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All HCI Corrections Bills

TITLE 13

H.769: An act relating to strategies to reduce the incarcerated population

[H.769] Sec. X. 13 V.S.A. § 5512 is added to read:

§ 5512. ARREST WARRANT FOR NONVIOLENT MISDEMEANOR

(a) If a law enforcement officer has probable cause to believe a person has committed or is committing a nonviolent misdemeanor, the officer may issue a citation to appear before a judicial officer. The officer shall not arrest the person for a nonviolent misdemeanor unless other circumstances exist under which the officer has authority to arrest the person. This subsection shall apply whether the suspected criminal conduct occurs in the presence of the officer or outside the presence of the officer.

(b) A law enforcement officer shall execute an arrest warrant only during the operating hours of the issuing court if the alleged offense that is the basis of the warrant is a nonviolent misdemeanor.

(c) “Nonviolent misdemeanor” shall have the same meaning as provided in 28 V.S.A. § 301.

H.534: An act relating to home detention and home confinement

furlough

[H.534] Sec. X. 13 V.S.A. § 7554b is amended to read:

§ 7554b. HOME DETENTION PROGRAM

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

2 (1) ~~“home~~ Home detention” means a program of ~~confinement~~ pretrial
3 detention and supervision that restricts a defendant to a preapproved residence
4 continuously, except for authorized absences, and is enforced by appropriate
5 means of surveillance and electronic monitoring by the Department of
6 Corrections. ~~The Court may authorize scheduled absences such as work,~~
7 ~~school, or treatment. Any changes in the schedule shall be solely at the~~
8 ~~discretion of the Department of Corrections.~~ A defendant who is on home
9 detention shall remain in the custody of the Commissioner of Corrections with
10 conditions set by the ~~Court~~ court.

11 (2) “Listed crime” shall have the same meaning as provided in section
12 5301 of this title.

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

1 appropriate for home detention. In making such a determination, the Court
2 shall consider:

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

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

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

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

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

1 authorize additional absences and may reschedule court-authorized absences
2 only after providing 72 hours' advance notice to the State's Attorney's or
3 Attorney General's Victim Advocate of the changes. The Department of
4 Corrections' rescheduling authority is limited to the day of the week and time
5 of day of the absence, and does not extend to modification or expansion of the
6 duration, purpose, location, or frequency of the absence. Only medical
7 emergencies are exempted from the notification requirements of this
8 subdivision.

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

13 **H.623. An act related to compassionate release and parole eligibility**

14 **[H.623]** Sec. X. 13 V.S.A. chapter 221, subchapter 5 is added to read:

15 Subchapter 5. Petition for Compassionate Release

16 § 7141. PETITION

17 An inmate who is serving a sentence of incarceration in the custody of the
18 Commissioner of Corrections may petition the Superior Court of the county
19 where the sentence was imposed for an order granting compassionate release.
20 The petition may be informal, but shall be in writing, and shall include the
21 inmate's name, offense, date of sentencing, sentence, and an explanation of

1 why compassionate release is appropriate for the inmate and how the inmate
2 satisfies the factors set forth in section 7142 of this subchapter. The inmate
3 shall serve a copy of his or her petition upon the superintendent of the facility
4 in which he or she is incarcerated.

5 § 7142. NOTICE, HEARING, AND DECISION

6 (a) Unless the petition and the files and records of the case conclusively
7 show that the inmate is not entitled to relief, the court shall cause notice to be
8 served upon the Office of the Attorney General and the State’s Attorney. The
9 Office of the Attorney General and a State’s Attorney who receive notice may
10 elect to appear as parties.

11 (b) The court may decide the petition upon the files and records of the case
12 or may grant a hearing. If the court grants a hearing, the court may entertain
13 and decide the petition without requiring the inmate to attend the hearing.

14 (c) The court shall grant the petition if it finds by a preponderance of the
15 evidence that:

16 (1) the inmate:

17 (A) has been diagnosed with a terminal, incurable disease and has a
18 life expectancy of 18 months or less;

19 (B) has been diagnosed with an incurable and progressive illness or
20 has suffered a debilitating injury and:

1 (i) cannot care for himself or herself and is confined to a bed or
2 chair; or

3 (ii) can only care for himself or herself on a limited basis and is
4 confined to a bed or chair for at least 50 percent of his or her waking hours; or

5 (C) is 65 years of age or older and:

6 (i) suffers from a chronic or serious medical condition; or

7 (ii) is experiencing deteriorating mental or physical health that
8 diminishes his or her ability to function in a correctional facility;

9 (2) the inmate is not a danger to the community and his or her release
10 will not endanger public safety; and

11 (3) compassionate release is appropriate.

12 (d) If the court grants the petition, it may reduce the term of imprisonment
13 and may impose a term of probation or supervised release with or without
14 conditions that does not exceed the original term of imprisonment.

15 § 7143. APPEALS

16 An appeal may be taken to the Supreme Court from the order entered on the
17 petition.

18 § 7144. ASSIGNMENT OF COUNSEL

19 The court may appoint counsel if, financially, the inmate is unable to
20 employ counsel, and may order that all necessary costs and expenses, including
21 court costs, stenographic services, printing, and reasonable compensation for

1 legal services, be paid by the State from the appropriation to the court where
2 the sentence was imposed. On appeal, the Supreme Court may make a similar
3 order.

4 **TITLE 28**

5 **ADMINISTRATION OF THE DEPARTMENT**

6 **[H.769]** Sec. X. 28 V.S.A. § 105(d) is amended to read:

7 (d) The ~~department~~ Department shall establish the following caseload
8 ranges for offender profiles:

9 (1) All ~~listed~~ offenders ~~requiring~~ requiring serving a sentence for a listed crime as
10 defined in 13 V.S.A. § 5301 who require risk management shall be supervised
11 at no more than 45 offenders per corrections officer.

12 (2) All nonlisted offenders requiring risk management shall be
13 supervised at no more than 60 offenders per corrections officer.

14 (3) All offenders requiring response supervision ~~shall~~ may be supervised
15 ~~at no more than 150 offenders per corrections officer.~~

16 ~~(4) All offenders requiring administrative supervision may be supervised~~
17 on caseloads consistent with the capacity of automated status reporting systems
18 as established by the ~~department~~ Department.

19 ~~(5)~~(4) When there is a mixed profile caseload in which a single
20 corrections officer supervises offenders with different supervision levels and at
21 least one-third of the offenders require a more intensive supervision demand

1 than the other offenders, the caseload shall be supervised at the lowest level of
2 offender-to-staff ratio.

3 **PROBATION**

4 **H.740. An act relating to technical revisions to probation**

5 **[H.740]** Sec. X. 28 V.S.A. chapter 5, subchapter 1 is amended to read:

6 Subchapter 1. General Provisions

7 § 201. DEFINITIONS

8 ~~Whenever~~ As used in this chapter, unless a different meaning plainly is
9 required:

10 ~~“Probation”~~ “probation” means a procedure under which a respondent,
11 found guilty of a crime upon verdict or plea, is released by the court, without
12 confinement, subject to conditions imposed by the court and subject to the
13 supervision of the ~~commissioner~~ Commissioner.

14 § 202. POWERS AND RESPONSIBILITIES OF THE COMMISSIONER

15 REGARDING PROBATION

16 The ~~commissioner~~ Commissioner shall be charged with the following
17 powers and responsibilities regarding the administration of probation:

18 (1) To maintain general supervision of persons placed on probation, and
19 to prescribe ~~rules~~ conditions, consistent with any orders of the court, governing
20 the conduct of such persons;

1 (2) To supervise the administration of probation services and establish
2 policies and standards and ~~make~~ adopt rules regarding probation investigation,
3 supervision, ~~case work~~ casework and ~~case loads~~ caseloads, record keeping, and
4 the qualification of probation officers;

5 (3) To use electronic monitoring equipment such as global position
6 monitoring, automated voice recognition telephone equipment, and
7 transdermal alcohol monitoring equipment to enable more effective or efficient
8 supervision of individuals placed on probation. Transdermal alcohol
9 monitoring equipment shall be used for such purposes as discouraging persons
10 whose licenses have been suspended for DUI from operating motor vehicles on
11 Vermont highways.

12 § 203. PROBATION WARRANT

13 (a) Whenever a probationer is placed in the custody of the ~~commissioner~~
14 Commissioner, the court shall furnish the ~~commissioner~~ Commissioner with a
15 warrant setting forth the name of the probationer, the nature of the crime of
16 which he or she was convicted, the date and place of trial and sentence, the
17 sentence imposed, the order of the court committing ~~him or her~~ the probationer
18 to the charge of the ~~commissioner~~ Commissioner, and the conditions of his or
19 her release.

1 (b) The warrant shall be full authority for the exercise by the ~~commissioner~~
2 Commissioner of all the rights and powers over and in relation to the
3 probationer prescribed by law and by the order of the court.

4 (c) The warrant shall be sufficient authority for the apprehension and
5 detention of the probationer by the ~~commissioner~~ Commissioner or by any
6 officer acting under his or her direction at any time or place.

7 § 204. ~~SUBMISSION OF WRITTEN REPORT~~ PRESENTENCE

8 INVESTIGATION AND REPORT; PROTECTION OF RECORDS

9 (a) A court, before which a person is being prosecuted for any crime, may
10 in its discretion order the Commissioner to submit a written report as to the
11 circumstances of the alleged offense and the character and previous criminal
12 history record of the person, with recommendation. If the presentence report is
13 being prepared in connection with a person's conviction for a sex offense that
14 requires registration pursuant to 13 V.S.A. chapter 167, subchapter 3, the
15 Commissioner shall obtain information pertaining to the person's juvenile
16 record, if any, in accordance with 33 V.S.A. §§ 5117 and 5119(f)(6), and any
17 deferred sentences received for a registrable sex offense in accordance with
18 13 V.S.A. § 7041(h), and include such information in the presentence report.

19 (b) The court shall order ~~such a report to be made before~~ a presentence
20 investigation and report prior to imposing a sentence when the ~~respondent~~
21 person is adjudged guilty of a felony, except as otherwise provided by ~~rules of~~

1 ~~the Supreme Court~~ the Vermont Rules of Criminal Procedure. If ~~the report has~~
2 ~~been made to any court within the State~~ a presentence investigation and report
3 has been conducted on the person within ~~a period of~~ the previous two years
4 ~~with reference to such individual, in connection with the same or another~~
5 offense, submission of a copy of that report may fulfill the requirements of this
6 section, ~~if the court to which the report is to be submitted approves upon~~
7 approval of the court. Upon request, the Commissioner shall furnish ~~a State's~~
8 ~~Attorney~~ the prosecutor with a copy of any report made within the State once
9 sentence has been passed in connection with the offense for which the report
10 was made.

11 (c) The report ordered by the court under this section or section 204a of this
12 title shall be made not less than one week nor more than three weeks from the
13 date of the order. This ~~three-week~~ three-week limit may be extended by order
14 of the court.

15 (d) Any presentence report, preparole report, or supervision history related
16 to probation and parole prepared by any employee of the Department in the
17 discharge of the employee's official duty, except as provided in subsection (b)
18 of this section, subdivision 204a(b)(5) and section 205 of this title, is
19 confidential and shall not be disclosed to anyone outside the Department other
20 than the judge or the Parole Board, except that the court or Board may in its
21 discretion permit the inspection of the report or parts thereof by the State's

1 Attorney, the defendant or inmate, or his or her attorney, or other persons
2 having a proper interest therein, whenever the best interest or welfare of the
3 defendant or inmate makes that action desirable or helpful. Nothing in this
4 section shall prohibit the Department for Children and Families from accessing
5 the supervision history of probationers or parolees for the purpose of child
6 protection.

7 (e) The presentence report ordered by the court under this section or section
8 204a of this title shall include the comments or written statement of the victim,
9 or the victim’s guardian or next of kin if the victim is incompetent or deceased,
10 whenever the victim or the victim’s guardian or next of kin choose to submit
11 comments or a written statement.

12 (f) Except as otherwise provided by law, reports and records subject to this
13 section may be inspected, pursuant to a court order issued ex parte, by a State
14 or federal prosecutor as part of a criminal investigation if the court finds that
15 the records may be relevant to the investigation. The information in the files
16 may be used for any lawful purpose but shall not otherwise be made public.

17 * * *

18 § 205. PROBATION

19 (a)(1) After passing sentence, a court may suspend all or part of the
20 sentence and place the person so sentenced in the care and custody of the

1 Commissioner upon such conditions and for such time as it may prescribe in
2 accordance with law or until further order of court.

3 (2) The term of probation for misdemeanors shall be for a specific term
4 not to exceed two years unless the Court, in its sole discretion, specifically
5 finds that the interests of justice require a longer or an indefinite period of
6 probation.

