

NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE	CHAPTER <u>General Administration</u> STATEMENT NUMBER <u>1.48</u>
SUBJECT: <b>PETITION FOR A          RECOMMENDATION TO MODIFY          OR SUSPEND SENTENCE</b>  PROPONENT: <u>Christopher Kench</u> <i>Name/Title</i> <u>Commissioner's Office</u> <u>271-8016</u> <i>Office</i> <i>Phone #</i>	EFFECTIVE DATE <u>12/1/17</u>  REVIEW DATE <u>12/11/19</u>  SUPERSEDES PPD# <u>1.48</u>  DATED <u>06/15/2017</u>
ISSUING OFFICER:   <hr/> <i>Helen E. Hanks, Commissioner</i>	DIRECTOR'S INITIALS _____ DATE                    _____ APPENDIX ATTACHED: YES                    _____ NO                    _____
REFERENCE NO:        See reference section on last page of PPD.	

I. **PURPOSE:**

To establish a policy and procedures for reviewing petitions brought by a in the custody of the NH Department of Corrections (DOC) who requests a sentence modification or suspension pursuant to RSA 651:20 and to make a recommendation whether the said person is considered a suitable candidate for suspension of sentence on each request to the sentencing court.

II. **APPLICABILITY:**

To all incarcerated people in DOC custody and staff who may become involved in this review and recommendation process.

III. **POLICY:**

It is the policy of the Department of Corrections to process and review each petition for sentence modification or suspension pursuant to RSA 651:20 I (b) and to make a recommendation to the sentencing court as to whether the person is a suitable candidate for modification or suspension of sentence.

IV. **PROCEDURES:**

A. Filing Petitions:

1. People in DOC custody who qualify under RSA 651:20.1 (a) must file their petition directly with the courts.
2. People convicted of non-violent crimes who do not qualify under RSA 651:20.1(a) may file a petition for sentence modification or suspension pursuant to RSA 651:20.I (b) at any time that the person believes they have met the required criteria for suitability as expressed in this policy.
3. A person in DOC custody shall use the Inmate Request Slip (IRS) as the filing petition, articulating that the person is seeking consideration for sentence modification and shall submit the Inmate Request Slip to their correctional counselor/case manager (CC/CM) (See Attachment 1).
4. Petitions filed by an attorney representing a person in DOC custody will be forwarded to the person's

case manager for processing in accordance with this policy.

5. People in DOC custody who fall under one of the following criteria are NOT eligible for petitioning for a sentence modification or suspension:
  - a. Capital or First Degree Murder Sentences
  - b. The controlling sentence is a parole violation
  - c. The person has a conviction of escape from a secure facility with the past five years
  - d. The person is past their minimum parole eligibility date
  - e. The person is currently classified as C4 or C5
  - f. The person has not completed the requirements of their pre-release plan
  - g. The person has not been disciplinary free according to Attachment 1
  - h. The person has pending charges in other states/jurisdictions where a detainer has been lodged.People under DOC custody who currently have outstanding charges in other states, in which the state will not lodge a detainer, are not precluded from petitioning.

**B. Pre-review Process:**

1. The assigned CC/CM shall meet with the person and confirm eligibility utilizing the eligibility checklist (Attachments 2, 2a and 2b) and forward the checklist, Routing Sheet (Attachment 3) and petition/application to the Warden/Director.
2. The Warden/Director will initiate the tracking log (Attachment 4) and will forward the packet to the Offender Records.
3. Offender Records will also confirm that the person meets the eligibility requirements. They will also review and print out a current NCIC report and will prepare a synopsis (Attachment 5) of the person's confinement history noting recommended programs, goals or identified needs. The person's assigned CC/CM shall provide Offender Records with a full description of the person's participation in such activities.
4. Offender Records shall forward the prepared reports and petition to the Warden/Director of the prison facility within 30 calendar days of the request. The report should include facts related to the person's behavior, attitude, work, education, training, program and/or treatment progress or completion, and any other indicators of positive change.
5. The Warden/Director or designee shall be responsible for tracking the petitions, preparing them for review by the SMRB.
6. The Warden/Director shall notify the commissioner's office of the petition and the commissioner's office will schedule a review by the Sentence Modification Review Board (SMRB).

