

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 7554d 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 7554d 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. § 7554d is amended to read:

6 § 7554D. ~~WINDHAM COUNTY~~ ELECTRONIC MONITORING PILOT
7 PROGRAM

8 (a)(1) The Windham County Sheriff's Office (WCSO) shall establish and
9 manage a two-year electronic monitoring pilot program in Windham County
10 for the purpose of supervising persons ordered to be under electronic
11 monitoring as a condition of release pursuant to section 7554 of this title, to
12 home detention pursuant to section 7554b of this title, and home confinement
13 furlough pursuant to 28 V.S.A. § 808b. The program shall be a part of an
14 integrated community incarceration program and shall provide 24-hours-a-day,
15 seven-days-a-week electronic monitoring with supervision and immediate
16 response.

17 (2) For purposes of this program:

18 (A) if electronic monitoring is ordered by the Court pursuant to
19 section 7554 of this title, the Court shall use the criteria in section 7554b for
20 determining whether home detention is appropriate;

1 (B) ~~the seven-day waiting period under 7554b of this title shall not~~
2 ~~apply~~ the requirement under 28 V.S.A. § 7554b(b) that a defendant be detained
3 for more than seven days in a correctional facility shall not apply to a person
4 released to an electronic monitoring program under this section; and

5 (C) for persons who are under the custody of the Department of
6 Corrections pursuant to section 7554b of this title and 28 V.S.A. § 808b, the
7 WCSO shall notify the Department of any violations.

8 (3) The WCSO shall establish written policies and procedures for the
9 electronic monitoring program, shall provide progress reports on the
10 development of the policies and procedures to the Justice Oversight
11 Committee, and shall on or before June 30, 2016 submit the final policies and
12 procedures to the Committee for approval upon completion.

13 (b) The goal of the pilot program is to assist policymakers in determining
14 whether electronically monitored home detention and home confinement can
15 be utilized for pretrial detention and as a post-adjudication option to reduce
16 recidivism, to improve public safety, and to save valuable bed space for
17 detainees and inmates who, without an electronic monitoring program, should
18 would otherwise be lodged in a correctional facility. Additional benefits may
19 include reducing transportation costs, increasing detainee access to services,
20 reducing case resolution time, and determining if the program can be replicated
21 statewide.

1 (c) ~~The WCSO shall work with the Crime Research Group (CRG) for~~
2 ~~design and evaluation assistance. The program shall be evaluated by CRG to~~
3 ~~determine if the stated goals have been attained, the cost and savings of the~~
4 ~~program, identifying what goals or objective were not met and if not, what~~
5 ~~could be changed to meet the goals and objectives to ensure program success.~~
6 ~~The Joint Fiscal Office shall contract with the CRG to provide design and~~
7 ~~evaluation services.~~

8 (1) The WCSO is authorized to enter into written agreements with the
9 sheriffs of other counties permitting those counties to participate in the pilot
10 program subject to the rules policies and procedures established by the WCSO
11 under this section. At least one of the agreements shall be between the WCSO
12 and a county with a significant population.

13 (2) The purpose of expanding the electronic monitoring program to other
14 counties under this subsection is to increase the number of participants to a
15 level sufficient to permit evaluation of whether the program is meeting the bed
16 savings and other goals identified in subsection (b) of this section.

17 (d) The Department of Corrections shall enter into a memorandum of
18 understanding with the Department of State's Attorneys and Sheriffs for
19 oversight and funding of the electronic monitoring program established by this
20 section. The memorandum shall establish processes for

1 (1) transmitting funding for the electronic monitoring program from the
2 Department of Corrections to the Department of State’s Attorneys and Sheriffs
3 for purposes of allocation to the sheriff’s departments participating in the
4 program; and

5 (2) maintaining oversight of the electronic monitoring program to ensure
6 that it complies with the requirements of this section and the policies and
7 procedures established by the WCSO pursuant to subdivision (a)(3) of this
8 section.

9 ~~(d)~~(e) The pilot program shall be in effect from ~~July 1, 2014 through June~~
10 ~~30, 2016~~ July 1, 2016 through June 30, 2018.

11 Sec. 4. 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. 5. APPLICABILITY**

5 A defendant participating in an electronic monitoring program established
6 under 13 V.S.A. § 7554d prior to July 1, 2016 shall not have his or her
7 participation in the program withdrawn or affected as a result of this act.

8 **Sec. 6. REPORT**

9 On or before December 15, The Windham County Sheriff's Office shall
10 report to the House and Senate Committees on Government Operations and
11 Judiciary on the electronic monitoring program established under 13 V.S.A.
12 § 7554d. The report shall include the numbers of program participants, the
13 costs of the program, the offense with which each participant is charged, and
14 the manner in which the program creates budgetary savings, including whether
15 and how the program makes correctional facility bed space available that
16 would otherwise be occupied by detainees and inmates in the program.

17 **Sec. 7. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE; 2016**
18 **LEGISLATIVE INTERIM; GENDER-BASED DISPARITIES IN**
19 **DETENTION AND SENTENCING**

20 During the 2016 legislative interim, the Joint Legislative Justice Oversight
21 Committee shall evaluate disparities in sentencing and detainment by gender,

1 including the average duration of detention for men and women, and the
2 percentage of sentences or detainments imposed for listed crimes and nonlisted
3 crimes for men and women. The Committee also shall investigate whether the
4 primary drivers for detention, such as lack of housing, substance abuse, and
5 risk assessment results, differ for men and women.

6 Sec. 8. EFFECTIVE DATES

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

8

9 (Committee vote: _____)

10

11

Representative _____

12

FOR THE COMMITTEE