

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Corrections & Institutions to which was referred Senate
3 Bill No. 212 entitled “An act relating to court-approved absences from home
4 detention and home confinement furlough” respectfully reports that it has
5 considered the same and recommends that the House propose to the Senate that
6 the bill be amended by striking out all after the enacting clause and inserting in
7 lieu thereof the following:

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

9 § 7554. RELEASE PRIOR TO TRIAL

10 (a) Any person charged with an offense, other than a person held without
11 bail under section 7553 or 7553a of this title, shall at his or her appearance
12 before a judicial officer be ordered released pending trial in accordance with
13 this section.

14 (1) The defendant shall be ordered released on personal recognizance or
15 upon the execution of an unsecured appearance bond in an amount specified by
16 the judicial officer unless the judicial officer determines that such a release will
17 not reasonably ensure the appearance of the person as required. In determining
18 whether the defendant presents a risk of nonappearance, the judicial officer
19 shall consider, in addition to any other factors, the seriousness of the offense
20 charged and the number of offenses with which the person is charged. If the
21 officer determines that such a release will not reasonably ensure the

1 appearance of the defendant as required, the officer shall, either in lieu of or in
2 addition to the ~~above~~ methods of release in this section, impose the least
3 restrictive of the following conditions or the least restrictive combination of the
4 following conditions that will reasonably ensure the appearance of the
5 defendant as required:

6 (A) Place the defendant in the custody of a designated person or
7 organization agreeing to supervise him or her if the defendant is charged with
8 an offense that is not a nonviolent misdemeanor or nonviolent felony as
9 defined in 28 V.S.A. § 301.

10 (B) Place restrictions on the travel, association, or place of abode of
11 the defendant during the period of release.

12 (C) Require the defendant to participate in an alcohol or drug
13 treatment program. The judicial officer shall take into consideration the
14 defendant's ability to comply with an order of treatment and the availability of
15 treatment resources.

16 (D) Require the execution of a secured appearance bond in a
17 specified amount and the deposit with the clerk of the Court, in cash or other
18 security as directed, of a sum not to exceed 10 percent of the amount of the
19 bond, such deposit to be returned upon the appearance of the defendant as
20 required.

1 (E) Require the execution of a surety bond with sufficient solvent
2 sureties, or the deposit of cash in lieu thereof.

3 (F) Impose any other condition found reasonably necessary to ensure
4 appearance as required, including a condition requiring that the defendant
5 return to custody after specified hours.

6 ~~(G) Place the defendant in a program of community based electronic~~
7 ~~monitoring in accordance with section 7554e of this title.~~

8 (2) If the judicial officer determines that conditions of release imposed
9 to ensure appearance will not reasonably protect the public, the judicial officer
10 may impose in addition the least restrictive of the following conditions or the
11 least restrictive combination of the following conditions that will reasonably
12 ensure protection of the public:

13 (A) Place the defendant in the custody of a designated person or
14 organization agreeing to supervise him or her if the defendant is charged with
15 an offense that is not a nonviolent misdemeanor or nonviolent felony as
16 defined in 28 V.S.A. § 301.

17 (B) Place restrictions on the travel, association, or place of abode of
18 the defendant during the period of release.

19 (C) Require the defendant to participate in an alcohol or drug
20 treatment program. The judicial officer shall take into consideration the

1 defendant's ability to comply with an order of treatment and the availability
2 of treatment resources.

3 (D) Impose any other condition found reasonably necessary to
4 protect the public, except that a physically restrictive condition may only be
5 imposed in extraordinary circumstances.

6 (E) If the defendant is a State, county, or municipal officer charged
7 with violating section 2537 of this title, the Court may suspend the officer's
8 duties in whole or in part, if the Court finds that it is necessary to protect the
9 public.