**C. Review Procedures:**

1. The SMRB shall be conducted at a minimum of every 30 calendar days and review the submitted petitions, provided they meet qualifying criteria.
2. The review will be conducted by the Commissioner of Corrections, the applicable Warden/Director, and the Director of Field Services, or their designees.
3. All pertinent records to include but not limited to criminal history and prior incarcerations will be considered to arrive at a consensus recommendation on the petition. In case of dispute, the Commissioner's recommendation shall become the Department's position.
4. The recommendation (which shall include reasons for the decision) will be:
  - a. No modification of sentence is recommended. If the SMRC recommends no modification of sentence is warranted, the SMRB will not consider another petition from that person for at least one year from the date of the decision.
  - b. A modification of sentence is recommended. Offender Records will send the recommendation along with a synopsis of the person's record, to the court pursuant to Superior Court Rule 103-A (Attachment 6).
  - c. The person's deportment and treatment participation has been acceptable, but no recommendation is offered because of the nature of the offense or other concern. The SMRB will not consider another petition from that person for at least one year from the date of the decision.
5. Factors considered being pertinent and required criteria for suitability are listed in Attachment 1.
6. The person will be notified of the Board's decision and may petition the courts upon notification that

they are considered a suitable candidate for consideration of a sentence modification.

7. Upon request from the court, the Commissioner/designee will author and authenticate the Department's recommendation for consideration and send it, along with a synopsis of the person's record, to the court pursuant to Superior Court Rule 103-A.
8. The SMRB shall review the court-submitted petition for accuracy and provide correction for any material errors and/or inaccuracies in the Department's response to the courts.
9. Offender Records will furnish the prosecutor and the petitioner's attorney, if known, with the recommendations made to the court. These recommendations will be made in the form of a synopsis of the person's institutional history concluding with the Department's recommendation. Offender Records will maintain a record of petitions received by the Warden/Director, the recommendation of the SMRB and the court action taken, if any.
10. Attachments to the synopsis form may be used for brevity, clarity, or clerical ease but must be sent to all parties described above and must be part of the-review process. Pre-sentence investigations are not furnished in this process.
11. Non-media inquiries regarding information contained within the synopsis will be directed to Offender Records which will respond appropriately to the inquiry. Media inquiries should be made to the Department's Public Information Officer.

D. Other petition review:

1. Petitions for sentence modification or suspension pursuant to RSA 651:20.I (a) shall be processed upon request from the court and according to the procedures under RSA 651:20.I (b).
2. Petitions for sentence modification or suspension pursuant to RSA 651:20.I (c) shall be processed upon request and reviewed according to the procedures under RSA 651:20.I (b). In addition, a copy of the SMRB-recommendation shall be sent to the Attorney General for review prior to filing with the court.

E. Continued Good Behavior

Recommendations for consideration are based on expectations that the person under DOC custody will remain in good standing. Negative behaviors exhibited after obtaining a recommendation may result in the withdrawal of the recommendation.

REFERENCES:

Standards for the Administration of Correctional Agencies  
Second Edition Standards

Standards for Adult Correctional Institutions  
Fourth Edition Standards

Standards for Adult Community Residential Services  
Fourth Edition Standards

Standards for Adult Probation and Parole Field Services  
Third Edition Standards

Other

**RSA 651:20 - Attachment 7**  
**State v. Reynolds 138 NH 519 – Attachment 8**

Kench/lb

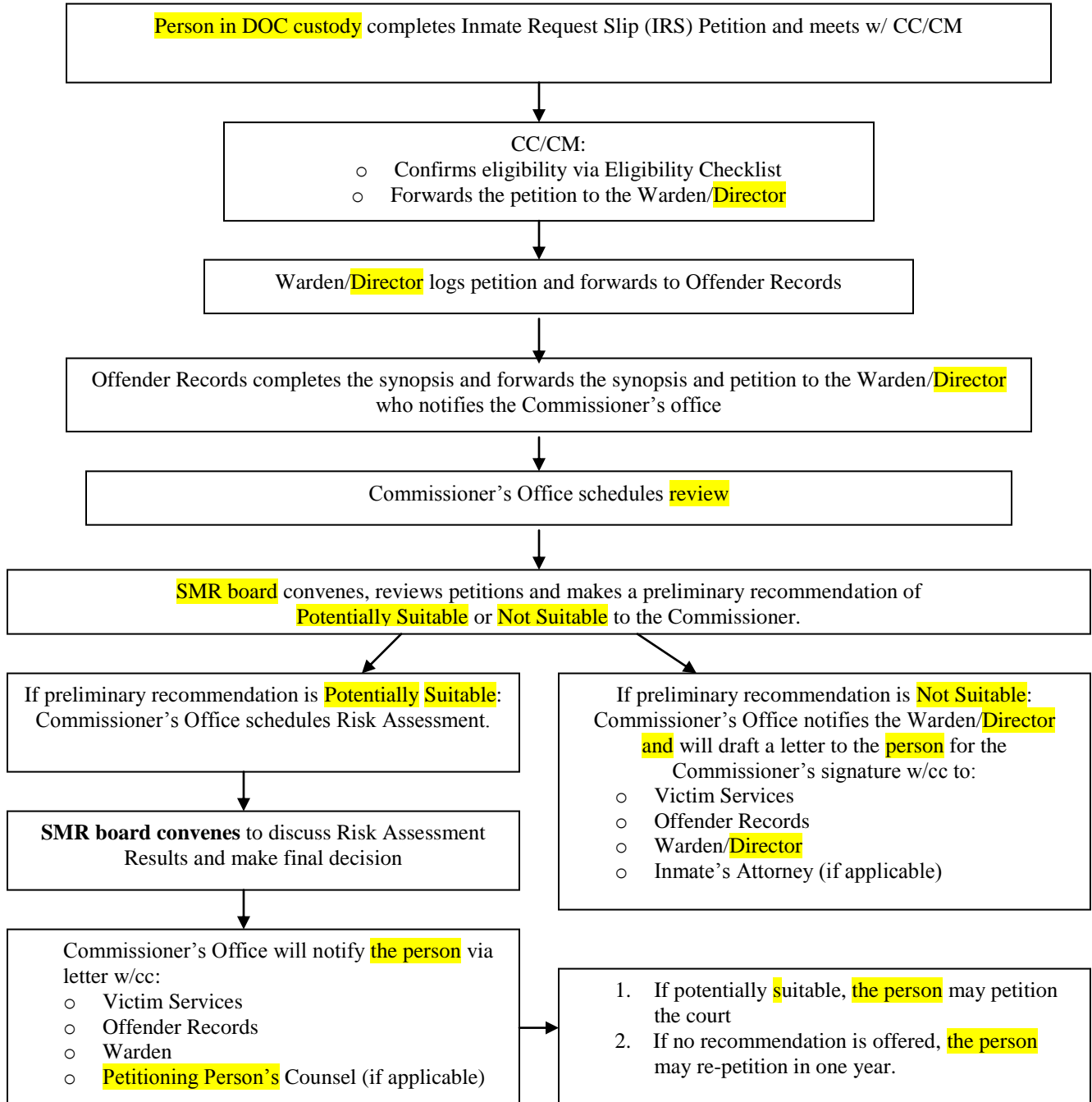
Attachments  
Superior Court Rule 103-A

RSA 651:20  
RSA 651-C:1  
RSA 135-E:2  
State v. Reynolds 138 NH 519



NH Department of Corrections: PPD 1.48

Petition for a Recommendation for Modification of Sentence  
Process Map





## NH Department of Corrections: PPD 1.48 Criteria for Suitability

### A. Category I Sentence Modification Review Board

Criteria for persons under DOC custody who have not been convicted of a violent crime as defined in Section B and Attachment 6.

1. Must remain disciplinary free: (Worked Off D-Reports are not included)
  - a. No "A" level disciplinary convictions or pleas for 3 years
  - b. No "B" level disciplinary convictions or pleas for 2 years
  - c. No "C" level disciplinary convictions or pleas for 90 days
2. Obtain "Good" school grades (if applicable).
3. Meaningfully participate and complete all court-ordered programming.
4. Meaningfully participate and complete all DOC-ordered programming/self help groups.
5. Must not have a lengthy or repeat history of incarceration where he or she committed criminal activity as a regular source of income or lifestyle.
6. Must have no prior parole/probation failure in the past five years.
7. Did participate and cooperate with all treatment goals as documented in the medical record and/or CORIS.
8. Did complete pre-release plan.
9. Meaningful participation in self-improvement programs.
10. Demonstrates appropriate social responsibility
11. Did pursue and achieve a level of education and/or vocational training as recommended by the individual person under DOC custody plan.
12. Any other relevant criteria to include the nature of the crime or indicators that demonstrate a desire for positive change.
13. Must have been determined through use of an evaluation tool if/as determined by the department to be of no greater risk leaving prison now, than at a later date.

