

1 S.212

2 Introduced by Senators Sears, Ashe, Flory, Lyons, and Snelling

3 Referred to Committee on

4 Date:

5 Subject: Crimes and criminal procedure; home detention; home confinement  
6 furlough

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

12 An act relating to court-approved absences from home detention and home  
13 confinement furlough

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

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

16 § 7554b. HOME DETENTION PROGRAM

17 (a) Definition. As used in this section;

18 (1) "~~home~~ Home detention" means a program of ~~confinement~~ pretrial  
19 detention and supervision that restricts a defendant to a preapproved residence  
20 continuously, except for authorized absences, and is enforced by appropriate

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

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

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

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

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

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

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

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

1 duration, purpose, location, or frequency of the absence. Only medical  
2 emergencies are exempted from the notification requirements of this  
3 subdivision.

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

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

9 § 808b. HOME CONFINEMENT FURLOUGH

10 (a) An offender may be sentenced to serve a term of imprisonment, but  
11 placed by a court on home confinement furlough that restricts the defendant to  
12 a preapproved place of residence continuously, except for authorized absences.  
13 Home confinement furlough shall be enforced by appropriate means of  
14 supervision, including electronic monitoring and other conditions such as  
15 limitations on alcohol, visitors, and access to firearms imposed by the ~~Court~~  
16 court or the Department, or both.

17 (b) The Department, in its own discretion, may place on home confinement  
18 furlough an offender who has not yet served the minimum term of the sentence  
19 for an eligible misdemeanor as defined in section 808d of this title if the  
20 Department has made a determination based upon a risk assessment that the  
21 offender poses a low risk to public safety or victim safety and that employing

1 an alternative to incarceration to hold the offender accountable is likely to  
2 reduce the risk of recidivism.

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

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

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

11 ~~(d)~~ In determining whether a home confinement furlough sentence is  
12 appropriate and whether a place of residence is suitable for such a sentence, all  
13 of the following shall be considered:

14 (1) The nature of the offense with which the defendant was charged and  
15 the nature of the offense of which the defendant was convicted.

16 (2) The defendant's criminal history record, history of violence, medical  
17 and mental health needs, history of supervision, and risk of flight.

18 (3) Any risk or undue burden to other persons who reside at the  
19 proposed residence or risk to third parties or to public safety that may result  
20 from such placement.

1       (d)(1) A home confinement furlough shall not exceed a total of 180 days  
2       and shall require the defendant:

3               (A) to remain at a preapproved residence at all times except for  
4       scheduled and preapproved absences for work, school, treatment, attorney  
5       appointments, court appearances, and other obligations as the court may  
6       order; or

7               (B) to remain at a preapproved residence 24 hours a day on  
8       lock-down status except for medical appointments and court appearances.

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

1 of day of the absence, and does not extend to modification or expansion of the  
2 duration, purpose, location, or frequency of the absence. Only medical  
3 emergencies are exempted from the notification requirements of this  
4 subdivision.

5 (e) [Repealed.]

6 Sec. 2. EFFECTIVE DATE

7 This act shall take effect on July 1, 2017.