10 ~~(F) Place the defendant in a program of community-based electronic~~
11 ~~monitoring in accordance with section 7554e of this title.~~

12 * * *

13 Sec. 2. 13 V.S.A. § 7554b is amended to read:

14 § 7554b. HOME DETENTION PROGRAM

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

16 (1) ~~“home~~ Home detention” means a program of ~~confinement~~ pretrial
17 detention and supervision that restricts a defendant to a preapproved residence
18 continuously, except for authorized absences, and is enforced by appropriate
19 means of surveillance and electronic monitoring by the Department of
20 Corrections or local sheriff's office providing electronic monitoring. The
21 ~~Court may authorize scheduled absences such as work, school, or treatment.~~

1 ~~Any changes in the schedule shall be solely at the discretion of the Department~~
2 ~~of Corrections.~~ A defendant who is on home detention shall remain in the
3 custody of the Commissioner of Corrections with conditions set by the ~~Court~~
4 court.

5 (2) “Listed crime” shall have the same meaning as provided in section
6 5301 of this title.

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

- 17 (1) the nature of the offense with which the defendant is charged;
18 (2) the defendant’s prior convictions, history of violence, medical and
19 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 or the sheriff's office providing the electronic
8 monitoring.

9 (2) Conditions for defendants charged with a listed crime. The court
10 may approve authorized absences from the home 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 prosecutor's office. The
17 Department of Corrections or the sheriff's office providing the electronic
18 monitoring may reschedule court-authorized absences only after providing
19 72 hours' advance notice of the changes to the prosecutor's office. Only
20 medical emergencies are exempted from the notification requirements of this
21 subdivision.

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

5 Sec. 3. 13 V.S.A. § 7554e is added to read:

6 § 7554e. COMMUNITY-BASED ELECTRONIC MONITORING

7 PILOT PROGRAM

8 (a) Definitions. As used in this section:

9 (1) “Community-based electronic monitoring” means an
10 integrated community detention program that provides 24-hours-a-day,
11 seven-days-a-week electronic monitoring that restricts the defendant to a
12 preapproved community continuously with supervision and immediate
13 response by the sheriff’s office that is providing the electronic monitoring. A
14 court may impose community-based electronic monitoring as a condition of
15 release prior to trial in accordance with subdivisions 7554(a)(1)(G) or
16 7554(a)(2)(F) of this title under 28 V.S.A. § 7554 (release prior to trial) or
17 § 7554b (home detention program).

18 (2) “Community-based electronic monitoring program ” means the
19 program of community-based electronic monitoring managed by the Windham
20 County Sheriff’s Office (WCSSO) under the supervision of the Department of
21 Corrections pursuant to the authority granted in this section.

1 (3) “Listed crime” shall have the same meaning as provided in section
2 5301 of this title.

3 (b) Procedure.

4 (1) The court may order that a defendant charged with an offense that is
5 not a listed crime be released prior to trial in accordance with section 7554 of
6 this title under 28 V.S.A. § 7554 (release prior to trial) or § 7554b (home
7 detention program) to a program of community-based electronic monitoring,
8 provided that the court finds that placing the defendant on community-based
9 electronic monitoring will reasonably assure his or her appearance in court
10 when required and that the proposed community is an appropriate placement
11 for the defendant. In making such a determination, the court shall consider:

12 (A) the nature of the offense with which the defendant is charged;

13 (B) the defendant’s prior convictions, history of violence, medical
14 and mental health needs, history of supervision, and risk of flight;

15 (C) any risk or undue burden to other persons who reside in the
16 proposed community or risk to third parties or to public safety that may result
17 from such placement; and

18 (D) the results of any risk assessment conducted for the defendant.

19 (2) The requirement under 28 V.S.A. § 7554b(b) that a defendant be
20 detained for more than seven days in a correctional facility shall not apply to a

1 person released to a program of community-based electronic monitoring under
2 this section.

3 (c) Custody; failure to comply. A defendant ordered to participate in
4 community-based electronic monitoring under this section shall remain in the
5 custody of the Department of Corrections. If the defendant violates the
6 conditions of the electronic monitoring program, the WCSO shall notify the
7 Department of Corrections and may place the defendant under arrest and
8 transport him or her to an appropriate Department facility. Prior to ordering a
9 defendant ordered to participate in community-based electronic monitoring
10 under this section, the court shall inform him or her of any penalties applicable
11 to violations of the imposed conditions.

12 (d) Rules. The court shall not order a defendant to participate in the pilot
13 program established by this section until the WCSO establishes written rules
14 for the program.

