

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 338
3 entitled “An act relating to justice reinvestment” respectfully reports that it has
4 considered the same and recommends that the Senate concur with the House
5 proposal of amendment and further amend the proposal as follows:

6 First: By striking out Sec. 11, 28 V.S.A. § 724, in its entirety and inserting
7 in lieu thereof the following:

8 Sec. 11. 28 V.S.A. § 724 is amended to read:

9 § 724. TERMS AND CONDITIONS OF ~~CONDITIONAL REENTRY~~
10 COMMUNITY SUPERVISION FURLOUGH

11 (a) Authority of the Department. The Department shall identify in the
12 terms and conditions of ~~conditional reentry~~ community supervision furlough
13 those programs necessary to reduce the offender’s risk of reoffense and to
14 promote the offender’s accountability for progress in the reintegration process.
15 The Department shall make all determinations of violations of conditions of
16 community supervision furlough pursuant to this subchapter and any resulting
17 change in status or termination of community supervision furlough status.

18 (b) 90-day interruption or revocation. Any interruption of an offender’s
19 community supervision furlough after the Department has found a technical
20 violation of furlough conditions shall trigger a Department Central Office case

1 staffing review and Department notification to the Office of the Defender

2 General if the interruption will be 90 days or longer.

3 (c) Appeal. An offender whose furlough status is revoked or interrupted
4 for 90 days or longer shall have the right to appeal the Department’s
5 determination to the Civil Division of the Superior Court in accordance with
6 Rule 74 of the Vermont Rules of Civil Procedure. The appeal shall be based
7 on a de novo review of the record. The appellant may offer testimony, and, in
8 its discretion for good cause shown, the court may accept additional evidence
9 to supplement the record. The appellant shall have the burden of proving by a
10 preponderance of the evidence that the Department abused its discretion in
11 imposing a furlough revocation or interruption for 90 days or longer pursuant
12 to subsection (d) of this section.

13 (d) Technical violations.

14 (1) As used in this section, “technical violation” means a violation of
15 conditions of furlough that does not constitute a new crime.

16 (2) It shall be abuse of the Department’s discretion to revoke furlough or
17 interrupt furlough status for 90 days or longer for a technical violation, unless:

18 (A) the offender’s risk to reoffend can no longer be adequately
19 controlled in the community, and no other method to control noncompliance is
20 suitable; or

1 (B) the violation or pattern of violations indicate the offender poses a
2 danger to others or to the community or poses a threat to abscond or escape
3 from furlough.

4 Second: By striking out Sec. 12, 28 V.S.A. § 724, in its entirety and
5 inserting in lieu thereof the following:

6 Sec. 12. [Deleted].

7 Third: In Sec. 21, Justice Reinvestment II Working Group, by striking out
8 subsection (a) in its entirety and inserting in lieu thereof the following:

9 (a) Oversight and implementation of Justice Reinvestment II. Subject to
10 the availability of Bureau of Justice Assistance funding for the involvement of
11 the Council of State Governments, the Justice Reinvestment II Working
12 Group, established by the Governor in Executive Order 03-19, shall oversee
13 the implementation of Justice Reinvestment II as provided in this section. A
14 representative of the Vermont Parole Board shall join the Justice Reinvestment
15 II Working Group to carry out the duties set forth in this section. In the event
16 that such federal funding is not available, the duties set forth in subsection (b)
17 of this section shall be carried out by the Joint Legislative Justice Oversight
18 Committee in consultation with the members of the Justice Reinvestment II
19 Working Group and a representative of the Vermont Parole Board, and any
20 resulting recommendations of the Committee shall be introduced in the form of
21 proposed legislation for the 2021 or 2022 legislative session.

1 Fourth: In Sec. 21, Justice Reinvestment II Working Group, in subsection
2 (b), by striking out subdivision (7) in its entirety and inserting in lieu thereof
3 the following:

4 (7) evaluate the policy of parole eligibility for older adult inmates who
5 are not serving a sentence of life without parole and who have served a portion
6 of their sentence but not the minimum term;

7 Fifth: In Sec. 21, Justice Reinvestment II Working Group, subdivision
8 (c)(1), by striking out the words “, a process by which offenders may appeal
9 certain furlough revocations or interrupts by the Department.”

10 Sixth: In Sec. 26, effective dates, by striking out subsections (a) and (b) in
11 their entirety and inserting in lieu thereof the following:

12 (a) This section and Secs. 14 (earned good time; reduction of term), 19
13 (racial disparities in the criminal justice system study and recommendations;
14 Vermont Sentencing Commission), 21 (Justice Reinvestment II Working
15 Group; oversight and implementation of Justice Reinvestment II), 22 (Agency
16 of Human services; report to Justice Reinvestment II Working Group), and 25
17 (repeals) shall take effect on passage.

18 and by relettering the remaining subsections to be alphabetically correct.

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21 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE