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SC panel OKs warrantless searches for probationers

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COLUMBIA — Officers in South Carolina would not need a warrant to search juveniles and adults on probation or parole under a bill approved Thursday by a House panel.

Law enforcement and crime victim groups hope the possibility of being searched by any officer in the state will deter people on conditional release from prison from committing more crimes.

"It makes logical sense, when we have a known felon on probation and/or parole, that we able to curtail any further criminal activity," said Laura Hudson, executive director of the S.C. Crime Victims' Council. "When someone has gone on probation, that's a privilege, and he's lost rights to certain protections."

The bill, which heads to the full House Judiciary Committee, allows police and probation officers to bypass going to a judge for a search warrant. They can search the person, the vehicle the person owns or is driving, and any of that person's possessions, such as a purse or bookbag.

The Senate passed the bill last February.

The American Civil Liberties Union argues it does nothing to reduce recidivism.

Lawmakers need to reform sentencing — so that dangerous, repeat offenders stay in jail and nonviolent, low-level offenders aren't imprisoned — not expand police powers, said Victoria Middleton, the ACLU's executive director for South Carolina.

"This creates a whole category of people on parole and probation who have no right to privacy," she said Thursday.

If an officer decides incorrectly that a search is justified, "then police power would have been abused and the damage will be done to police credibility in that community," she wrote in a letter to House members last week.

Under the bill, written agreement to the warrantless searches would be required for release on probation or parole.

Charleston Police Chief Greg Mullen noted the people could opt to stay in jail instead.

"They're being given the privilege of serving the remainder of their sentence in the community," he said.

Probation and parole agents already had a tough time keeping track of people, and budget cuts have meant fewer agents are tracking more people, Mullen said. Offenders may think twice, he said, if they know any officer statewide could catch them doing wrong.

The House panel removed officers' ability to search someone's home, citing Fourth Amendment concerns about unreasonable searches and seizures.

As passed by the Senate, the bill allowed officers to search the person's residence if there was reasonable suspicion he or she was involved in a crime. The juvenile or adult offender would have to tell anyone they're living with that their homes are subject to search without a warrant. Failing to do that would be a parole violation.

The ACLU had noted if police rummage through a home and later discover no one on probation or parole lived there, the search would be unlawful.

But Hudson said she'll work to put that authority back in the bill.

"Many of our drug dealers may use someone else's home for dealing," she said. "It's important we be able to find that out on a quick basis."

Lonnie Randolph, president of the South Carolina chapter of the NAACP, called the expanded authority another form of racial profiling.

"We have had to address too many instances of people being stopped just because of the way they look," he said.

Neighboring states are among those that already allow warrantless searches.

A North Carolina law making them a regular condition of probation took effect last month.

In October, the Tennessee Supreme Court upheld warrantless searches of some parolees even without reasonable suspicion of wrongdoing. The case involved a parolee whose home was searched in 2007 — where a gun was found — after she was stopped for a seat belt violation.

The court's decision conformed with a 2006 U.S. Supreme Court decision, which found that parolees, like prisoners, have fewer rights concerning privacy and unreasonable searches.

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