7 (3)(A) The term of probation for nonviolent felonies shall not exceed
8 four years or the statutory maximum term of imprisonment for the offense,
9 whichever is less, unless the Court, in its sole discretion, specifically finds that
10 the interests of justice require a longer or an indefinite period of probation.

11 (B) As used in this subdivision, "nonviolent felonies" means an
12 offense which is not:

13 (i) a listed crime as defined in 13 V.S.A. § 5301(7); or

14 (ii) an offense involving sexual exploitation of children in violation
15 of 13 V.S.A. chapter 64.

16 (4) Nothing in this subsection shall prevent the Court from terminating
17 the period of probation and discharging a person pursuant to section 251 of this
18 title.

19 (5) The probation officer of a person on probation for a specific term
20 shall review the person's case file during probation and, not less than 45 days
21 prior to the expiration of the probation term, may file a petition with the Court

1 requesting the Court to extend the period of probation for a specific term not to
2 exceed one year in order to provide the person the opportunity to complete
3 programming consistent with special conditions of probation. A hearing on the
4 petition for an extension of probation under this subsection shall comply with
5 the procedures set forth in Rule 32.1 of the Vermont Rules of Criminal
6 Procedure.

7 (b) The victim of a listed crime as defined in 13 V.S.A. § 5301(7) for which
8 the offender has been placed on probation shall have the right to request, and
9 receive from the Department of Corrections information regarding the
10 offender's general compliance with the specific conditions of probation.
11 Nothing in this section shall require the Department of Corrections to disclose
12 any confidential information revealed by the offender in connection with
13 participation in a treatment program.

14 (c)(1) Unless the Court in its discretion finds that the interests of justice
15 require additional standard and special conditions of probation, when the Court
16 orders a specific term of probation for a qualifying offense, the offender shall
17 be placed on administrative probation, which means that the only conditions of
18 probation shall be that the probationer:

19 (A) register with the Department of Corrections' probation and parole
20 office in his or her district;

1 (B) notify the probation officer of his or her current address each
2 month;

3 (C) within 72 hours, notify the Department of Corrections if probable
4 cause is found for a criminal offense during the term of probation; and

5 (D) not be convicted of a criminal offense during the term of
6 probation.

7 (2) As used in this subsection, "qualifying offense" means:

8 (A) Unlawful mischief under 13 V.S.A. § 3701.

9 (B) Retail theft under 13 V.S.A. §§ 2575 and 2577.

10 (C) Operating after suspension or revocation of license under 23
11 V.S.A. § 674(a).

12 (D) Bad checks under 13 V.S.A. § 2022.

13 (E) Theft of services under 13 V.S.A. § 2582.

14 (F) Disorderly conduct under 13 V.S.A. § 1026, unless the original
15 charge was a listed offense as defined in 13 V.S.A. § 5301(7).

16 (G) Theft of rented property under 13 V.S.A. § 2591.

17 (H) Operation without consent of owner under 23 V.S.A. § 1094(a).

18 (I) Petit larceny under 13 V.S.A. § 2502.

19 (J) Negligent operation of a motor vehicle under 23 V.S.A. § 1091(a).

20 (K) False reports to law enforcement under 13 V.S.A. § 1754.

21 (L) Setting fires under 13 V.S.A. § 508.

1 (M) A first offense of a minor's misrepresenting age, procuring,
2 possessing, or consuming liquors under 7 V.S.A. § 657.

3 (N) Simple assault by mutual consent under 13 V.S.A. § 1023(b)
4 unless the original charge was a listed offense as defined in 13 V.S.A. §
5 5301(7).

6 (O) Unlawful trespass under 13 V.S.A. § 3705(a).

7 (P) A first offense of possession under 18 V.S.A. § 4230(a)(1).

8 (3) Nothing in this subsection shall prohibit a court from requiring
9 participation in the restorative justice program established in chapter 12 of this
10 title.

11 § 206. EXPENSES OF PROBATIONER

12 When a person is placed on probation, ~~the commissioner~~ Commissioner
13 may expend such sums as deemed necessary for the temporary support of the
14 person, his or her traveling expenses, or other purposes consistent with the
15 policies of the ~~department~~ Department regarding probationers.

16 § 207. FINAL JUDGMENT

17 Notwithstanding the fact that a sentence to probation can subsequently be
18 modified or revoked in accordance with subchapters 2 and 3 of this chapter, a
19 judgment which includes such a sentence shall constitute a final judgment for
20 all other purposes.

21 * * *

1 [H.740] Sec. X. REDESIGNATION

2 13 V.S.A. §§ 204a and 204b are redesignated 18 V.S.A. §§ 7046 and 7047.

3 [H.769] Sec. X. 28 V.S.A. § 205 is amended to read:

4 § 205. PROBATION

5 (a)(1) After passing sentence, a court may suspend all or part of the
6 sentence and place the person so sentenced in the care and custody of the
7 Commissioner upon such conditions and for such time as it may prescribe in
8 accordance with law or until further order of court.

9 (2) The term of probation for misdemeanors shall be for a specific term
10 not to exceed two years unless the Court, in its sole discretion, specifically
11 finds that the interests of justice require a longer or an indefinite period of
12 probation.

13 (3)(A) The term of probation for nonviolent felonies shall not exceed
14 four years or the statutory maximum term of imprisonment for the offense,
15 whichever is less, unless the Court, in its sole discretion, specifically finds that
16 the interests of justice require a longer or an indefinite period of probation.

17 (B) As used in this subdivision, “nonviolent felonies” means an
18 offense which is not:

19 (i) a listed crime as defined in 13 V.S.A. § 5301(7); or

20 (ii) an offense involving sexual exploitation of children in
21 violation of 13 V.S.A. chapter 64.

1 (4) Nothing in this subsection shall prevent the Court from terminating
2 the period of probation and discharging a person pursuant to section 251 of this
3 title.

4 (5) The probation officer of a person on probation for a specific term
5 shall review the person’s case file during probation and, not less than 45 days
6 prior to the expiration of the probation term, may file a petition with the Court
7 requesting the Court to extend the period of probation for a specific term not to
8 exceed one year in order to provide the person the opportunity to complete
9 programming consistent with special conditions of probation. A hearing on the
10 petition for an extension of probation under this subsection shall comply with
11 the procedures set forth in Rule 32.1 of the Vermont Rules of Criminal
12 Procedure.

