



Memorandum
S. 338 Draft 2.1 An act relating to Justice Reinvestment
April 29, 2020

To: Rep. Alice Emmons, Chair, House Corrections and Institutions
Rep. Maxine Grad, Chair, House Judiciary

Thank you for continuing the important work of S. 338 during these unprecedented times. The Vermont Network was a member of the Justice Reinvestment working group which worked with the Council of State Governments to make initial policy recommendations for justice reform efforts. We are delighted to see this work advancing and strongly support of the work of Justice Reinvestment. We believe that it is essential for community health and for victims that we have a data-informed correctional system which emphasizes treatment, rehabilitation and repair. While on whole we support the intent of S. 338, I would like to highlight a few places where we have some concerns with the current language.

We have some concerns with the compassionate release provisions in Section 6 on page 12, line 19. We support efforts to ensure that we are not incarcerating sick or elderly individuals who pose no or limited harm to their communities. However, we note that reform of compassionate release policies was not highlighted in the original Justice Reinvestment Working Group recommendations aimed at moving towards a risk-informed system. As written, the current proposal would allow any individual who is over the age of 65, convicted of any crime and serving any sentence (with the exception of life without parole) to be eligible for parole after 5 years of their sentence even if they have not reached their minimum.

While it is true that evidence indicates that individuals age out of many criminogenic behaviors, the same is not necessarily true for domestic violence and sexually-based offenses. It is not uncommon for individuals in later adulthood to commit crimes such as lewd and lascivious behavior with a child. It is also not uncommon for it to take several years for victims to report such offenses. The legislature has acknowledged this unique dynamic with its work on statutes of limitations reform. When an individual is sentenced to incarceration, it doesn't repair or fix the impact or damage of their behavior for victims. However, it can give victims a period of time for healing and restoration without concern, vigilance or additional involvement with the criminal legal system. For the most serious and egregious crimes, we do not believe that serving 5 years without reaching a minimum provides an adequate amount of time to victims before engagement with a parole board hearing. If the sentence includes time served throughout the criminal proceeding, this provision would potentially allow someone to be eligible for parole within just a few years of a trial. We would be supportive of some narrowing of this provision of the bill for the most serious offenses.



We have been observing testimony and discussion of the House Corrections and Institutions Committee regarding earned good time. We would like to express our support for the language suggestions made on April 28th regarding victim notification of earned good time. We support Brynn Hare's suggestion to create a new subsection in Section 16 subsection 4 (p. 29) that would require the Department of Corrections to notify all registered victims about the changes to earned good time policy. Victims rely on the information they receive from the Department and the relationships they have with Department of Corrections Victim Services Specialists. Requiring this notification is a critical step to keeping victims informed and we appreciate the committee's attention to this essential issue.

Lastly, we acknowledge that the COVID-19 pandemic has created a budget crisis that no one could have anticipated when Justice Reinvestment commenced last summer. However, we are concerned that if this bill moves forward without the initially proposed investment attached, the policy reforms will not have the impact we intend and could be counterproductive. It is essential that there is funding attached to the policy changes addressed within S. 338. In particular, we strongly believe that investments in community-based programming and supports including domestic violence accountability programming is essential to the success of these efforts. The COVID-19 pandemic has highlighted how challenging it is for incarcerated individuals to be released without robust community-based supports and services.

Thank you so much for your time and consideration. Please reach out if you have any further questions.

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