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H.744

Introduced by Representative Rachelson of Burlington

Referred to Committee on

Date:

Subject: Corrections; furlough

Statement of purpose of bill as introduced: This bill proposes to require that offenders are not immediately lodged for a violation of a furlough condition. If the offender is considered to be a risk to public safety, a probable cause hearing on the violation must be held prior to reincarcerating the offender. An offender who is determined not to pose a risk to public safety would not be reincarcerated. Within seven days of notice of the alleged violation, a hearing must be held to determine whether the furlough will be revoked or continued with modifications or sanctions.

An act relating to process for responding to alleged furlough violations

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 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 condition of the furlough, the officer or employee may immediately lodge the~~

1 ~~offender at a correctional facility or orally or in writing deputize any law~~
2 ~~enforcement officer or agency to arrest and lodge the offender at such a~~
3 ~~facility. The officer or employee shall subsequently document the reason for~~
4 ~~taking such action~~ If the Department believes an offender has violated a
5 condition of his or her furlough and that the offender poses an immediate threat
6 to public safety, the offender shall be returned to a correctional facility and
7 lodged pending a hearing on the alleged violation.

8 (2) An offender who is believed to have violated a condition of his or
9 her furlough, but who the Department believes does not pose an immediate
10 threat to public safety, shall not be returned to a correctional facility until there
11 has been a probable cause hearing before an administrative hearing officer.
12 The offender is entitled to at least 12 hours' advance written notice of the
13 hearing. The notice shall inform the offender of the purpose of the hearing and
14 the alleged violation. The offender may attend the hearing and present
15 evidence. If the hearing officer finds probable cause to believe the offender
16 has violated a conditions of his or her furlough, the Department may return the
17 offender to a correctional facility.

18 (3) An offender who is returned to a correctional facility pursuant to
19 subdivisions (1) or (2) of this subsection (d) shall be granted a classification
20 hearing before an administrative hearing officer within seven days to
21 determine whether furlough will be revoked or continued with or without

1 amendment or sanctions. The standard for determining whether the violation
2 occurred for purposes of this hearing shall be clear and convincing evidence.

3 Sec. 2. EFFECTIVE DATE

4 This act shall take effect on September 1, 2016.