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H.123

Introduced by Representatives Willhoit of St. Johnsbury and Rachelson of
Burlington

Referred to Committee on

Date:

Subject: Corrections; furlough; revocation of furlough

Statement of purpose of bill as introduced: This bill proposes to require a
process for responding to an alleged furlough violation, which shall include:

(1) a probable cause hearing within 48 hours of returning the offender to a
correctional facility to determine whether the offender should be reincarcerated
pending a hearing on the alleged violation; and (2) an administrative hearing
within 30 days to determine whether the furlough will be revoked or continued
with modifications or sanctions.

An act relating to the process for furlough revocation

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 28 V.S.A. § 808(d) is amended to read:

(d)(1) ~~When~~ An offender shall be returned to a correctional facility when:

(A) any enforcement officer, as defined in 23 V.S.A. § 4, employee
of the Department, or correctional officer responsible for supervising an
offender believes the offender is in violation of ~~any verbal or written a~~

1 condition of ~~the~~ his or her furlough, ~~the officer or employee may immediately~~
2 ~~lodge the offender at a correctional facility or orally or in writing deputize any~~
3 ~~law enforcement officer or agency to arrest and lodge the offender at such a~~
4 ~~facility. The officer or employee shall subsequently document the reason for~~
5 ~~taking such action~~ that is reasonably related to the underlying crime for which
6 the offender was placed under the custody of the Commissioner; or

7 (B) when an offender is convicted of a new crime.

8 (2)(A) An offender who is returned to a correctional facility pursuant to
9 subdivision (1)(A) of this subsection (d) shall be entitled to a probable cause
10 hearing by an administrative hearing officer to determine whether he or she
11 shall be lodged at a correctional facility pending a hearing on the alleged
12 violation. The hearing shall be held as soon as practicable, but in no event
13 later than 48 hours after the offender's return to custody. The offender is
14 entitled to at least 12 hours' advance written notice of the hearing. The notice
15 shall inform the offender of the purpose of the hearing and the alleged
16 violation. The offender may attend the hearing and present evidence. Upon
17 request, the offender may be assisted in the preparation and presentation of his
18 or her case by an assigned employee of the correctional facility if the hearing
19 officer determines, in his or her discretion, that the requested employee is
20 reasonably available. If the hearing officer finds probable cause to believe the
21 offender has violated any condition of his or her furlough that is reasonably

1 related to the underlying crime for which the offender was placed under the
2 custody of the Commissioner, the Department may lodge the offender at the
3 correctional facility pending a hearing on the violation, as provided in
4 subdivision (3) of this subsection.

5 (B) An offender who is returned to a correctional facility pursuant to
6 subdivision (1)(B) of this subsection (d) shall not be entitled to a probable
7 cause hearing and shall be lodged at the correctional facility pending an
8 administrative hearing, as provided in subdivision (3) of this subsection.

9 (3) An offender who is returned to or lodged at a correctional facility
10 pursuant to subdivision (1)(A) or (1)(B) of this subsection (d), shall be granted
11 a classification hearing before an administrative hearing officer within 30 days
12 to determine whether furlough will be revoked or continued with or without
13 any amendment or sanctions. The standard for determining whether the
14 violation occurred for purposes of this hearing shall be clear and convincing
15 evidence. Upon request, the offender may be assisted in the preparation and
16 presentation of his or her case by the Prisoners' Rights Office.

17 Sec. 2. EFFECTIVE DATE

18 This act shall take effect on July 1, 2017.