

## Senate Judiciary Committee

*Jennifer Horgan 271-3092*

**SB 68**, relative to sentencing for violations of probation.

**Hearing Date:** January 24, 2017

**Time Opened:** 10:01 a.m.

**Time Closed:** 10:11 a.m.

**Members of the Committee Present:** Senators Carson, Lasky, French, Gannon and Hennessey

**Members of the Committee Absent :** None

**Bill Analysis :** This bill amends the sentencing and limitations statute to provide the court with additional options for sentencing a probationer who violates his or her probation.

This bill is a request of the department of corrections.

**Sponsors :**

Sen. D'Allesandro

Rep. Welch

Rep. Cushing

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**Who supports the bill:** Representative Horrigan; Representative Cushing; Howard Zibel, Judicial Branch; Michael McAlister, Department of Corrections; Katherine Cooper, NH Association of Criminal Defense Lawyers; Bob Blaisdell, NH Police Association

**Who opposes the bill:** No one.

**Summary of testimony presented in support :**

**Senator D'Allesandro**

- This bill amends the sentencing limitations statute to allow for options
- It is at the request of the Department of Corrections (DOC)
- Line 5 of the bill allows the court to extend or modify the period of probation in accordance with subparagraph VII(a).
- Subparagraph VII(a) lists the different options that court may move forward with.
- Senator French asked if this gives the courts more options rather than sending someone directly back to jail.
  - Yes, it provides those different options

**Michael McAlister** (Department of Corrections) (provided written testimony)

- In 2010, the State v Pandelina decision limited the courts to sanction a violation of probation to the imposition of a fine, or imprisonment.
- Before that decision, the courts could work with individuals to provide other options, such as engaging in treatment or an extension of probation supervision.
- This bill allows the courts to use appropriate sanction options, which has proven to help in reducing recidivism and victimization.
- Senator Carson pointed out that a few years back NH was noted to have one of the highest recidivism rates. Questioned if giving the courts more options will help to

address that in cases of minor offenses.

- That would be correct.
- Senator Carson asked if this would apply to individuals who have committed violent crimes, drug crimes or other serious probation violations.
  - The court would still have the discretion for imprisonment.

**Katherine Cooper** (NH Association of Criminal Defense Lawyers)

- This bill came forward last year and the Association did oppose it.
- The State did work with the Association to develop language that works for everyone by adding language that states that to extend probation or parole, the defendant needs to consent, which alleviates the concerns over finality of sentencing and increased exposure under State v. White.

**Summary of testimony presented in opposition :**

None

**Future Action:** Pending

JCH

Date Hearing Report completed: January 25, 2017