### B. Category II Sentence Modification Review Board

Criteria for persons under DOC custody who have been convicted of a violent crime as defined in RSA 651:5 XIII and violent crimes also defined in RSA 651-A: 2 VI (Attachment 6)

1. Must remain disciplinary free: (Worked-off D-Reports are not included)
  - a. No "A" level disciplinary convictions or pleas for 5 years
  - b. No "B" level disciplinary convictions or pleas for 3 years
  - c. No "C" level disciplinary convictions or pleas for 180 days
2. Must have significant educational achievement, and obtain "Excellent" school grades.
3. Meaningfully participate in and complete all court-ordered programming/self-help groups.
4. Meaningfully participate in and complete all DOC-ordered programming.
5. Must not have a lengthy or repeat history of incarceration where he or she committed criminal activity as a regular source of income or lifestyle.
6. Must have no prior parole/probation failure in the past five years.
7. Must have been determined by use of an evaluation tool if/as determined by the Department to be of no greater risk leaving the prison now than at a later date, and is not categorized as a Sexually Violent Predator.
8. Did participate and cooperate with all treatment goals as documented in the medical record and/or CORIS.
9. Did complete pre-release plan.
10. Meaningful participation in self-improvement programs.
11. Demonstrates appropriate social responsibility
12. Did pursue and achieve a level of education and/or vocational training as recommended by the individual person under DOC custody plan.
13. Any other relevant criteria to include the nature of the crime or indicators that demonstrates a desire for positive change.
14. Must be actively involved in prison community through volunteer work, etc.
15. Must not meet criteria for RSA 135-E: Involuntary Civil Commitments of Sexually Violent Predators.



**PETITION TO MODIFY OR SUSPEND SENTENCE  
AS PER PPD 1.48, ATTACHMENT 1a  
CRITERIA CHECKLIST (Violent Crimes)**

Name \_\_\_\_\_  
CORIS ID \_\_\_\_\_  
Housing Unit \_\_\_\_\_  
CC/CM \_\_\_\_\_

Requirements	Status	CC/CM Comments
1. Must not meet criteria for RSA 135-E; Involuntary Civil Commitments of Sexually Violent Predators		
2. Must remain disciplinary free a. No "A" levels – 5 years b. No "B" levels – 3 years c. No "C" levels – 180 days		
3. Must have significant educational achievement and obtain "excellent" school grades		
4. Meaningfully participate and complete all court ordered programming/self help groups		
5. Meaningfully participate and complete all DOC ordered programming/self-help groups		
6. Must not have a lengthy or repeat history of incarceration		
7. Must have no prior parole/probation failure in the past 5 years		
8. Must be actively involved in Prison community through volunteer work, etc.		
9. Did participate and cooperate with all treatment protocols		
10. Did complete a pre-release plan		
11. Meaningful participation in self-improvement program		
12. Demonstrates appropriate social responsibility		
13. Did pursue and achieve a level of education and/or vocational training as recommended by the individual's plan		
14. Must not be categorized as a Sexually Violent Predator		
15. Must have been determined by treatment professionals through the use of an evaluation tool if/as determined by the department to be of no greater risk of leaving prison now than at a later date.		(SMRB Use Only)



NH Department of Corrections: PPD 1.48

**PETITION TO MODIFY OR SUSPEND SENTENCE  
AS PER PPD 1.48, ATTACHMENT 1b  
CRITERIA CHECKLIST (Non-Violent Crimes)**

Name \_\_\_\_\_  
CORIS ID \_\_\_\_\_  
Housing Unit \_\_\_\_\_  
CC/CM \_\_\_\_\_