13 (b) The victim of a listed crime as defined in 13 V.S.A. § 5301(7) for
14 which the offender has been placed on probation shall have the right to request,
15 and receive from the Department of Corrections information regarding the
16 offender’s general compliance with the specific conditions of probation.
17 Nothing in this section shall require the Department of Corrections to disclose
18 any confidential information revealed by the offender in connection with
19 participation in a treatment program.

20 (c)(1) ~~Unless the Court in its discretion finds that the interests of justice~~
21 ~~require additional standard and special conditions of probation, when the Court~~

1 ~~orders a specific term of probation for a qualifying offense nonviolent~~
2 ~~misdemeanor, the offender shall be placed on administrative probation, which~~
3 ~~means that the only conditions of~~ After sentencing, the Department may place
4 a nonviolent misdemeanor offender on administrative probation provided that
5 the offender poses a low risk of reoffense and such placement would not
6 compromise victim safety. The only conditions of administrative probation
7 shall be that the probationer:

8 (A) register with the Department of Corrections' probation and
9 parole office in his or her district;

10 (B) notify the probation officer of his or her current address each
11 month;

12 (C) within 72 hours, notify the Department of Corrections if probable
13 cause is found for a criminal offense during the term of probation; and

14 (D) not be convicted of a criminal offense during the term of
15 probation.

16 (2) As used in this subsection, ~~“qualifying offense”~~ “nonviolent
17 misdemeanor” means: a misdemeanor offense which is not a listed crime as
18 defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of
19 children in violation of 13 V.S.A. chapter 64 or 13 V.S.A. § 1030.

20 ~~(A) Unlawful mischief under 13 V.S.A. § 3701.~~

21 ~~(B) Retail theft under 13 V.S.A. §§ 2575 and 2577.~~

- 1 ~~(C) Operating after suspension or revocation of license under~~
2 ~~23 V.S.A. § 674(a).~~
- 3 ~~(D) Bad checks under 13 V.S.A. § 2022.~~
- 4 ~~(E) Theft of services under 13 V.S.A. § 2582.~~
- 5 ~~(F) Disorderly conduct under 13 V.S.A. § 1026, unless the original~~
6 ~~charge was a listed offense as defined in 13 V.S.A. § 5301(7).~~
- 7 ~~(G) Theft of rented property under 13 V.S.A. § 2591.~~
- 8 ~~(H) Operation without consent of owner under 23 V.S.A. § 1094(a).~~
- 9 ~~(I) Petit larceny under 13 V.S.A. § 2502.~~
- 10 ~~(J) Negligent operation of a motor vehicle under 23 V.S.A.~~
11 ~~§ 1091(a).~~
- 12 ~~(K) False reports to law enforcement under 13 V.S.A. § 1754.~~
- 13 ~~(L) Setting fires under 13 V.S.A. § 508.~~
- 14 ~~(M) A first offense of a minor's misrepresenting age, procuring,~~
15 ~~possessing, or consuming liquors under 7 V.S.A. § 657.~~
- 16 ~~(N) Simple assault by mutual consent under 13 V.S.A. § 1023(b)~~
17 ~~unless the original charge was a listed offense as defined in 13 V.S.A.~~
18 ~~§ 5301(7).~~
- 19 ~~(O) Unlawful trespass under 13 V.S.A. § 3705(a).~~
- 20 ~~(P) A first offense of possession under 18 V.S.A. § 4230(a)(1).~~

1 (3) Nothing in this subsection shall prohibit a court from requiring
2 participation in the restorative justice program established in chapter 12 of
3 this title.

4 **H.617: An act relating to probation, parole, and furlough conditions**

5 **[H.617]** Sec. X. 28 V.S.A. § 252 is amended to read:

6 § 252. CONDITIONS OF PROBATION

7 (a) The conditions of probation shall be such as the Court in its discretion
8 deems reasonably necessary to ensure that the offender will lead a law-abiding
9 life or to assist the offender to do so. The Court shall provide as an explicit
10 condition of every sentence to probation that if the offender is convicted of
11 another offense during the period for which the sentence remains subject to
12 revocation, then the Court may impose revocation of the offender's probation.

13 (b) When imposing a sentence of probation, the Court may, as a condition
14 of probation, require that the offender:

15 * * *

16 (18) Satisfy any other conditions reasonably related to his or her
17 rehabilitation. ~~Such conditions may include prohibiting the use of alcohol,~~
18 ~~prohibiting having contact with minors, prohibiting or limiting the use of a~~
19 ~~computer or other electronic devices, and permitting a probation officer access~~
20 ~~to all computers or other digital or electronic media, mail covers, subscription~~
21 ~~services, and credit card statements.~~ The Court shall not impose a condition

1 prohibiting the offender from engaging in any legal behavior unless the
2 condition is ~~reasonably related to the offender's rehabilitation or~~ substantially
3 necessary to reduce risk to ~~public~~ the safety of a victim or witness.

4 * * *

5 **[H.617]** Sec. X. 28 V.S.A. § 301 is amended to read:

6 § 301. SUMMONS OR ARREST OF PROBATIONER

7 At any time before the discharge of the probationer or the termination of the
8 period of probation:

9 (1) The Court may summon the probationer to appear before it or may
10 issue a warrant for his or her arrest if the probationer has violated a condition
11 of his or her probation by committing a new crime.

12 (2) Arrest of person on probation. Any correctional officer may arrest a
13 probationer without a warrant if, in the judgment of the correctional officer, the
14 probationer has violated a condition ~~or conditions~~ of his or her probation ~~other~~
15 ~~than a condition that the probationer pay restitution~~ by committing a new
16 crime; or may deputize any other law enforcement officer to arrest a
17 probationer without a warrant by giving him or her a written statement setting
18 forth that the probationer has, in the judgment of the correctional officer,
19 violated a condition ~~or conditions~~ of his or her probation ~~other than a condition~~
20 ~~that the probationer pay restitution~~ by committing a new crime. The written
21 statement delivered with the person by the arresting officer to the supervising

1 officer of the correctional facility to which the person is brought for detention
2 shall be sufficient warrant for detaining him or her.

3 (3) No right of action. Any probationer arrested and detained in
4 accordance with the provisions of this chapter shall have no right of action
5 against any law enforcement officer, correctional officer, employee of the
6 Department of Corrections, or any other persons because of such arrest and
7 detention.

