

CHAPTER 48
HB 178-FN - FINAL VERSION

2021 SESSION

21-0340
04/05

HOUSE BILL ***178-FN***

AN ACT relative to the parole of prisoners and the procedures of the adult parole board.

SPONSORS: Rep. Abbas, Rock. 8; Sen. Daniels, Dist 11

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill amends various provisions of the adult parole process including the definition of violent crime and recommitment of prisoners who violate parole.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the parole of prisoners and the procedures of the adult parole board.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 48:1 Involuntary Civil Commitment of Sexually Violent Predators; Notice to County Attorney or
2 Attorney General. Amend RSA 135-E:3, II to read as follows:

3 II. When a person who has committed a sexually violent offense is to be released from total
4 confinement in New Hampshire, the agency with jurisdiction over the person shall give written
5 notice to the person and the county attorney of the county where that person was last convicted of a
6 sexually violent offense, or attorney general if the case was prosecuted by the attorney general. If
7 the person is in custody on an out-of-state or federal sexually violent offense, the agency with
8 jurisdiction shall give written notice to the person and the county attorney of the county where the
9 person plans to reside upon release or, if no residence in this state is planned, the county attorney in
10 the county where the facility from which the person to be released is located or to the attorney
11 general if the person has been convicted of murder. Except as provided in RSA 135-E:4, the written
12 notice shall be given at least 9 months prior to the potential release ~~[on parole pursuant to RSA 651-~~
13 ~~A:6, I(e),]~~ except that in the case of persons who are totally confined for a period of less than 9
14 months, written notice shall be given as soon as practicable.

15 48:2 Involuntary Civil Commitment of Sexually Violent Predators; Release From Total
16 Confinement. Amend RSA 135-E:4, I to read as follows:

17 I. In the event that a person who has been convicted of a sexually violent offense is eligible
18 for immediate release ~~[on parole pursuant to RSA 651-A:6, I(e), or]~~ upon completion of the maximum
19 term of incarceration, the agency with jurisdiction shall provide immediate notice to the county
20 attorney or attorney general of the person's release. The county attorney or attorney general or the
21 agency with jurisdiction may file a petition for an emergency hearing in the superior court
22 requesting that the person subject to immediate release be evaluated by the multidisciplinary team
23 to determine whether the person is a sexually violent predator. The hearing shall be held within 24
24 hours of the filing of the petition, excluding Saturdays, Sundays, and holidays. The person shall not
25 be released from total confinement until after the hearing has been held. At the hearing, the court
26 shall determine whether there is probable cause to believe that the person is a sexually violent
27 predator. If the court finds probable cause, the person shall be held in an appropriate secure facility.

28 48:3 Parole of Prisoners; Definitions. Amend the introductory paragraph of RSA 651-A:2, VI to
29 read as follows:

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VI. [~~Nonviolent offense~~] **"Violent crime"** shall include [~~all criminal offenses, except~~] those defined as violent crimes in RSA 651:5, XIII and the following:

48:4 New Paragraph; Parole of Prisoners; Notice of Hearings. Amend RSA 651-A:11 by inserting after paragraph III the following new paragraph:

IV. The notice provisions of this section shall not apply to revocation, review, or reconsideration hearings.

48:5 Parole of Prisoners; Effect of Recommitment. Amend RSA 651-A:19 to read as follows:

651-A:19 Effect of Recommitment.

I. A prisoner who is recommitted shall serve 90 days in prison **and shall meet the criteria for parole** before being placed back on parole or the remainder of his or her maximum sentence, whichever is shorter, or may be subject to an extended term of recommitment pursuant to paragraphs III and IV. The time between the return of the parolee to prison after arrest and revocation of parole shall be considered as time served as a portion of the maximum sentence. The 90-day recommitment period may be calculated from the date of the arrest or from the date of the hearing, as ordered by the parole board.

II. Prisoners who are recommitted shall be provided access to focused, evidence-based programming aimed at reengaging parolees in their parole plan.

III. The parole board may impose an extended term of recommitment for greater than 90 days if:

(a) The prisoner has previously been found true for a parole violation on his or her current sentence or another sentence for which he or she was concurrently serving a term of parole; or

(b) The prisoner was on parole for a sexual offense as defined in RSA 651-B:1, V or an offense against a child as defined in RSA 651-B:1, VII [~~and the prisoner has displayed a combination of dynamic risk factors, including but not limited to, homelessness, loss of supports, substance abuse, or non-compliance with treatment, as determined by the department of corrections sexual offender treatment program staff~~]; or

(c) The prisoner was on parole for a violent crime as defined in RSA 651:5, XIII **or RSA 651-A:2, VI**; or

(d) The nature of the conduct underlying the parole violation constitutes a criminal act or is otherwise so serious as to warrant an extended period of recommitment; or

(e) The conduct underlying the parole violation is related to his or her offense or offending pattern.

IV.(a) A prisoner shall be brought before the parole board at any time during the 90-day term of recommitment to determine whether a longer term is warranted if:

(1) ~~The prisoner did not meaningfully participate in the evidence-based programming during the 90-day recommitment period; or~~

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1 (2)] the prisoner received one or more major disciplinary violations during the 90-
2 day recommittal period.

3 (b) The prisoner shall be provided notice of the hearing and the basis of the parole
4 board's consideration of an extended term.

5 V. The imposition of an extended term of recommittal pursuant to paragraph III or IV shall
6 be supported by written findings and a written order.

7 VI. Any prisoner who is subject to an extended term of recommittal shall, upon request, be
8 entitled to a hearing before the parole board after serving 6 months of his or her term of recommittal
9 and every 6 months thereafter.

10 VII. At the revocation hearing, the parole board may impose a term of recommittal for less
11 than 90 days if:

12 (a) The prisoner has not been previously found true for a parole violation on his or her
13 current sentence or another sentence for which he or she was concurrently serving a term of parole;

14 (b) The prisoner was not on parole for a sexual offense as defined in RSA 651-B:1, V or
15 an offense against a child as defined in RSA 651-B:1, VII;

16 (c) The prisoner was not on parole for a violent crime as defined in RSA 651:5, XIII **or**
17 **RSA 651-A:2, VI;**

18 (d) The parole violation is not substantially related to his or her offense or offending
19 pattern; and

20 (e) The parole board determines that a lesser period of recommittal will aid in the
21 rehabilitation of the parolee.

22 VIII. Notwithstanding paragraph I or subparagraphs VII(a) or (d), the parole board may
23 impose a term of recommittal of less than 90 days for a prisoner who enters and successfully
24 completes a residential substance abuse treatment program deemed acceptable by the board.

25 48:6 Parole of Prisoners; Parole Records. Amend RSA 651-A:20 to read as follows:

26 651-A:20 Parole Records. The adult parole board or its designee shall have access to all parole
27 records of the department. ~~[The board shall review the records of the department for each parolee in~~
28 ~~its custody at least once every 36 months.]~~

29 48:7 Repeal. The following are repealed:

30 I. RSA 91-A:3, II(f), relative to parole applications being considered in nonpublic session.

31 II. RSA 651-A:6, I(c), relative to parole hearings for prisoners recommitted to prison more
32 than one year prior to the expiration of the maximum term of his or her sentence.

33 48:8 Effective Date. This act shall take effect upon its passage.

Approved: May 25, 2021
Effective Date: May 25, 2021