<b>Requirements</b>	<b>Status</b>	<b>CC/CM Comments</b>
1. Must remain disciplinary free a. No "A" levels – 3 years b. No "B" levels – 2 years c. No "C" levels – 90 days		
2. Obtain "good" school grades (if applicable)		
3. Meaningfully participate and complete all court ordered programming		
4. Meaningfully participate and complete all DOC ordered programming/self-help groups		
5. Must not have a lengthy or repeat history of incarceration		
6. Must have no prior parole/probation failure in the past 5 years		
7. Did participate and cooperate with all treatment protocols		
8. Did complete a pre-release plan		
9. Meaningful participation in self-improvement program		
10. Demonstrates appropriate social responsibility		
11. Did pursue and achieve a level of education and/or vocational training as recommended by the individual inmate plan		
12. Any other relevant criteria or indicators that demonstrate a desire for positive change		
13. Must have been determined by treatment professionals through the use of a evaluation tool if/as determined by the department to be of no greater risk of leaving prison now than at a later date		(SMRB Use Only)
14. Any other relevant criteria or indicators that demonstrate a desire for positive change		



## NH Department of Corrections: PPD 1.48

Sentence Modification Consideration Routing Sheet				
Individual: _____ No. _____ Date: _____				
Facility: _____ Unit: _____ Minimum Parole Date: _____				
Victim Witness Notification: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, Victim Services notified on: _____				
Corrections Counselor Case Manager Signature: _____				
ADDRESSEE	Date In	Date Out	Initials	Miscellaneous
CC/CM				Eligibility Confirmed <input type="checkbox"/> Yes <input type="checkbox"/> No
Comments:				
Warden/Director				Tracking Started <input type="checkbox"/> Yes <input type="checkbox"/> No
Comments:				
Offender Records				Eligibility Confirmed <input type="checkbox"/> Yes <input type="checkbox"/> No
Comments:			Synopsis Attached <input type="checkbox"/> Yes <input type="checkbox"/> No	
			NCIC Attached <input type="checkbox"/> Yes <input type="checkbox"/> No	
Warden/Director				Hearing Scheduled: <input type="checkbox"/> Yes <input type="checkbox"/> No
Comments:			Date of Hearing: _____	
SMRCommittee 1				Assessment Request <input type="checkbox"/> Yes <input type="checkbox"/> No
Comments:				
SMRCommittee 2				Recommendation <input type="checkbox"/> Yes <input type="checkbox"/> No
Comments:				
Commissioner				Recommendation <input type="checkbox"/> Yes <input type="checkbox"/> No
Comments:				



NH Department of Corrections: PPD 1.48 - Response to Motion to Suspend Sentence

Docket:

Name: ID Number: Facility: Housing Assignment:

This synopsis is a report of the information presently contained in the person’s Offender Record. The Pre-sentence Report filed in the above docket is incorporated by reference. Criminal Record and mental health data (where appropriate) are attached to the original file in court records.

**PRESENTLY HOUSED:**

**PRESENT CRIME:**

**PRIOR New Hampshire STATE PRISON INCARCERATIONS:**

**PAROLE VIOLATIONS:**

**PRESENT MINIMUM ELIGIBILITY DATE:**

**MAXIMUM RELEASE DATE:**

**COURT-ORDERED RECOMMENDATIONS:**

**CASE PLAN REQUIREMENTS:**

**CASE PLAN RECOMMENDATIONS:**

**STATUS OF REQUIREMENTS:**

**STATUS OF RECOMMENDATIONS:**

**OTHER PERTINENT INFORMATION:**

**CASE COUNSELOR COMMENTS:**

**DISCIPLINARY RECORD:**

CC: County Attorney  
Defense Counsel  
Person in DOC custody



NH Department of Corrections: PPD 1.48

**Superior Court Rule 103-A**

Superior Court Rule 103-A states “Whenever any petition to suspend, amend, reduce or otherwise change the custody status of any person incarcerated in New Hampshire State Prison is filed with the Court, a copy thereof shall be forwarded by counsel for the defendant to the Prosecutor and the Warden of the State Prison. In the event that the defendant files such petition pro se, the Clerk shall forward a copy thereof to the Prosecutor and the Warden of the State Prison. The Prosecutor and the Warden of the State Prison shall have a period of thirty (30) days in which to file a response thereto with copies thereof furnished to petitioner, or petitioner's counsel, if represented. This rule does not apply to petitions for habeas corpus.”