8 (4) Detention pending hearing for probationer. Pending arraignment for
9 any charge of violation, the probationer shall continue to be detained at a
10 correctional facility. Thereafter, the Court may release the probationer
11 pursuant to 13 V.S.A. § 7554. ~~There shall be no right to bail or release, unless~~
12 ~~the person is on probation for a nonviolent misdemeanor or nonviolent felony~~
13 ~~and the probation violation did not constitute a new crime~~ There shall be a
14 right to bail only if the person is on probation for a nonviolent misdemeanor or
15 nonviolent felony and the new crime alleged is also a nonviolent misdemeanor
16 or nonviolent felony. As used in this subdivision:

17 (A) “Nonviolent felony” means a felony offense which is not a listed
18 crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual
19 exploitation of children in violation of 13 V.S.A. chapter 64.

20 (B) “Nonviolent misdemeanor” means a misdemeanor offense which
21 is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving

1 sexual exploitation of children in violation of 13 V.S.A. chapter 64 or
2 13 V.S.A. § 1030.

3 **[H.617]** Sec. X. 28 V.S.A. § 303 is amended to read:

4 § 303. GROUNDS FOR REVOCATION

5 (a) Probation shall not be revoked unless the probationer ~~violates a~~
6 ~~condition of his or her probation or is convicted of another~~ commits a new
7 ~~crime. The violation or conviction~~ A finding of probable cause by the court
8 regarding the new crime shall be both a necessary and a sufficient ground for
9 the revocation of probation.

10 (b) The court shall not revoke probation and order the confinement of the
11 probationer unless the court finds on the basis of the original offense and the
12 intervening conduct of the probationer that:

13 (1) ~~Confinement~~ confinement is necessary to protect the community
14 from further criminal activity by the probationer; or

15 (2) ~~The~~ the probationer is in need of correctional treatment which can
16 most effectively be provided if he or she is confined; or

17 (3) ~~It~~ it would unduly depreciate the seriousness of the ~~violation~~ new
18 crime if probation were not revoked.

19 **[H.623]** Sec. X. 28 V.S.A. § 501 is amended to read:

20 § 501. ELIGIBILITY FOR PAROLE CONSIDERATION

1 (a) An inmate who is serving a sentence of imprisonment shall be eligible
2 for parole ~~consideration~~ as follows:

3 (1) If the inmate's sentence has no minimum term or a zero minimum
4 term, the inmate shall be eligible for parole consideration within 12 months
5 after commitment to a correctional facility.

6 (2) If the inmate's sentence has a minimum term, the inmate shall be
7 ~~eligible for parole consideration~~ paroled after the inmate has served the
8 minimum term of the sentence unless the inmate has programming
9 requirements that have not been fulfilled or has received a major disciplinary
10 report within the previous 12 months.

11 (3) If the inmate has a serious medical condition that requires regular
12 hospital visits and the inmate is designated low-risk, the inmate shall be
13 eligible for parole.

14 (4) If the inmate is 55 years of age or older but under 65 years of age, is
15 designated low-risk, and has served ten years but not served the minimum of
16 the sentence, the inmate shall be paroled, unless the inmate has programming
17 requirements that have not been fulfilled or has received a major disciplinary
18 report within the previous 12 months.

19 (5) If the inmate is 65 years of age or older, has served five years but not
20 served the minimum term of the sentence, and is designated low-risk, the
21 inmate shall be paroled, unless the inmate has programming requirements that

1 have not been fulfilled or has received a major disciplinary report within the
2 previous 12 months.

3 (b) As used in this section, “major disciplinary report” includes violations
4 for violent acts or serious threats to institutional security or personal safety and
5 does not include drug possession.

6 [H.617] Sec. X. 28 V.S.A. § 502b is amended to read:

7 § 502b. TERMS AND CONDITIONS OF PAROLE

8 (a) When an inmate is paroled, the Parole Board shall establish terms and
9 conditions of parole that it deems reasonably necessary to ensure that the
10 inmate will lead a law-abiding life and that will assist the inmate to do so.
11 Such terms and conditions shall be set forth in the parolee’s parole agreement.
12 ~~Terms and conditions of parole shall be designed to protect the victim,~~
13 ~~potential victims, and the public, and to reduce the risk of reoffense. Such~~
14 ~~conditions may include prohibiting the use of alcohol; prohibiting having~~
15 ~~contact with minors; prohibiting or limiting the use of a computer or other~~
16 ~~electronic devices; permitting a probation officer access to all computers or~~
17 ~~other digital or electronic media, mail covers, subscription services, and credit~~
18 ~~card statements; and if a probation officer has reasonable grounds to believe~~
19 ~~the offender has violated a parole condition, permitting a probation officer to~~
20 ~~monitor or examine the offender’s activities, communications, and use of any~~
21 ~~computer or other digital or electronic device, including cell phone,~~

1 ~~smartphone, digital camera, digital video camera, digital music player or~~
2 ~~recorder, digital video player or recorder, personal digital assistant, portable~~
3 ~~electronic storage device, gaming system, or any other contemporary device~~
4 ~~capable of the storage of digital electronic communication or data storage or~~
5 ~~access to the Internet or other computer or digital network~~ The Board shall not
6 impose a condition prohibiting the offender from engaging in any legal
7 behavior unless the condition is substantially related to reduce risk to the safety
8 of a victim or witness.

9 (b) The Parole Board may require a parolee as a condition of parole to
10 participate, as a resident or nonresident, in programs at a treatment center for
11 all or part of the period of parole, provided that the Commissioner certifies that
12 adequate treatment facilities, personnel, and programs are available. If the
13 Commissioner determines that the person's residence in the center or
14 participation in its programs, or both, should be terminated because the person
15 can derive no further significant benefits from such residence or participation,
16 or both, or because his or her residence or participation adversely affects the
17 rehabilitation of other residents or participants, he or she shall so notify the
18 ~~Board of parole~~ Parole Board, which shall thereupon make such other
19 provision with respect to the person as it deems appropriate.

1 (c) A person residing in and participating in programs at a treatment center
2 shall abide by the rules and regulations of the center and may be required to
3 pay such costs incident to residents as the Commissioner deems appropriate.

