

1 H.534

2 Introduced by Representatives Emmons of Springfield, Haas of Rochester,
3 Hooper of Montpelier, Shaw of Pittsford, and Grad of
4 Moretown

5 Referred to Committee on

6 Date:

7 Subject: Crimes and criminal procedure; home detention; home confinement
8 furlough

9 Statement of purpose of bill as introduced: This bill proposes to expand
10 eligibility for home detention and confinement, require greater specificity
11 regarding court-approved scheduled absences from home detention and home
12 confinement, to require victim notification of scheduled absences and of any
13 changes in the schedule in cases involving listed crimes.

14 An act relating to home detention and home confinement furlough

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 13 V.S.A. § 7554b is amended to read:

17 § 7554b. HOME DETENTION PROGRAM

18 (a) ~~Definition~~ Definitions. As used in this section:

19 (1) "~~home~~ Home detention" means a program of ~~confinement~~ pretrial
20 detention and supervision that restricts a defendant to a preapproved residence

1 continuously, except for authorized absences, and is enforced by appropriate
2 means of surveillance and electronic monitoring by the Department of
3 Corrections. ~~The Court may authorize scheduled absences such as work,~~
4 ~~school, or treatment. Any changes in the schedule shall be solely at the~~
5 ~~discretion of the Department of Corrections.~~ A defendant who is on home
6 detention shall remain in the custody of the Commissioner of Corrections with
7 conditions set by the ~~Court~~ court.

8 (2) "Listed crime" shall have the same meaning as provided in section
9 5301 of this title.

10 (b) Procedure. The status of a defendant who is detained pretrial for more
11 than seven days in a correctional facility for lack of bail may be reviewed by
12 the Court to determine whether the defendant is appropriate for home
13 detention. The request for review may be made by either the Department of
14 Corrections or the defendant. After a hearing, the Court may order that the
15 defendant be released to the Home Detention Program, providing that the
16 Court finds placing the defendant on home detention will reasonably assure his
17 or her appearance in Court when required and the proposed residence is
18 appropriate for home detention. In making such a determination, the Court
19 shall consider:

20 (1) the nature of the offense with which the defendant is charged;

1 (2) the defendant's prior convictions, history of violence, medical and
2 mental health needs, history of supervision, and risk of flight; and

3 (3) any risk or undue burden to other persons who reside at the proposed
4 residence or risk to third parties or to public safety that may result from such
5 placement.

6 (c)(1) Conditions for defendants charged with an offense that is not a listed
7 crime. The court may authorize scheduled absences such as for work, school,
8 or treatment. Any changes in the schedule shall be solely at the discretion of
9 the Department of Corrections.

10 (2) Conditions for defendants charged with a listed crime. The court
11 may approve authorized absences from the home only if such absences are
12 clearly identified on the record with respect to the day of the week, time of
13 day, the purpose of the absence, the permissible duration of the absence, the
14 places that may be visited during the absence, and the frequency with which
15 the absence may recur. The absences may commence no earlier than 24 hours
16 following the issuance of the order. The day the order is issued, the court shall
17 provide an electronic copy of the order to the State's Attorney's or Attorney
18 General's Victim Advocate. The Department of Corrections shall not
19 authorize additional absences and may reschedule court-authorized absences
20 only after providing 72 hours' advance notice to the State's Attorney's or
21 Attorney General's Victim Advocate of the changes. The Department of

1 Corrections' rescheduling authority is limited to the day of the week and time
2 of day of the absence, and does not extend to modification or expansion of the
3 duration, purpose, location, or frequency of the absence. Only medical
4 emergencies are exempted from the notification requirements of this
5 subdivision.

6 (d) Failure to comply. The Department of Corrections may revoke a
7 defendant's home detention status for an unauthorized absence or failure to
8 comply with any other condition of the Program and shall return the defendant
9 to a correctional facility.