**NH RSA 651:20 Incarceration Under Suspended Sentence. –**

I. Notwithstanding any other provision of law, except as provided in subparagraphs (a), (b), and (c), the sentence to imprisonment of any person may be suspended by the sentencing court at the time of imposition of the sentence or at any time thereafter in response to a petition to suspend sentence which is timely brought in accordance with the limitations set forth below in subparagraphs (a), (b), and (c).

(a) Any person sentenced to state prison for a minimum term of 6 years or more shall not bring a petition to suspend sentence until such person has served at least 4 years or  $\frac{2}{3}$  of his minimum sentence, whichever is greater, and not more frequently than every 3 years thereafter. Any person sentenced to state prison for a minimum term of less than 6 years shall not bring a petition to suspend sentence until such person has served at least  $\frac{2}{3}$  of the minimum sentence, or the petition has been authorized by the sentencing court. For the purposes of this subparagraph:

(1) For concurrent terms of imprisonment, the minimum term shall be satisfied by serving the longest minimum term imposed, and the maximum term shall be satisfied by serving the longest maximum term.

(2) For consecutive terms of imprisonment, the minimum terms of each sentence shall be added to arrive at an aggregate minimum term, and the maximum terms of each sentence shall be added to arrive at an aggregate maximum term.

(b) A petition to suspend the sentence of any person under DOC custody may be brought at any time if, prior to the petition being filed, the commissioner of the department of corrections has found that the prisoner is a suitable candidate for suspension of sentence.

(c) A petition to suspend the sentence of any person under DOC custody may be brought at any time by the attorney general in recognition of substantial assistance by the inmate in the investigation or prosecution of a serious felony offense.

(d) Petitions filed which do not meet the criteria in (a), (b), or (c) above shall be dismissed without a hearing.

II. A person whose sentence has been suspended may be required to report to the institution to which he has been sentenced to be incarcerated during weekends or at such times or intervals of time as the court may direct, except that weekend sentence provisions do not apply to the New Hampshire state prison. Time so spent in said institution shall be deducted from the maximum term, and where there is both a minimum and maximum term, from both. Any part of a day spent in the institution shall count as a full day toward the sentence.

III. As a condition of any suspension of sentence, the court may include restitution to the victim, as provided in RSA 651:6267, performance of uncompensated public service as provided in RSA 651:6870, and such other conditions as the court may determine.

Source. 1971, 518:1. 1979, 407:3. 1981, 516:1. 1982, 36:3. 1990, 266:3. 1992, 254:13. 1994, 129:1, eff. July 22, 1994; 192:5, eff. July 1, 1994. 1996, 286:5, eff. July 1, 1997. 2008, 114:1, eff. January 1, 2009.

**Amendments**

2008. The 2008 amendment in the introductory language of I(a), added for a minimum term of 6 years or more in the first sentence and added the second and third sentences; added I(a)(1) and I(a)(2).



NH RSA 651:5 XIII Annulment of Criminal Records

XIII. As used in this section, "violent crime" means:

- (a) Capital murder, first or second degree murder, manslaughter, or class A felony negligent homicide under RSA 630;
- (b) First degree assault under RSA 631:1;
- (c) Aggravated felonious sexual assault or felonious sexual assault under RSA 632-A;
- (d) Kidnapping or criminal restraint under RSA 633;
- (e) Class A felony arson under RSA 634:1;
- (f) Robbery under RSA 636;
- (g) Incest under RSA 639:2, III or endangering the welfare of a child by solicitation under RSA 639:3, III; or
- (h) Any felonious child pornography offense under RSA 649-A.

XIV. As used in this section, "crime of obstruction of justice" means:

- (a) Tampering with witnesses or informants under RSA 641:5 or falsifying evidence under RSA 641:6;
- or
- (b) Any felonious offense of obstructing governmental operations under RSA 642.

RSA 651-A:2 Definitions/Parole of Prisoners

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

- (a) RSA 173-B:9, violation of protective order.
- (b) RSA 631:2, second degree assault.
- (c) RSA 631:3, felony reckless conduct.
- (d) RSA 631:4, criminal threatening involving the use of a deadly weapon.
- (e) RSA 633:3-a, stalking.
- (f) RSA 635:1, burglary.
- (g) RSA 641:5, tampering with witnesses and informants.
- (h) RSA 650-A:1, felonious use of firearms.