15 (e) Participation of other counties. The WCSO is authorized to enter into
16 agreements with the sheriffs of _____ and _____ counties permitting those
17 counties to participate in the pilot program subject to the rules established by
18 this section.

19 (f) Purpose. The electronic monitoring program for pretrial detention as set
20 forth in 13 V.S.A. §§ 7554b and 7554e shall be utilized as a tool for
21 monitoring and supervising detainees who would otherwise be housed in a

1 correctional facility. The goals of expanding the program statewide are to save
2 valuable bed space for detainees who should be lodged in a correctional
3 facility, reduce out-of-state prison placements, reduce recidivism, improve
4 public safety and victim notification, reduce transportation costs, increase
5 detainee access to services, and reduce case resolution time.

6 (g) Duration. The pilot program established by this section shall be in
7 effect from July 1, 2016, through June 30, 2018.

8 Sec. 4. REPEAL

9 13 V.S.A. § 7554d (Windham County Electronic Monitoring Program) is
10 repealed.

11 Sec. 5. 28 V.S.A. § 808b is amended to read:

12 § 808b. HOME CONFINEMENT FURLOUGH

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

20 (b) The Department, in its own discretion, may place on home confinement
21 furlough an offender who has not yet served the minimum term of the sentence

1 for an eligible misdemeanor as defined in section 808d of this title if the
2 Department has made a determination based upon a risk assessment that the
3 offender poses a low risk to public safety or victim safety and that employing
4 an alternative to incarceration to hold the offender accountable is likely to
5 reduce the risk of recidivism.

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

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

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

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

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

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

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

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

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

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

11 (2) In cases involving offenders convicted of a listed crime, the
12 defendant shall remain at a preapproved residence at all times except for
13 preapproved absences for work, school, treatment, attorney appointments,
14 court appearances, and other obligations as the court or Department may
15 authorize. The day the absences are approved, the court or the Department
16 shall provide a record to the prosecutor's office documenting the date, time,
17 location, and purpose of the authorized absences. The authorized absences
18 may commence no earlier than 24 hours following notification to the
19 prosecutor's office. The Department may reschedule authorized absences only
20 after providing 72 hours' advance notice to the prosecutor's office. Only

1 medical emergencies are exempted from the notification requirements of this
2 subdivision.

3 (e) [Repealed.]

4 ~~Sec. 6. WINDHAM COUNTY SHERIFF'S OFFICE ELECTRONIC~~
5 ~~MONITORING PROGRAM AGREEMENTS; STATEWIDE~~
6 ~~COMMUNITY BASED ELECTRONIC MONITORING~~

7 ~~(a) The Windham County Sheriff's Office (WCSO), tasked with piloting an~~
8 ~~electronic monitoring program from July 1, 2014 through June 30, 2016 in~~
9 ~~accordance with 2014 Act No. 179, Sec. E.339.1, is authorized to enter into~~
10 ~~agreements with any Vermont sheriff's office that wishes to participate in~~
11 ~~offering community based electronic monitoring in accordance with 13 V.S.A.~~
12 ~~§§ 7554b and 7554e. As a part of the agreements, the WCSO shall provide~~
13 ~~and the sheriff's offices shall abide by the policies and procedures the WCSO~~
14 ~~establishes for providing electronic monitoring under 13 V.S.A. §§ 7554b and~~
15 ~~7554e.~~

16 ~~(b) The electronic monitoring program for pretrial detention as set forth in~~
17 ~~13 V.S.A. §§ 7554b and 7554e shall be utilized as a tool for monitoring and~~
18 ~~supervising detainees who would otherwise be housed in a correctional facility.~~
19 ~~The goals of expanding the program statewide are to save valuable bed space~~
20 ~~for detainees who should be lodged in a correctional facility, reduce~~
21 ~~out of state prison placements, reduce recidivism, improve public safety and~~

1 ~~victim notification, reduce transportation costs, increase detainee access to~~
2 ~~services, and reduce case resolution time.~~

3 Sec. 7. EFFECTIVE DATES

4 This act shall take effect on July 1, 2016, except for this section and Sec. 6,
5 which shall take effect on passage.

6

7 (Committee vote: _____)

8

9

Representative _____

10

FOR THE COMMITTEE