

1 TO THE HONORABLE SENATE:

2 The Committee on Institutions to which was referred Senate Bill No. 116
3 entitled “An act relating to rights of offenders in the custody of the Department
4 of Corrections” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 28 V.S.A. § 857 is added to read:

8 § 857. ADMINISTRATIVE SEGREGATION; PROCEDURAL
9 REQUIREMENTS

10 (a) Except in emergency circumstances as described in subsection (b) of
11 this section, before an inmate is placed in administrative segregation,
12 regardless of whether that inmate has been designated as having a serious
13 functional impairment under section 906 of this title, the inmate is entitled to a
14 hearing pursuant to subsection 852(b) of this title.

15 (b) In the event of an emergency situation and at the discretion of the
16 Commissioner, an inmate may be placed in administrative segregation prior to
17 receiving a hearing as described in subsection 852(b) of this title.

18 Sec. 2. 28 V.S.A. § 204 is amended to read:

19 § 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF
20 RECORDS

21 * * *

1 Sec. 4. 28 V.S.A. § 602 is added to read:

2 § 602. RIGHT OF AN INDIVIDUAL TO ACCESS RECORDS

3 (a) At the request of any person in the custody or under the supervision of
4 the Department, the Department shall provide records maintained by the
5 Department concerning that person if that person is:

6 (1) a party in a case in any division of the Superior Court in which the
7 Department is also a party; or

8 (2) a defendant in a hearing before the Parole Board in which revocation
9 of parole is a possible outcome.

10 (b) Nothing in this title concerning the confidentiality of the Department’s
11 records shall be construed as limiting a person’s right to access records about
12 himself or herself, except as specified in subsections (c) and (d) of this section.

13 (c) The Department shall redact any information compromising the safety
14 or confidentiality of any person prior to providing the record to a person under
15 this section.

16 (d) The Department may seek a court order limiting disclosure of records.
17 The order may be granted only if the court finds clear and convincing evidence
18 that disclosure of records would create a substantial and identifiable risk to
19 public safety.

20 (e) As used in this section, “records” means records stored in any form,
21 physical or electronic.

1 Sec. 5. 13 V.S.A. § 5233 is amended to read:

2 § 5233. EXTENT OF SERVICES

3 (a) A needy person who is entitled to be represented by an attorney under
4 section 5231 of this title is entitled:

5 * * *

6 (3) To be represented in any other postconviction proceeding which may
7 have more than a minimal effect on the length or conditions of detention where
8 the attorney considers:

9 (A) the claims, defenses, and other legal contentions to be warranted
10 by existing law or by a nonfrivolous argument for the extension, modification,
11 or reversal of existing law or the establishment of new law; and

12 (B) the allegations and other factual contentions to have evidentiary
13 support, or likely to have evidentiary support after a reasonable opportunity for
14 further investigation and discovery.

15 * * *

16 Sec. 6. EFFECTIVE DATE

17 This act shall take effect on passage.

18 (Committee vote: _____)

19 _____

20 Senator _____

21 FOR THE COMMITTEE