therefore, the bill repeals reference to this specific program.

Section 6 removes the requirement that the parole board review every parolee’s file every three years. (page 3, line 35)

This is unnecessary and duplicative because the chief PPO in each district office already does this to make sure no one gets lost in the system.

Section 7 contains two repeals.

- **Open parole hearings to the public. (Page 3, line 28)**

Current law provides that applications for parole be heard in nonpublic session, but our rules have long allowed anyone to get an audio recording of parole hearings. This change will make clear that parole hearings will be conducted in public except for protected medical and treatment information. Parole records, however, will continue to be nonpublic.

- **Eliminate the requirement to hold a parole hearing for an inmate nine months before his maximum sentence (page 3, line 29)**

SB 500 provided that all inmates, even those convicted of violent crimes, be released nine months before their maximum. This was subsequently repealed and replaced with a requirement that inmates have a hearing 9 months prior to their maximum. Any inmate beyond his minimum who has a solid housing and treatment plan and is disciplinary free for the required amount of time can request a parole hearing at any time, so there is no point in conducting a hearing at 9 months if a plan is not in place. Repeal of this provision will do away with unnecessary hearings while still permitting an inmate to be heard when he is ready for parole.

Passage of this bill will enhance the efficiency and effectiveness of the Adult Parole Board. I urge you to report this bill as Ought to Pass.

I would be happy to answer your questions.

Respectfully submitted,

Donna Sytek

603-893-8889

donna.p.sytek@affiliate.doc.nh.gov

From the Parole Board's Administrative Rules
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Par 301.03 Evaluation Criteria. In determining the reasonable probability of success on parole, the board shall consider the following criteria:

- (a) The inmate's personality, maturity, sense of responsibility, and any developments in personality which might promote or hinder the conformity to the law;
- (b) The appropriateness and adequacy of his parole plan, as determined by the supervising officer during the investigation requested by the board prior to release, including:
 - (1) The inmate's employment plan, employment history, occupational skills, and past employment stability;
 - (2) The type of residence, neighborhood, and community in which the inmate intends to live and work; and
 - (3) The availability of mental health or other rehabilitative services ordered by the board as conditions of parole;
- (c) The inmate's history of use of illegal drugs, and habitual and/or excessive use of alcohol;
- (d) The inmate's criminal record, including the nature and circumstances of criminal activity, and the recency and frequency of previous offenses;
- (e) The seriousness of the confining offense or other committed offenses, including the degree of violence or lack of concern for victims involved;
- (f) The degree of remorse or empathy for victims and the attitude of the inmate toward his prior criminal conduct;
- (g) The inmate's history of conduct during previous paroles, probation, or other community supervision;
- (h) The inmate's conduct within the institution, including, but not limited to:
 - (1) The disciplinary record during incarceration;
 - (2) Evidence of self-improvement through the various institutional programs and, specifically programs which addressed problems or issues that contributed to the inmate's prior criminal activity;
- (i) Evaluations and recommendations received by the board from the department of corrections, courts, and relevant social service, mental health, and criminal justice agencies; and
- (j) The inmate's attitude and conduct during the parole hearing.

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # HB178

Hearing date: _____

Executive Session date: _____

Motion of: OTP Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Consen Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Kahn

Notes: _____

Committee Report

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

Thursday, April 22, 2021

THE COMMITTEE ON Judiciary

to which was referred **HB 178-FN**

AN ACT

relative to the parole of prisoners and the
procedures of the adult parole board.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Jay Kahn
For the Committee

This bill was a request of the Adult Parole Board and it amends various provisions of the adult parole process including the definition of violent crime and recommittal of prisoners who violate parole. Enacting this bill will enhance efficiency, conform with the recommendations of the audit that was performed, and enhance public safety.

Jennifer Horgan 271-7875

FOR THE CONSENT CALENDAR

JUDICIARY

HB 178-FN, relative to the parole of prisoners and the procedures of the adult parole board.

Ought to Pass, Vote 5-0.

Senator Jay Kahn for the committee.

This bill was a request of the Adult Parole Board and it amends various provisions of the adult parole process including the definition of violent crime and recommittal of prisoners who violate parole. Enacting this bill will enhance efficiency, conform with the recommendations of the audit that was performed, and enhance public safety.

General Court of New Hampshire - Bill Status System

Docket of HB178

Docket Abbreviations

Bill Title: relative to the parole of prisoners and the procedures of the adult parole board.**Official Docket of HB178.:**

Date	Body	Description
1/4/2021	H	Introduced (in recess of) 01/06/2021 and referred to Criminal Justice and Public Safety HJ 2 P. 38
3/3/2021	H	Public Hearing: 03/03/2021 09:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/96477061090 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
3/9/2021	H	Committee Report: Ought to Pass (Vote 20-0; CC) HC 18 P. 5
4/7/2021	H	Ought to Pass: MA VV 04/07/2021 HJ 5 P. 6
4/7/2021	H	Reconsider (Rep. Osborne): MF VV 04/07/2021 HJ 5 P. 50
4/7/2021	S	Introduced 04/01/2021 and Referred to Judiciary; SJ 11
4/8/2021	S	Remote Hearing: 04/13/2021, 01:15 pm; Links to join the hearing can be found in the Senate Calendar; SC 19
4/22/2021	S	Committee Report: Ought to Pass, 04/29/2021; Vote 5-0; CC; SC 21
4/29/2021	S	Ought to Pass: RC 24Y-0N, MA; OT3rdg; 04/29/2021; SJ 13
5/17/2021	S	Enrolled Adopted, VV, (In recess 05/13/2021); SJ 16
5/17/2021	H	Enrolled (in recess of) 04/09/2021 HJ 7 P. 104
5/27/2021	H	Signed by Governor Sununu 05/25/2021; Chapter 48; Eff: 05/25/2021

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB178

Senate Committee: Jud

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

___ - amendment # ___ ___ - amendment # ___

___ - amendment # ___ ___ - amendment # ___

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # ___ ___ - amendment # ___

___ - amendment # ___ ___ - amendment # ___

Post Floor Action: (if applicable) {Clerk's Office}

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s)

Governor's Veto Message

All available versions of the bill: {Clerk's Office}

___ as amended by the senate ___ as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Jennifer Horgan
Committee Aide

8/12/21
Date

Senate Clerk's Office AK