

1 S.195

2 Representatives Emmons of Springfield and LaLonde of South Burlington  
3 move that the House propose to the Senate that the bill be amended by striking  
4 out Sec. 3, 13 V.S.A. § 7554b, in its entirety and inserting a new Sec. 3 to read  
5 as follows:

6 Sec. 3. 13 V.S.A. § 7554b is amended to read:

7 § 7554b. HOME DETENTION PROGRAM

8 (a) Intent. It is the intent of the General Assembly that the Home Detention  
9 Program be designed to provide an alternative to incarceration and reduce the  
10 number of detainees at Vermont correctional facilities by accommodating  
11 defendants who would otherwise be incarcerated or pose a significant risk to  
12 public safety.

13 (b) Definition. As used in this section, “home detention” means a program  
14 of confinement and supervision that restricts a defendant to a preapproved  
15 residence continuously, except for authorized absences, and is enforced by  
16 appropriate means of surveillance and electronic monitoring by the Department  
17 of Corrections, including the use of passive electronic monitoring. The court  
18 may authorize scheduled absences such as for work, school, or treatment. Any  
19 changes in the schedule shall be solely at the discretion of the Department of  
20 Corrections. A defendant who is on home detention shall remain in the  
21 custody of the Commissioner of Corrections with conditions set by the court.

1           ~~(b)~~(c) Procedure Defendants with the inability to pay bail.

2           (1) Procedure. At the request of the court, the Department of  
3           Corrections, the prosecutor, or the defendant, the status of a defendant who is  
4           detained pretrial in a correctional facility for inability to pay bail after bail has  
5           been set by the court may be reviewed by the court to determine whether the  
6           defendant is appropriate for home detention. The review shall be scheduled  
7           upon the court's receipt of a report from the Department determining that the  
8           proposed residence is suitable for the use of electronic monitoring. A  
9           defendant held without bail pursuant to section 7553 or 7553a of this title shall  
10          not be eligible for release to the Home Detention Program on or after June 1,  
11          2018. At arraignment or after a hearing, the court may order that the defendant  
12          be released to the Home Detention Program, provided that the court finds  
13          placing the defendant on home detention will reasonably ~~assure his or her~~  
14          ~~appearance in court when required~~ mitigate the defendant's risk of flight and  
15          the proposed residence is appropriate for home detention. In making such a  
16          determination, the court shall consider:

17               ~~(1)~~(A) the nature of the offense with which the defendant is charged;

18               ~~(2)~~(B) the defendant's prior convictions, history of violence, medical

19               and mental health needs, history of supervision, and risk of flight; and

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

8           (d) Defendants who violate conditions of release.

9           (1) Procedure. At the request of the court, the prosecutor, or the  
10 defendant, the status of a defendant who has allegedly violated conditions of  
11 release may be reviewed by the court to determine whether the defendant is  
12 appropriate for home detention. The review shall be scheduled upon the  
13 court’s receipt of a report from the Department determining that the proposed  
14 residence is suitable for the use of electronic monitoring. A defendant held  
15 without bail pursuant to section 7553 or 7553a of this title shall not be eligible  
16 for release to the Home Detention Program on or after June 1, 2024. At  
17 arraignment or after a hearing, the court may order that the defendant be  
18 released to the Home Detention Program upon the court’s finding that the  
19 defendant poses a significant risk to public safety, placing the defendant on  
20 home detention will reasonably mitigate such risk, and the proposed residence

1 is appropriate for home detention. In making such a determination, the court  
2 shall consider the factors listed in subdivisions (c)(1)(A)–(C) of this section.

3 (2) Failure to comply. The Department of Corrections may report a  
4 defendant’s unauthorized absence or failure to comply with any other  
5 condition of the Program to the prosecutor and the defendant, provided that a  
6 defendant’s failure to comply with any condition of the Program for a reason  
7 other than fault on the part of the defendant shall not be reportable. To address  
8 a reported violation, the prosecutor may request:

9 (A) a review of conditions pursuant to section 7554 of this title;

10 (B) a prosecution for contempt pursuant to section 7559 of this title;

11 or

12 (C) a bail revocation hearing pursuant to section 7575 of this title.

13 (e) Credit for time served. A defendant shall receive credit for a sentence  
14 of imprisonment for time served in the Home Detention Program.

15 (f) Program support. The Department may support the monitoring  
16 operations of the Program through grants of financial assistance to, or contracts  
17 for services with, any public entity that meets the Department’s requirements.

18 (g) Policies and procedures. The Department of Corrections shall establish  
19 written policies and procedures for the Home Detention Program to be used by  
20 the Department, any contractors or grantees that the Department engages with

- 1 to assist with the monitoring operations of the Program, and to assist the courts
- 2 in understanding the Program.