4 **[H.617]** Sec. X. 28 V.S.A. § 551 is amended to read:

5 § 551. ISSUANCE OF WARRANT; ARREST WITHOUT A WARRANT;
6 CONFINEMENT PENDING HEARING; AUTHORITY OF
7 CORRECTIONAL OFFICERS AND LAW ENFORCEMENT
8 OFFICERS

9 (a) Parole ~~board~~ Board warrant. The ~~board~~ Board may issue a warrant for
10 the arrest of a parolee, or may issue an order, to be served personally upon the
11 parolee, requiring him or her to appear before the ~~board~~ Board, if the ~~board~~
12 Board has reason to believe that a violation of parole that constitutes a new
13 crime has occurred. The warrant shall authorize any law enforcement officers
14 and any correctional officers to return the person to the custody of a
15 correctional facility.

16 (b) Fugitive from justice. A parolee for whose return a warrant has been
17 issued by the ~~board~~ Board, if it is found that a warrant cannot be served, shall
18 be considered to be a fugitive from justice or to have fled from justice.

19 (c) Arrest of person on parole. Any correctional officer designated by the
20 ~~commissioner~~ Commissioner may arrest a parolee without a warrant if, in the
21 judgment of the correctional officer, the person has violated a condition of his

1 or her parole by committing a new crime; or may deputize any other law
2 enforcement officer to do so by giving him or her a written statement setting
3 forth that the parolee has, in the judgment of the correctional officer, violated a
4 condition or conditions of his or her parole by committing a new crime. The
5 written statement delivered with the person by the arresting officer to the
6 supervising officer of the correctional facility to which the person is brought
7 for detention shall be sufficient warrant for detaining him or her.

8 (d) No right of action. Any parolee arrested and detained in accordance
9 with the provisions of this chapter shall have no right of action against any law
10 enforcement officer, correctional officer, employee of the ~~department of~~
11 ~~corrections~~ Department of Corrections, or any other persons because of such
12 arrest and detention.

13 (e) Detention pending hearing for parolee. Pending a hearing on the merits
14 upon any charge of violation, the parolee shall continue to be detained at a
15 correctional facility. The ~~parole board~~ Parole Board may authorize the
16 parolee's release from detention in accordance with the procedures set forth in
17 ~~section 13 V.S.A. § 7554 of Title 13. For the purposes of~~ As used in this
18 section, judicial officer, as defined in ~~section 13 V.S.A. § 7554(f) of Title 13,~~
19 shall include the ~~chair~~ Chair of the ~~parole board,~~ Parole Board or his or her
20 designee. There shall be no right to bail or release if the alleged violation is a
21 new crime.

1 [H.617] Sec. X. 28 V.S.A. § 552 is amended to read:

2 § 552. NOTIFICATION OF BOARD; HEARING

3 (a) Upon the arrest and detention of a parolee, the parole officer shall notify
4 the ~~board~~ Board immediately and shall submit in writing a report describing
5 the alleged violation of a condition or conditions of the inmate's parole.

6 (b) Upon receipt of the notification, or upon an arrest by warrant in
7 accordance with the provisions of section 551 of this title, the ~~board~~ Board
8 shall cause the inmate together with a parole officer to be brought before it
9 promptly for a hearing regarding the alleged violation. Parole officers may be
10 represented by legal counsel, which shall be provided by the appropriate ~~state's~~
11 ~~attorney~~ State's Attorney or the ~~attorney general~~ Attorney General upon
12 request, at hearings of the ~~parole board~~ Board.

13 (1) The hearing shall be conducted in accordance with such rules and
14 regulations as the ~~board~~ Board may adopt.

15 (2) If the alleged violation is established by ~~substantial~~ clear and
16 convincing evidence, the ~~board~~ Board may continue or revoke the parole, or
17 enter such other order as it determines to be necessary or desirable.

18 (c) In the event of the withdrawal of any warrant by the authority of the
19 ~~board~~ Board, or in the event that the ~~board~~ Board at the hearing on the alleged
20 violation finds that the parolee did not violate any condition of his or her

1 parole, or the law, the parolee shall be credited with any time lost by the
2 interruption of the running of his or her sentence.

3 **H.768. An act relating to prohibiting contracts with for profit**
4 **correctional facilities**

5 Sec. 1. FINDINGS

6 The General Assembly finds that the management and operation of a
7 correctional facility involves functions that are inherently governmental. It
8 further finds that issues of liability, accountability, and cost warrant a
9 prohibition of the ownership, operation, or management of correctional
10 facilities by for-profit private contractors.

11 Sec. 2. 28 V.S.A. § 602 is added to read:

12 § 602. CONTRACTS PROHIBITED

13 (a) On or after July 1, 2018, the State shall not contract with a for-profit
14 contractor or private vendor for the provision of services relating to the
15 operation of a correctional facility.

16 (b) This section shall not apply to:

17 (1) State work release centers or juvenile residential facilities that
18 provide separate care or special treatment centers operated in whole or part by
19 private contractors; or

20 (2) contracts for ancillary services, including medical services,
21 educational services, repair and maintenance contracts, or other services not

1 directly related to the ownership, management, or operation of security
2 services in a correctional facility.

3 Sec. 3. EFFECTIVE DATE

4 This act shall take effect on July 1, 2018.

5 **H.684. An act relating to residential treatment units within the**
6 **Department of Corrections**

7 **[H.684]** Sec. X. 28 V.S.A. § 701a is amended to read:

8 § 701a. SEGREGATION OF INMATES WITH A SERIOUS FUNCTIONAL
9 IMPAIRMENT

10 (a) The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25
11 regarding the classification, treatment, and segregation of an inmate with a
12 serious functional impairment as defined and identified under subchapter 6 of
13 this chapter; provided that the length of ~~stay in segregation for an inmate with~~
14 ~~a serious functional impairment:~~

15 ~~(1) Shall not exceed 15 days if the inmate is segregated for disciplinary~~
16 ~~reasons.~~

17 ~~(2) Shall not exceed 30 days if the inmate requested the segregation,~~
18 ~~except that the inmate may remain segregated for successive 30-day periods~~
19 ~~following assessment by a qualified mental health professional and approval of~~
20 ~~a physician for each extension.~~

1 ~~(3) Shall not exceed 30 days if the inmate is segregated for any reason~~
2 ~~other than the reasons set forth in subdivision (1) or (2) of this subsection,~~
3 ~~except that the inmate may remain segregated for successive 30-day periods~~
4 ~~following a due process hearing for each extension, which shall include~~
5 ~~assessment by a qualified mental health professional and approval of a~~
6 ~~physician~~ time an inmate with a serious functional impairment spends in
7 segregation shall not exceed one 24 hour period within any given seven day
8 period for any reason, including administrative segregation, disciplinary
9 segregation, and close custody.

