



February 15, 2016

TO: Sen. Dick Sears, Chair
Sen. Joe Benning, Vice-Chair
Senate Judiciary

FROM: Auburn Watersong, Associate Director of Public Policy

RE: S.212 – Home detention and home confinement furlough

Dear Sen. Sears and Committee Members,

I regret that I am unable to testify in person regarding S. 212. Below please find comments on behalf of the Network expressing our concerns regarding draft 1.1, from 2/12/16.

Network advocates report that current home confinement and furlough arrangements for scheduled absences often fall short of all best intentions to maintain victim safety. Specific concerns related to the proposed bill are as follows:

- Inability to ensure timely and effective notice to victims of the offenders schedule and movements. In all cases victims need at least 72 hours notice in order to rearrange their own movements and schedules, which may also include safety planning and schedule changes with or for their children.
- Electronic monitoring done well is done in tandem with traditional supervision.
 - For example, when a domestic or sexual violence offender is ordered to have “no contact” with the victim, traditional supervision manages allows for checking of alternative communication with victim that cannot be tracked solely by GPS (telephone, email, letters)
 - Compliance with firearms relinquishment is best managed by in-person (rather than electronic) supervision.
 - In the event that electronic monitoring or supervision is inadequately resourced and staffed, victims remain the compliance monitor, the burden is theirs.
- In domestic violence cases, the setting of offenders’ schedules without victim input, forces victims to modify their whereabouts in response to offenders movements.
- Victim advocates report the following challenges with current attempts to electronically monitor perpetrators on home confinement:
 - no cell coverage in the most isolated areas (GPS technology often relies upon this technology);

- no 24/7 staff available to supervise and report violations; due to lack of weekend, 24/7 coverage – a Saturday morning violation may not be known to the victim until Monday, far too late to ensure victim safety;
- Sheriff's departments across Vermont vary widely in staffing, resources, and access to training and expertise. All county based programs should provide for risk assessment, victim notification, input, and safety coordination, collaboration with community providers, recidivism reduction, programming (drug/alcohol/mental illness, but also DV accountability).

Recommended changes to S.212

The Network respectfully suggests the following changes:

- Court authorized absences (p.3 of 9):

In all cases of court ordered absences, victims must be allowed to provide input within the hearing, prior to the court decision.

“The absences may commence no earlier than ~~24 hours~~ 72 hours following the issuance of the order. The day the order is issued, the court shall provide an electronic copy of the order to the State’s Attorney’s or Attorney General’s Victim Advocate.”

- Community-based electronic monitoring (p. 4 of 9):

“Community-based electronic monitoring’ means an integrated community detention program that provides 24-hours-a-day, seven-days-a-week electronic monitoring that restricts the defendant to a preapproved community continuously with supervision and immediate response by the Department of Corrections or sheriff’s office that is providing the electronic monitoring.”

- Procedure (p. 4 of 9)

provided that the Court finds placing the defendant on community-based electronic monitoring will reasonably assure his or her appearance in Court when required, and that notice be given to the victim or affected person as expeditiously as possible at the address or telephone number provided to the agency having custody of the defendant, and that the proposed community is an appropriate placement for the defendant.

- Failure to comply.

The sheriff’s office providing the electronic monitoring shall notify the Department of Corrections of any violations or failure to comply with any other condition imposed by the court and shall return the defendant to a correctional facility.

- Home confinement furlough (d)(2) (p. 7 of 9):

In cases involving offenders convicted of a listed crime, the court may approve authorized absences from the residence only if such absences are clearly identified on the record with respect to the day of the week, time of day, the purpose of the absence, the permissible duration of the absence, the places that may be visited during the absence, and the frequency with which the absence may recur. The absences may commence no earlier than ~~24 hours~~ 72 hours following the issuance of the order. The day

the order is issued, the court shall provide an electronic copy of the order to the State's Attorney's or Attorney General's Victim Advocate. The Department of Corrections may reschedule court-authorized absences only after providing 72 hours' advance notice to the State's Attorney's or Attorney General's Victim Advocate of the changes. Only medical emergencies are exempted from the notification requirements of this subdivision.

- Section 5:

Revise to include victim-centered services in a formal collaborative statewide planning process.

While the Network appreciates the work of the Windham County Sherriff's department, and the work of many of our dedicated Sheriff's across the state, Sheriff's departments throughout the state vary widely in access to the resources and supports to meet the demands of the skilled risk assessment and case management which is required when supervising high-risk offenders and supporting victims of domestic and sexual violence. The Network has not reviewed the policies and procedures of the WCSO but would be willing to consider participation in a formal collaborative review of possible statewide community-based electronic monitoring policies and procedures.

Thank you for your consideration.