

Good evening Senators-

I understand the plan is to take up S.18 tomorrow, and Wednesday if necessary, with a goal of taking a vote early this week in order to move the Bill to the Senate floor. In light of the Bill's status, I respectfully offer two final considerations based upon some of what I have gleaned from the Committee's discussions to date.

First, whether to include the crime of **Lewd and Lascivious Conduct with a Child** as a "disqualifying crime" remains an unanswered question. I have circled back with the SIU/CAC Directors and the victim advocates who serve these programs, and they continue to assert that charges under 13 VSA sec.2602a which result in incarcerative sentences involve very egregious acts that occur "on or about the body" of the child. These charges are often paired with sexual assault charges, and frequently are pled down to L and L with a Child as part of the plea agreement. As this Committee heard in the testimony of Taylor Fontaine, the acts that bring about these charges cause serious trauma to victims, which they are left deal with the rest of their lives.

We do understand that while 13 VSA sec.2602(a)(2) clarifies that consensual acts occurring between individuals of certain ages are not to be included - the "**age gap exception**" - it may be time to reconsider the ages initially established several years ago. We agree that at this time, it makes sense to take a further look at the appropriateness of the current exception. Incarceration should be reserved for those who have committed the most egregious acts, seriously harming victims and posing a risk to Vermont's communities. We support the Committee's interest in exploring whether age gap established within 2602(a)(2) should be expanded.

Second, in the event the Committee intends to move forward with the awarding of earned time off an incarcerative sentence for all crimes **prospectively**, we ask that consideration be given to hinging the award on whether an offender convicted of a crime currently proposed as "disqualifying" is engaged in or has completed **treatment** when recommended by the DOC. In this way, we see the award as one which would truly incentivize an offender to engage in activity that is designed to reduce their actual risk to the victim and community and support successful integration.

When we state "treatment", in the SIU/CAC world, we more specifically refer to Vermont's incarcerated sex offender population and the recommendation for participation in treatment to address and reduce the offender's criminogenic risk (i.e. sex offender treatment). To the extent that treatment is often not recommended until just prior to discharge and/or may not always be available, we believe that the inclusion of "when recommended" and "without good cause" might account for those situations without preventing an offender from otherwise being eligible.

While we acknowledge that an award of earned time is not "automatic" in so far as an offender must not be adjudicated of a Major Disciplinary Violation, DOC defines "Major" as "serious violent acts or serious threats to institutional security or personal safety". We urge more be

expected of those convicted of crimes currently identified as "disqualifying" sex offenses if they are to earn time; when DOC recommends treatment and it is available, they must participate to earn that time.

We appreciate the robust discussion which has taken place in this Committee and your careful consideration of the thoughts and concerns expressed by so many; certainly there are no easy answers. As always, thank you for your time and consideration.

Sincerely,

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