10 (b) For purposes of this title, and despite other names this concept has been
11 given in the past or may be given in the future, “segregation” means a form of
12 separation from the general population which may or may not include
13 placement in a single occupancy cell and which is used for disciplinary,
14 administrative, or other reasons.

15 (c) On or before the 15th day of each month, the Department’s Health
16 Services Director shall provide to the Joint Legislative Corrections Justice
17 Oversight Committee a report that, while protecting inmate confidentiality,
18 lists each inmate who was in segregation during the preceding month by a
19 unique indicator and identifies the reason the inmate was placed in segregation,
20 the length of the inmate’s stay in segregation, whether the inmate has a serious
21 functional impairment. The report shall also indicate any incident of self harm

1 or attempted suicide by inmates in segregation. The Department shall ensure
2 that a copy of the report is forwarded to the Vermont Defender General and the
3 Executive Director of Vermont Protection and Advocacy, Inc. on a monthly
4 basis. At the request of the Committee, the Director shall also provide
5 information about the nature of the functional impairments of inmates placed
6 in segregation or services provided to these inmates. In addition, at least
7 annually, the Department shall provide a report on all inmates placed in
8 segregation who were receiving mental health services.

9 **[H.684]** Sec. X. DEPARTMENT OF CORRECTIONS; RESIDENTIAL

10 TREATMENT UNIT; ALLOCATION OF FUNDING

11 (a) The General Assembly shall allocate sufficient funds to allow the
12 Commissioner of the Department of Corrections to create an additional
13 residential treatment unit to accommodate a minimum of 12 beds. The
14 residential treatment unit shall accommodate the needs of inmates identified as
15 seriously functionally impaired and requiring special placement or
16 consequences for inappropriate behavior as an alternative to segregation.

17 (b) The residential treatment unit beds shall:

18 (1) exist in a separate unit, staffed by mental health professionals and
19 specialty trained correctional officers;

20 (2) provide freedom of movement within the unit;

1 (a) The Department may extend the limits of the place of confinement of an
2 offender at any correctional facility if the offender agrees to comply with such
3 conditions of supervision the Department, in its sole discretion, deems
4 appropriate for that offender's furlough. The Department may authorize
5 furlough for any of the following reasons:

6 (1) To visit a critically ill relative.

7 (2) To attend the funeral of a relative.

8 (3) To obtain medical services.

9 (4) To contact prospective employers.

10 (5) To secure a suitable residence for use upon discharge.

11 (6) To continue the process of reintegration initiated in a correctional
12 facility. The offender may be placed in a program of conditional reentry status
13 by the Department upon the offender's completion of the minimum term of
14 sentence. While on conditional reentry status, the offender shall be required to
15 participate in programs and activities that hold the offender accountable to
16 victims and the community pursuant to section 2a of this title.

17 (b) An offender granted a furlough pursuant to this section may be
18 accompanied by an employee of the Department, in the discretion of the
19 Commissioner, during the period of the offender's furlough. The Department
20 may use electronic monitoring equipment such as global position monitoring,
21 automated voice recognition telephone equipment, and transdermal alcohol

1 monitoring equipment to enable more effective or efficient supervision of
2 individuals placed on furlough.

3 (c) The extension of the limits of the place of confinement authorized by
4 this section shall in no way be interpreted as a probation or parole of the
5 offender, but shall constitute solely a permitted extension of the limits of the
6 place of confinement for offenders committed to the custody of the
7 Commissioner.

8 (d) When any enforcement officer, as defined in 23 V.S.A. § 4, employee
9 of the Department, or correctional officer responsible for supervising an
10 offender believes the offender is in violation of any verbal or written condition
11 of the furlough, the officer or employee may immediately lodge the offender at
12 a correctional facility or orally or in writing deputize any law enforcement
13 officer or agency to arrest and lodge the offender at such a facility. The officer
14 or employee shall subsequently document the reason for taking such action.

15 (e) The Commissioner may place on medical furlough any offender who is
16 serving a sentence, including an offender who has not yet served the minimum
17 term of the sentence, who is diagnosed with a terminal or debilitating condition
18 so as to render the offender unlikely to be physically capable of presenting a
19 danger to society. The Commissioner shall develop a policy regarding the
20 application for, standards for eligibility of, and supervision of persons on
21 medical furlough. The offender may be released to a hospital, hospice, other

1 licensed inpatient facility, or other housing accommodation deemed suitable by
2 the Commissioner.

3 (f) While appropriate community housing is an important consideration in
4 release of offenders, the Department shall not use lack of housing as the sole
5 factor in denying furlough to offenders who have served at least their
6 minimum sentence for a nonviolent misdemeanor or nonviolent felony
7 provided that public safety and the best interests of the offender will be served
8 by reentering the community on furlough. The Department shall adopt rules to
9 implement this subsection.

10 (g) Subsections (b)–(f) of this section shall also apply to sections 808a,
11 808b, and 808c of this title.

12 **H.617. A act relating to probation, parole, and furlough conditions**

13 **[H.617]** Sec. X. 28 V.S.A. § 808 is amended to read:

14 § 808. FURLOUGHS GRANTED TO OFFENDERS

15 * * *

16 (d) When any enforcement officer, as defined in 23 V.S.A. § 4, employee
17 of the Department, or correctional officer responsible for supervising an
18 offender believes the offender is in violation of any ~~verbal or written~~ condition
19 of the furlough by committing a new crime, the officer or employee may
20 immediately lodge the offender at a correctional facility or orally or in writing
21 deputize any law enforcement officer or agency to arrest and lodge the

1 offender at such a facility. The officer or employee shall subsequently
2 document the reason for taking such action. The Department shall not impose
3 a condition prohibiting the offender from engaging in any legal behavior unless
4 the condition is substantially related to reduce risk to the safety of a victim or
5 witness.

6 * * *

7 (f) While appropriate community housing is an important consideration in
8 release of offenders, the Department shall not use lack of housing as the sole
9 factor in denying furlough to offenders ~~who have served at least their~~
10 ~~minimum sentence for a nonviolent misdemeanor or nonviolent felony~~
11 ~~provided that public safety and the best interests of the offender will be served~~
12 ~~by reentering the community on furlough.~~ The Department shall adopt rules to
13 implement this subsection.