# TITLE X PUBLIC HEALTH

## CHAPTER 135-E INVOLUNTARY CIVIL COMMITMENT OF SEXUALLY VIOLENT PREDATORS

### Section 135-E:2

**135-E:2 Definitions.** – In this chapter:

I. "Agency with jurisdiction" means the agency that releases, upon lawful order or authority, a person who is serving a sentence in the custody of the department of corrections, or a person who was involuntarily committed upon a finding that the person was not guilty by reason of insanity or incompetent to stand trial.

II. "Commissioner" means the commissioner of the department of corrections.

III. "Convicted of a sexually violent offense" means a person who has been:

(a) Adjudicated guilty of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere;

(b) Adjudicated not guilty by reason of insanity of a sexually violent offense; or

(c) Found incompetent to stand trial on a charge of a sexually violent offense and the court makes the finding required pursuant to RSA 135-E:5.

IV. "Court" means the superior court in the county where that person was last convicted of a sexually violent offense, or if the person is in custody on an out-of-state or federal sexually violent offense the county where the person plans to reside upon release or, if no residence in this state is planned, in the county where the facility from which the person to be released is located.

V. "Department" means the department of corrections.

VI. "Likely to engage in acts of sexual violence" means the person's propensity to commit acts of sexual violence is of such a degree that the person has serious difficulty in controlling his or her behavior as to pose a potentially serious likelihood of danger to others.

VII. "Mental abnormality" means a mental condition affecting a person's emotional or volitional capacity which predisposes the person to commit sexually violent offenses.

VIII. "Parole board" means the adult parole board established in RSA 651-A:3.

IX. "Person" means an individual 18 years of age or older who is a potential or actual subject of proceedings under this chapter.

X. "Sexually motivated" means that one of the purposes for which the defendant committed the crime was for sexual gratification.

XI. "Sexually violent offense" means:

(a) Capital murder in violation of RSA 630:1, I(e);

(b) First degree murder in violation of RSA 630:1-a, I(b)(1);

(c) Aggravated felonious sexual assault in violation of RSA 632-A:2;

(d) Felonious sexual assault in violation of RSA 632-A:3, III;

(e) Kidnapping in violation of RSA 633:1, I(d), where the offender confined the victim with the purpose to commit sexual assault against the victim;



NH RSA 135-E:2 continued -

(f) Burglary in violation of RSA 635:1, I, where the offender entered a building or occupied structure with the purpose to commit sexual assault;

(g) An attempt, criminal solicitation, or conspiracy, to commit any of the offenses listed above; or

(h) A violation of any other statute prohibiting the same conduct as the offenses listed above in another state, territory, or possession of the United States.

XII. "Sexually violent predator" means any person who:

(a) Has been convicted of a sexually violent offense; and

(b) Suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.

XIII. "Total confinement" means that the person is being held in any physically secure facility being operated by or contractually operated for the department of corrections. A person shall also be deemed to be in total confinement for applicability of provisions under this chapter if the person is serving an incarcerative sentence under the custody of the department of corrections. A person is not subject to total confinement if the person is subject to an incarcerative sentence or other custody in a secure facility but has contact with the community, such as through work release, a halfway house, or other supervised or unsupervised release into the community.

**Source.** 2006, 327:21. 2007, 337:1, 2. 2010, 287:2, eff. July 13, 2010.



NH Department of Corrections: PPD 1.48

THE STATE OF NEW HAMPSHIRE v. JOSEPH LECOUFFE  
SUPREME COURT OF NEW HAMPSHIRE

152 NH 148152 N.H. 148; 872 A.2d 773872 A.2d 773; 2005 NH LEXIS 562005 N.H. LEXIS 56

No. 2004-526

April 22, 2005, Opinion Issue

The terms of a criminal defendant's sentence, particularly those addressing when he is allowed to bring petitions to suspend his sentence, are governed by the statutes in effect when he committed his crime – See *State v. Reynolds*, 138 N.H. 519, 522-23, 642 A.2d 1368 (1994). The defendant committed his crimes in 1990, and the version of RSA 651:20 in effect at the time allowed person under DOC custody to bring petitions to suspend their sentences every two years. RSA 651:20. Following the rule laid out in *Reynolds*, the defendant's sentence is governed by the 1990 version of RSA 651:20. He is, therefore, entitled to petition the court for suspension of his sentence every two years.