10 Sec. 2. 28 V.S.A. § 808b is amended to read:

11 § 808b. HOME CONFINEMENT FURLOUGH

12 (a)(1) An offender may be sentenced to serve a term of imprisonment, but
13 placed by a court on home confinement furlough that restricts the defendant to:

14 (A) a preapproved place of residence continuously, except for
15 authorized absences; or

16 (B) the geographic boundaries of a specific Vermont town or county.

17 (2) Home confinement furlough shall be enforced by appropriate means
18 of supervision, including electronic monitoring and other conditions such as
19 limitations on alcohol, visitors, and access to firearms imposed by the ~~Court~~
20 court or the Department, or both.

1 (b) The Department, in its own discretion, may place on home confinement
2 furlough an offender who has not yet served the minimum term of the sentence
3 for an eligible misdemeanor as defined in section 808d of this title if the
4 Department has made a determination based upon a risk assessment that the
5 offender poses a low risk to public safety or victim safety and that employing
6 an alternative to incarceration to hold the offender accountable is likely to
7 reduce the risk of recidivism.

8 ~~(c) A home confinement furlough shall not exceed a total of 180 days and
9 shall require the defendant:~~

10 ~~(1) to remain at a preapproved residence at all times except for
11 scheduled and preapproved absences for work, school, treatment, attorney
12 appointments, court appearances, and other obligations as the Court may
13 order; or~~

14 ~~(2) to remain at a preapproved residence 24 hours a day on lock-down
15 status except for medical appointments and court appearances.~~

16 ~~(d)~~ In determining whether a home confinement furlough sentence is
17 appropriate and whether a place of residence, town, or county is suitable for
18 such a sentence, all of the following shall be considered:

19 (1) ~~The~~ the nature of the offense with which the defendant was charged
20 and the nature of the offense of which the defendant was convicted;

1 (2) ~~The~~ the defendant's criminal history record, history of violence,
2 medical and mental health needs, history of supervision, and risk of flight-; and

3 (3) ~~Any~~ any risk or undue burden to other persons who reside at the
4 proposed residence or in the proposed town or county, or risk to third parties or
5 to public safety that may result from such placement.

6 (d)(1) A home confinement furlough shall not exceed a total of 180 days.

7 (2)(A) If the defendant is confined to a preapproved residence in
8 accordance with subdivision (a)(1)(A) of this section, the defendant shall be
9 required to:

10 (i) remain at a preapproved residence at all times except for
11 scheduled and preapproved absences for work, school, treatment, attorney
12 appointments, court appearances, and other obligations as the court may
13 order; or

14 (ii) remain at a preapproved residence 24 hours a day on
15 lock-down status except for medical appointments and court appearances.

16 (B) In cases involving a defendant convicted of a listed crime and
17 confined to a preapproved residence in accordance with subdivision (a)(1)(A)
18 of this section, the court may approve authorized absences from the residence
19 only if such absences are clearly identified on the record with respect to the
20 day of the week, time of day, the purpose of the absence, the permissible
21 duration of the absence, the places that may be visited during the absence, and

1 the frequency with which the absence may recur. The absences may
2 commence no earlier than 24 hours following the issuance of the order. The
3 day the order is issued, the court shall provide an electronic copy of the order
4 to the State's Attorney's or Attorney General's Victim Advocate. The
5 Department of Corrections shall not authorize additional absences and may
6 reschedule court-authorized absences only after providing 72 hours' advance
7 notice of the changes to the State's Attorney's or Attorney General's Victim
8 Advocate. The Department of Corrections' rescheduling authority is limited to
9 the day of the week and time of day of the absence, and does not extend to
10 modification or expansion of the duration, purpose, location, or frequency of
11 the absence. Only medical emergencies are exempted from the notification
12 requirements of this subdivision.

13 (e) [Repealed.]

14 Sec. 3. EFFECTIVE DATE

15 This act shall take effect on July 1, 2016.