

<b>State of Vermont</b> <b>Agency of Human Services</b> <b>Department of Corrections</b>	<p align="center"><u>INTERIM MEMO</u></p> <p align="center">RELEASE TO UNAPPROVED HOUSING – FURLOUGH</p>	<p align="right">Page 1 of 5</p>
<b>Local Procedure(s) Required:</b> No <b>Applicability:</b> All staff (including volunteers and contractors) <b>Security Level:</b> "B"- Anyone may have access to this document.		
<b>Approved:</b> <u>SIGNED</u>		
<u>Lisa M. Menard, Commissioner</u>	<u>2/12/2016</u> <b>Date Signed</b>	<u>2/17/16</u> <b>Date Effective</b>

The purpose of this interim memo is to codify the process which the Department of Corrections (DOC) staff utilizes when making a determination whether or not it would be appropriate to release an offender on furlough without approved housing. This Interim Revision Memo shall take effect **immediately**.

When applying 28 V.S.A. § 808(f), an offender shall not be denied furlough solely for lack of housing when all of the following conditions are satisfied:

- (1) The offender has served at least his/her minimum sentence for a nonviolent misdemeanor or felony (See below);
- (2) The offender is not designated SFI. If the offender is designated SFI, s/he shall be referred to a central level case staffing for release determination;
- (3) The offender does not score as high or very high risk on any current validated assessment tool utilized by the Department;
- (4) The offender has not received a Major “A” Disciplinary infraction, or any other major or minor infractions which were specifically the result of violence against a person or property in the previous 6 months;
- (5) While serving their current sentence the offender has not been convicted of a new felony offense; and
- (6) The offender acknowledges to his/her caseworker that it is in his/her best interest to be released on furlough, notwithstanding the lack of housing. This acknowledgement shall be documented in case notes.

Any District Manager with an offender that fits the above criteria, and feels that the release of the offender to an unapproved residence poses a risk of harm to the community, may request to staff the case with the Director of Field Services and/or the Director of Casework.

### **RE-ENTRY and DOCUMENTATION**

If an offender meets the above criteria, the facility caseworker will need to discuss with the offender their release plan and whether that release plan is in their best interest.

- If the offender indicates that it is not in their best interest, the offender shall remain incarcerated until an approved residence is located.

- If the offender indicates that it is in their best interest to be released to their plan, the caseworker shall work with the probation officer to set up appointments and referrals. The release should occur as soon as possible but within (7) business days to allow for services to be put in place prior to release. If the release requires more the (7) business day, the caseworkers/probation officers will need the approval of the Director of Casework.

All of the above shall be documented in contact notes in OMS.

All case staffing decisions shall be documented in OMS.

All applicable policies are still in effect in regards to release.

### **PMD**

All offenders who are past their minimum sentence and held solely for a lack of residence shall be coded as a **B1 (Lack of Housing)**, except for the following:

- Offenders who do not meet the 808(f) criteria above; and
- Offenders designated during the case staffing process to remain incarcerated until an approved residence is secured.

These offenders shall be designated as **B3 (Staffed to need residence)**.

### **NON-VIOLENT OFFENSES FOR 808(f)**

A non-violent misdemeanor or felony is one defined as **not** being a listed crime as defined in 13 V.S.A § 5301(7), and an offense involving sexual exploitation of a children in violation of 13 V.S.A. chapter 64.

**NOTE:** this list does not include the DOC designated listed crimes in Administrative Directive 371.09, *Designation of Listed Offenses*.

The statutorily defined listed crimes are:

- (A) Stalking as defined in section 1062 of this title;
- (B) Aggravated stalking as defined in subdivision 1063(a)(3) or (4) of this title;
- (C) Domestic assault as defined in section 1042 of this title;
- (D) First degree aggravated domestic assault as defined in section 1043 of this title;
- (E) Second degree aggravated domestic assault as defined in section 1044 of this title;
- (F) Sexual assault as defined in section 3252 of this title, or its predecessor as it was defined in section 3201 or 3202 of this title;
- (G) Aggravated sexual assault as defined in section 3253 of this title;

- (H) Lewd or lascivious conduct as defined in section 2601 of this title;
- (I) Lewd or lascivious conduct with a child as defined in section 2602 of this title;
- (J) Murder as defined in section 2301 of this title;
- (K) Aggravated murder as defined in section 2311 of this title;
- (L) Manslaughter as defined in section 2304 of this title;
- (M) Aggravated assault as defined in section 1024 of this title;
- (N) Assault and robbery with a dangerous weapon as defined in subsection 608(b) of this title;
- (O) Arson causing death as defined in section 501 of this title;
- (P) Assault and robbery causing bodily injury as defined in subsection 608(c) of this title;
- (Q) Maiming as defined in section 2701 of this title;
- (R) Kidnapping as defined in section 2405 of this title, or its predecessor as it was defined in section 2401 of this title;
- (S) Unlawful restraint in the second degree as defined in section 2406 of this title;
- (T) Unlawful restraint in the first degree as defined in section 2407 of this title;
- (U) Recklessly endangering another person as defined in section 1025 of this title;
- (V) Violation of abuse prevention order as defined in section 1030 of this title, excluding violation of an abuse prevention order issued pursuant to 15 V.S.A. § 1104 (emergency relief) or 33 V.S.A. § 6936 (emergency relief);
- (W) Operating vehicle under the influence of intoxicating liquor or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(e) and (f);
- (X) Careless or negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);
- (Y) Leaving the scene of an accident with serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c);
- (Z) Burglary into an occupied dwelling as defined in subsection 1201(c) of this title;
- (AA) The attempt to commit any of the offenses listed in this section;
- (BB) Abuse (section 1376 of this title), abuse by restraint (section 1377 of this title), neglect (section

1378 of this title), sexual abuse (section 1379 of this title), financial exploitation (section 1380 of this title), and exploitation of services (section 1381 of this title);

(CC) Aggravated sexual assault of a child in violation of section 3253a of this title;

(DD) Human trafficking in violation of section 2652 of this title; and

(EE) Aggravated human trafficking in violation of section 2653 of this title.

### **COMMUNITY SUPERVISION OF OFFENDERS RELEASED ON 808(f)**

An offender released on conditional reentry per 808(f) shall be supervised as any other conditional reentry offender, and all policies are still in effect - with the modifications below:

- P&P staff shall enter a contact note indicating the offender was released per 808(f);
- P&P staff shall not conduct field checks on the offender;
- P&P staff shall require the offender to make daily contact either in person or by phone;
- Condition J (*I will reside at my approved residence as directed by my assigned Probation Officer or designee.*) of the **Conditions of Supervision Form** shall be stricken; and
- If an offender does find an approvable residence the offender shall not be treated as an 808(f) case, and shall be supervised normally.

