

Mollie S. Burke

Testimony before House Judiciary committee 13 March 2015
COPY OF LETTER FROM WOMEN'S LEGISLATIVE CAUCUS

24 February 2015

From: the Women's Legislative Caucus

To: Speaker Shap Smith, Corrections and Institutions Chair Alice Emmons, Judiciary Chair Maxine Grad

The Women's Legislative Caucus wishes to express its support for H.221—the criminal justice reform bill that will also prevent crime.

For a number of years the Caucus has been working on the issue of women in the criminal justice system. In the context of Results Based Accountability, we have looked at the actual costs as well as the indirect societal costs to children and families. This past September we co-sponsored a conference with the Vermont Women's Commission and Vermont Law School. The *Vermont Summit on Women in Corrections* featured national expert on incarcerated women Professor Brenda Smith of Washington College of Law at American University along with other experts in the field. There were over two hundred participants. This bill H. 221 represents an outgrowth of our prior work and the conference.

H. 221 provides the criminal justice system with some common sense tools to prevent crime by reducing both the number of people behind bars and the length of time spent behind bars. Though this may initially seem counterintuitive, the evidence shows that not only can sentences be reduced safely, but as a general rule, the less involvement with the criminal justice system, the better the outcome for the individual—and therefore Vermonters as a whole.

Specifically, the bill reduces the number of felonsⁱ, places people who commit non-violent misdemeanors and non-violent felonies (by order of the court) on administrative probation, thus reducing the number of people who would otherwise have been incarceratedⁱⁱ, and expands parole eligibility for certain inmates who pose little threat to public safety but place a high burden on the taxpayersⁱⁱⁱ.

It fosters family values by treating our children more humanely^{iv} and promotes successful parenting, by restricting the circumstances surrounding the termination of every parent's right—the right to raise their child^v.

Finally, it calls for sensible reform regarding legal behavior^{vi}; it prevents people from being kept behind bars solely because they do not have a home^{vii}, and it prevents sending people on parole back to jail unless a new crime has been committed^{viii}.

Were these measures to be adopted this year, Vermont would have no need for the out-of-state contract. That in itself would save about \$12 million. The additional savings to the state in reduction of services are harder to estimate, but there is no question that simply reducing the number of children whose parents are incarcerated (over 6,000 in 2014) will have significant long-term savings.

These handful of reasonable changes are in keeping with Vermonters' shared vision of holding people accountable while ensuring the safety of our communities and reducing the substantial cost to taxpayers for this unsustainable system.

Explanations of elements of the bill are attached.

We strongly urge serious consideration of this bill and a speedy passage.

Sincerely,

Mollie S. Burke
Jill Krowinski
Alison Clarkson
Barbara Rachelson
Lynn Batchelor
Diana Gonzales
Sandy Haas
Joan Lenes
Valerie Stuart
Jean O'Sullivan
Joanna Cole
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ⁱ Increases monetary threshold from \$900 to \$3,000 for the distinction between misdemeanor/felony larceny crimes, and from \$100 to \$500 for the distinction between misdemeanor/felony embezzlement crimes. This has a dramatic impact on women offenders as a disproportionate percentage of crime committed by women is for theft/property crimes. The benefits to society of burdening fewer people with felony convictions is clear.

ⁱⁱ Stats from 2014 DOC report: In June, 2014, 146 women were incarcerated; of those, 47 were for “felony-serious” and 7 for “felony-person” (37% total). *(However, the statistic includes those detained and those sentenced and thus is not an accurate reflection of the number of people who will end up being convicted of felonies, which is likely to be lower.)* The rest, 63%, were property, drug or motor vehicle crimes. Generally, it is estimated that about 70% of women’s crimes are non-violent, which suggests that about 100 women could be released to administrative probation going forward. The number for men is about 30-35%, roughly 450-525 men.

ⁱⁱⁱ Expands eligibility for parole consideration:

A. If the inmate has serious medical condition that requires regular hospital visits and the inmate is designated low risk.

a) Seriously functionally impaired inmates -- FY2008, 61; FY2013, 109; FY2014, 124 (increase of 13.8% in past year).

b) Chronic Care -- FY 2008, 6,759; FY 2014, 14,172 (chronic care being hypertension, diabetes, neurology, HIV/AIDS, Hep C, pulmonary, TB, other); a increase of 110%.

c) Inpatient hospital days -- FY2008, 156, FY2014, 401; an increase of 158%.

d) In June 2014, the total average number of inmates was 2,307; 1,454 on medication (63%), 858.3 on psychotropic medication (37.2%).

B. If the inmate is over 65 and is designated low risk, inmate shall be eligible for parole.

a) In 2004, there were 31 inmates 60 or older.

b) In 2014, there were 79.

c) There is generally a dramatic increase in “older” inmates: In FY 2004, there were 178 age 50

and older (8.8% of the population); ten years later, in FY 2014, there were 332 (16.1% of the population).

C. If the inmate was less than 18 years of age at the time of the offense and the inmate has served 15 years, the inmate shall be eligible for parole if the inmate does not otherwise qualify for parole earlier.

^{iv} Juveniles shall not be sentenced to life without the possibility of parole. If defendant is under age of 18 and charge is possession of a regulated drug, state's attorney shall file charges in Family Div. of Superior Court. Proceedings shall not be transferred to criminal division. Court may extend jurisdiction over a child who has been adjudicated delinquent to 6 months after 18th birthday, if the offense is a non-violent misdemeanor/non-violent felony and child is 16 or 17.

^v Parental rights cannot be terminated solely based on incarceration or substance abuse. 2014 intake questionnaire of the inmates reported as parents total number of children was 6,316 (3,311 boys, 3,005 girls).

^{vi} Conditions of release: *Probation*: The court shall not impose a condition prohibiting the offender from engaging in any **legal behavior** unless the condition is substantially necessary to reduce risk to public safety or the safety of a victim or witness. *Parole*: The Parole Board shall not impose a condition prohibiting parolee from engaging in any **legal behavior** unless the condition is substantially related to reducing risk to the safety of a victim or witness. *Furlough*: When imposing furlough conditions on an offender that restrict or prohibit the offender from engaging in otherwise **legal behavior**, the Department shall impose the least restrictive conditions necessary to ensure public safety.

^{vii} While appropriate community housing is an important consideration in release of offenders, the Department of Corrections shall not use a lack of housing as the sole factor in denying furlough to offenders who have served at least their minimum sentence for nonviolent misdemeanor or nonviolent felony provided that victim or witness safety is not at risk by the offender's reentering the community on furlough.

^{viii} If the alleged violation is a crime and is established by clear and convincing evidence, the Board may continue or revoke the parole, or enter such other order as it determines to be necessary or desirable. If the alleged violation is not a crime and is established by clear and convincing evidence, the Board may amend existing conditions, establish new conditions, and sanction the parolee in accordance with rules adopted by the Board.