14 * * *

15 **H.744. An act relating to process for responding to alleged furlough**

16 **violations**

17 **[H.744]** Sec. X. 28 V.S.A. § 808(d) is amended to read:

18 (d)(1) ~~When any enforcement officer, as defined in 23 V.S.A. § 4,~~
19 ~~employee of the Department, or correctional officer responsible for supervising~~
20 ~~an offender believes the offender is in violation of any verbal or written~~
21 ~~condition of the furlough, the officer or employee may immediately lodge the~~

1 ~~offender at a correctional facility or orally or in writing deputize any law~~
2 ~~enforcement officer or agency to arrest and lodge the offender at such a~~
3 ~~facility. The officer or employee shall subsequently document the reason for~~
4 ~~taking such action~~ If the Department believes an offender has violated a
5 condition of his or her furlough and that the offender poses an immediate threat
6 to public safety, the offender shall be returned to a correctional facility and
7 lodged pending a hearing on the alleged violation.

8 (2) An offender who is believed to have violated a condition of his or
9 her furlough, but who the Department believes does not pose an immediate
10 threat to public safety, shall not be returned to a correctional facility until there
11 has been a probable cause hearing before an administrative hearing officer.
12 The offender is entitled to at least 12 hours' advance written notice of the
13 hearing. The notice shall inform the offender of the purpose of the hearing and
14 the alleged violation. The offender may attend the hearing and present
15 evidence. If the hearing officer finds probable cause to believe the offender
16 has violated a conditions of his or her furlough, the Department may return the
17 offender to a correctional facility.

18 (3) An offender who is returned to a correctional facility pursuant to
19 subdivisions (1) or (2) of this subsection (d) shall be granted a classification
20 hearing before an administrative hearing officer within seven days to
21 determine whether furlough will be revoked or continued with or without

1 amendment or sanctions. The standard for determining whether the violation
2 occurred for purposes of this hearing shall be clear and convincing evidence.

3 Sec. 2. EFFECTIVE DATE

4 This act shall take effect on September 1, 2016.

5 [H.769] Sec. X. 28 V.S.A. § 808a is amended to read;

6 § 808a. TREATMENT FURLOUGH

7 ~~(a) An offender may be sentenced to serve a term of imprisonment, but~~
8 ~~placed by a court on treatment furlough to participate in such programs~~
9 ~~administered by the Department in the community that reduce the offender's~~
10 ~~risk to reoffend or that provide reparation to the community in the form of~~
11 ~~supervised work activities.~~

12 (b) Provided the approval of the sentencing judge is first obtained, the
13 Department may place on treatment furlough an offender who has not yet
14 served the minimum term of the sentence, who, in the Department's
15 determination, needs residential treatment services not available in a
16 correctional facility. The services may include treatment for substance abuse
17 or personal violence or any other condition that the Department has determined
18 should be addressed in order to reduce the offender's risk to reoffend or cause
19 harm to himself or herself or to others in the facility. The offender shall be
20 released only to a hospital or residential treatment facility that provides
21 services to the general population. The State's share of the cost of placement

1 in such a facility, net of any private or federal participation, shall be paid
2 pursuant to memoranda of agreement between and within State agencies
3 reflective of their shared responsibilities to maximize the efficient and
4 effective use of State resources. In the event that a memorandum of agreement
5 cannot be reached, the Secretary of Administration shall make a final
6 determination as to the manner in which costs will be allocated.

7 ~~(e)~~(b)(1) Except as provided in subdivision (2) of this subsection, the
8 Department, in its own discretion, may place on treatment furlough an offender
9 who has not yet served the minimum term of his or her sentence for an eligible
10 misdemeanor as defined in section 808d of this title if the Department has
11 made a determination based upon a risk assessment that the offender poses a
12 low risk to public safety or victim safety and that employing an alternative to
13 incarceration to hold the offender accountable is likely to reduce the risk of
14 recidivism.

15 (2) Driving under the influence of alcohol or drugs, second offense, as
16 defined in 23 V.S.A. §§ 1201 and 1210(c) and boating under the influence of
17 alcohol or drugs, second offense, as defined in 23 V.S.A. § 3323 shall be
18 considered eligible misdemeanors for the sole purpose of subdivision (1) of
19 this subsection.

20 [H.534] Sec. X. 28 V.S.A. § 808b is amended to read:

21 § 808b. HOME CONFINEMENT FURLOUGH

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

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

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

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

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

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

19 (1) ~~to remain at a preapproved residence at all times except for~~
20 ~~scheduled and preapproved absences for work, school, treatment, attorney~~

1 ~~appointments, court appearances, and other obligations as the Court may~~
2 ~~order; or~~

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

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

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

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

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

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

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

19 (i) remain at a preapproved residence at all times except for
20 scheduled and preapproved absences for work, school, treatment, attorney

1 appointments, court appearances, and other obligations as the court may
2 order; or

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

5 (B) In cases involving a defendant convicted of a listed crime and
6 confined to a preapproved residence in accordance with subdivision (a)(1)(A)
7 of this section, the court may approve authorized absences from the residence
8 only if such absences are clearly identified on the record with respect to the
9 day of the week, time of day, the purpose of the absence, the permissible
10 duration of the absence, the places that may be visited during the absence, and
11 the frequency with which the absence may recur. The absences may
12 commence no earlier than 24 hours following the issuance of the order. The
13 day the order is issued, the court shall provide an electronic copy of the order
14 to the State’s Attorney’s or Attorney General’s Victim Advocate. The
15 Department of Corrections shall not authorize additional absences and may
16 reschedule court-authorized absences only after providing 72 hours’ advance
17 notice of the changes to the State’s Attorney’s or Attorney General’s Victim
18 Advocate. The Department of Corrections’ rescheduling authority is limited to
19 the day of the week and time of day of the absence, and does not extend to
20 modification or expansion of the duration, purpose, location, or frequency of

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

3 (e) [Repealed.]

4 **[H.769]** Sec. X. 28 V.S.A. § 808e is added to read:

5 § 808e. PREAPPROVED FURLOUGH

6 (a) When recommended by the Department, the court may sentence an
7 offender to serve a term of imprisonment, but place the offender on
8 preapproved furlough to participate in programs in the community
9 administered by the Department that reduce the offender’s risk to reoffend.

10 (b) An offender who meets program requirements may be sentenced to
11 preapproved furlough to participate in a program that provides reparation to the
12 community in the form of supervised work activity.

13

14

15 (Committee vote: _____)

16

17

Representative _____

18

FOR THE COMMITTEE