



Testimony on H.769
An Act Related to Strategies to Reduce the Incarcerated Population
House Committee on Corrections and Institutions
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VCCVS is a state agency that serves Vermont's crime victims. VCCVS administers the Victim's Compensation and Restitution Funds, as well as state and federal grant programs that support victim services statewide. VCCVS also manages the Victim Assistance Program, comprised of state's attorney victim advocates in every county across the state. As our criminal justice system evolves to provide alternatives to traditional prosecution and incarceration for offenders, VCCVS works with stakeholders to ensure that concerns for victim and public safety, justice, and fairness are addressed.

VCCVS appreciates the need to minimize recidivism and reduce incarceration rates by providing nonviolent offenders who pose a low risk of re-offense with opportunities to reintegrate and receive services close to home. Every decision to place an offender on probation, parole, or furlough shifts some amount of risk back onto the public at large. These decisions represent a prediction that the benefit to the offender and the community as a whole outweighs the possibility that the offender will commit another crime. **From the victim perspective, placing conditions on the offender provides an important safeguard: if no conditions are imposed, the system has no way of knowing the offender isn't ready for community supervision unless the offender commits a new crime.** For example, in domestic violence cases, contacting the victim is a sign. In child sex cases, driving past a school or playground is a sign.

This bill creates a class of cases for which probation conditions are minimal, based on the assumption that the risk of violent re-offense will be minimal as well. VCCVS would propose some minor changes to help reach that goal.

“NONVIOLENT MISDEMEANORS”

H.769 appropriately limits the expansion of administrative probation to cases involving “nonviolent misdemeanors.” The Center concurs that this type of limitation can minimize the degree of risk that victims and the public at large shoulder when an offender is subject to decreased supervision and accountability. ***Our concern is that the definition of “nonviolent misdemeanor” (pg. 5, ln. 12) broadens the scope of eligible cases too far.***

- Current law defining “qualifying offense” for purposes of administrative probation enumerates each eligible crime. Notably, provisions “F” (Disorderly Conduct) and “N” (Simple Assault) **exclude cases where the offender initially was charged with a listed crime.** Violent crimes are pled down to misdemeanors for a variety of reasons—often this decision is counter-balanced by enhancing the level of supervision and including safety-related conditions in order to minimize risk to victims and to the public at large.
- The proposed language properly excludes cases where the offender was *convicted* of a listed crime, but the language neglects to exclude from administrative probation violent crimes that are pled down to disorderly conduct or simple assault.

VICTIM AND PUBLIC SAFETY

On Page 5, line 13, the proposal requires the Department of Corrections to determine that administration probation “would not compromise *victim safety*.” This provision should also include “public safety.” The Department should consider “public safety” in order to minimize risk to *potential future victims*, not just an offender’s existing victims.

SHIFT AWAY FROM FORMAL VICTIM INPUT

The current proposal shifts the administrative probation determination away from the court, **without requiring formal input from victims.** Allowing DOC to exercise discretion and offer a “step-down” in supervision for nonviolent cases often makes sense. However, the Committee should understand that this process circumvents 13 V.S.A. § 5305, which allows victims to be heard at sentencing and for state’s attorneys to argue for appropriate probation conditions on the victims’ behalf or to minimize public safety risks. Although DOC does make efforts to engage victims, victims do not have an affirmative right to provide input prior to DOC exercising its discretion in probation or furlough cases.